

**Minutes
Board of Zoning Appeals
Wednesday, September 15, 2020**

Call to order

The "Zoom" platform meeting was called to order by Chairman Joe Dughman at 5:00pm.

Board Members present

Joe Dughman, Chairman
Haley Dale

Pete Zabaski, Vice Chairman
Gloria Sternberg Chris Tardio

Staff Members present

Beth Reardon, City Manager Doug Berry, City Attorney
Lyle Patterson, Assistant City Manager and Building Official
Edie Glaser, City Recorder

Conflicts: None

Consideration of the Minutes July 21, 2020

Motion to approve: Dale **Second:** Tardio **Vote:** 3 approved,
1 abstained

Consideration of the Minutes August 18, 2020

Motion to approve with correction: Dale **Second:** Tardio **Vote:** All aye

Old Business:

1. The application of Buddy Ortale (20088) 424 Sunnyside Drive., for a conditional use/special exception permitting the construction of a swimming pool. The building permit has been denied for the following reason.

A. Swimming pools require BZA approval.

B. Swimming pool is outside rear building setback but within the existing footprint of the house.

Presentation: Gavin Duke with Page Duke Architects stated they are proposing to put an 8 x 26 lap pool on a second level terrace. The pool equipment would be located and accessed through the garage beneath the shallow end of the pool.

L. Patterson recommends approval. He stated there were two pool designs that were brought before the BZA in 2008. Both were approved. One design was an upper pool and one was a lower pool.

Buddy Ortale, 424 Sunnyside Drive, commented the pool we are proposing is part of the architecture.

G. Duke explained the pool they are proposing is less invasive from the one that was originally brought before the Board in 2008.

Board Questions and Comments:

J. Dughman, has anything changed since the presentation last month other than we now know the pools were approved in 2008?

G. Duke, correct, it is the same but wanted to re-emphasize this proposed pool becomes more of the architecture than a typical standalone pool.

D. Berry, in 2008 the case was presented as a variance and a special exception. It was approved as a variance. The approvals only last a year. It is in the building envelope as established by the Boards action in 2008.

P. Zabaski, approving this means the Board will approve a pool outside the building envelope without a variance being requested. It sets a precedent. This is an unusual application, but it is still approving a pool under a conditional use without a variance and outside the building envelope without a variance.

G, Duke, L. Patterson, B. Ortale and I reviewed the minutes from the meeting held in 2008 and concluded it was a conditional use as opposed to a variance. L. Patterson, they did not ask for a variance in 2008 and were given permission to build two pools. It is a conditional use because it is a pool. Based on the Minutes and the approval given in 2008 we wrote this application as a conditional use.

C. Tardio, I would agree with Haley and be consistent on what the Board did in 2008.

[illegible]

J. Dughman, the approval of the Ortale swimming pool outside the building envelope is an unusual set of circumstances based upon the Boards approval in 2008.

1. The application of Michael Cope (20091) 4314 Sunnybrook Drive, for a variance permitting the construction of two additions. The building permit has been denied for the following reasons.

- A. Addition is outside the building setback but within the existing footprint.
- B. Addition in rear is over on allowed height.
- Staff recommends approval.

M. Cope, the existing house is 8 ft. We will vault the addition.

From the Street view we are well below the required 25 ft. There is a dramatic change in topo. From the back of the house to the curb of the Street there is a 11.5 feet change.

L Patterson, this was written as a variance due to the topography change. Michael Cope, owner of the property at 4314 Sunnybrook Drive, our intention is to keep the house in its original form but make it livable enough and big enough for our family.

Clay and Elizabeth Phillips, 4315 Signal Hill Drive, we live across the Street from the Copes and are in favor of the addition.

Robert T. McDugald, 4317 Signal Hill Drive, we live behind the Copes, diagonal to their home. There is a severe drop in the elevation change from the front to the back. We are in the back and our concern is the increased height in the back of the home looking down into our back yard. We would also want to make sure, being on the downside slope, that water movement has been addressed and new water flow that may occur with the addition.

L. Patterson, they are not over on their setback. They are several feet away. Regarding the water, a full stormwater plan is required for additions which would capture the first one inch of rainfall and have a controlled flow so that anyone downhill from this would be of utmost importance in that evaluation from an engineer that Mr. Cope would hire. This would then be approved by our City Engineer.

P. Zabaski, what is the window on the top floor?

A. King, that is a window in the closet off the bedroom on that floor. The proposed addition is 80ft 4 inches from the rear property line.

Board Discussions:

Zabaski, I think this is pretty straight forward, but I would suggest eliminating the window in the upper story or making it opaque or translucent. Dale, I don't believe that is necessary. I don't believe it represents a privacy issue.

Motion to approve as submitted: Dale **Second:** Sternberg
Vote: All aye

2. The application of Matt Cowan (20092) 4417 Harding Place, for a variance permitting the construction of an addition and driveway. The building permit has been denied for the following reasons.

A. Addition is outside the building setback but within the existing footprint.

B. Driveway is closer than the required 5 feet of green space.

C. Driveway is over on allowed footprint.

This was approved by the Historic Zoning Commission. Staff approves.

Presentation: Justin Lowe with Centric Architecture and landscape architect Wade Rick stated that people recognize this house because of the screen porch on the front. It is a very narrow lot, 60 ft wide. We have kept within the existing width of the house. We are trying to add some living space to make the downstairs more functional and also add a garage keeping the cars out of the front yard. We are keeping the front of the house in tack with the front porch. The existing house footprint will stay. The addition that was done in the 1980's in the back will be taken off and replaced with this addition. Wade Rick, the hardship with this property that is only 17000 square feet for the entire property is the narrow configuration. Currently the drive in the front yard is over the allowable. The driveway as a whole is over the allowable given the location of the new garage. We have spoke to the

neighbors to the left and the right, both are very excited that this existing house is going to remain and on board with the requests.

Board Questions and Comments:

Sternberg, does the service court turn around meet the 25ft minimum?
W. Rick, yes

Board Discussions:

Motion to approve as submitted: Dale **Second:** Sternberg
Vote: All aye

3. The application of Kevin Sharp (20093) 4430 Shepard Place, for a conditional use permitting the construction of a swimming pool and a special exception for a fence. The building permit has been denied for the following reasons.

A. The swimming pool requires BZA approval.

B. Fence is in other than permitted location.

Staff recommends approval of the pool. Staff does not recommend approval of the fence.

Presentation: Anne Daigh with Daigh Landscape Architects, this is the Sharps forever home. It was built in the 1920's. The Sharps are in the process of restoring the house back to its original character. They have already made many aesthetic and structural improvements to it. We are proposing a 16x32 size pool in the rear that is well within the setbacks. The preferred place for the pool fence at the Eastern side is off the back corner of the rear of the house. The reason for this is that there are 3 doors on this side of the house and no doors on the back of the house. Putting the pool fence at this proposed location will keep the Sharps from having to go through a gate to enter the pool. The terrace is off the side of the house on the Eastern side. The most functional location for the fence is off the front corner of the house. It allows for optimum safety and allows the pool to be accessible from all three doors and gathering spaces. The fence is an extension of the house. The house is currently clapboard and we would be extending that clapboard for the 6 ft high enclosure fence. We feel like it is in keeping with the character of the house and the neighborhood. It is already heavily landscaped in this location. Anything we place there will already be obscured. The home across the Street has a wall coming off the side similar to what we are proposing. What we are proposing is in keeping with the surrounding homes in the neighborhood. Dr. and Mrs. Warner, who live in the house to the right of this property have given their blessing and are in favor of the design. The Sharps have been in contact with the neighbors on the block and have not received any objections to the plans.

Board Questions and Comments:

Dale, is the home across the street with the wall enclosing a swimming pool?

K. Sharp, it is not enclosing a pool.

G. Sternberg, when doing the renovation, you did not add any doors on the back of the house?

K. Sharp, there are already two doors in the same room, so it did not make sense to add a third door. The doors exit to the back they are just not on the back they are on the side.

Board Discussions:

P. Zabaski, we listen for compelling reasons on why we should approve an application and I have heard several compelling reasons. Most importantly is there is a lot of precedent not only in the neighborhood but all over Belle Meade where walls have been extended or fences have been extended from the front to the side property line to secure a pool. When you start talking about safety issues it becomes a big concern. It would be unique to allow a wall off the front corner. I wanted to get those comments out there.

C. Tardio, what are we weighing this against? The variance standard or the conditional use standard?

P. Zabaski, the special exception.

D. Berry, the special exception is a little more liberal in some ways than a variance if you don't have to show a special condition of the lot that causes a hardship. It mostly has to do with compatibility with the neighborhood, harmony with the surrounding properties, design, protection of the public health, safety and welfare, general standards. I think Mr. Zabaski has stated it pretty well.

Tardio, I agree with Pete I think the burden has been met especially with the description that Doug has just given us for the consideration.

Motion to approve as submitted: Tardio Second: Dale
Vote: All aye

Motion to adjourn at 6:41pm: Sternberg Second: Dale Vote: All aye

Chairman Joe Dughman

City Recorder Edie Glaser