

Minutes  
City of Belle Meade  
Board of Zoning Appeals  
March 16, 2021

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

**Board Members present**

Joe Dughman, Chairman	Pete Zabaski, Vice Chairman	Gloria Sternberg
Chris Tardio	Doug Hale	

**Staff Members Present**

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

**Consideration of the Minutes February 16, 2021**

Motion to approve:     Sternberg                      Second: Hale                      Vote: All aye

**Old Business:**

1. The application of Jack Fleischer (21011) 112 Lynwood Boulevard for a conditional use permitting the construction of a swimming pool and a special exception for a fence and a variance for pool equipment. The building permit has been denied for the following reasons.

- A. Swimming pool requires BZA approval. *Approved February 16, 2021.*
- B. Fence is in other than permitted location.
- C. Pool equipment is outside building setback.

**Presentation:** Jack Fleischer, 112 Lynwood Boulevard, the new fence moves from the cottage to the back portion of the property across the back of the swimming pool and up to the current fence line. The back portion is what I am asking for on the exception. At the last meeting I had explained that my neighbor did not want me to disturb the mature vegetation that is along his side of the yard. I have since found a fencer who will re-sleeve it to raise the elevation. All existing fence that is not conforming to the 72 inches will be moved up to the 72 inches.

**Board Questions and Comments:**

- Sternberg, is there a gate?
- Fleischer, there is an existing gate. It does not meet the current regulation and it will be raised.
- Lyle Patterson, the Agenda reads, the fence is in other than permitted location (item B), it technically runs over the property line and closes the backyard. They wish to close just short of the pool they do not want to enclose the entire backyard.
- Fleischer, item C is in regard to the placement of the pool equipment. We currently have an outbuilding on the property. The majority of the structure is over the setback line and grandfathered in. I have not updated that structure but understand I now can with the new rules. That will become the pool house. Where the air conditioner is coming out of the structure will become a door to the cottage with a deck. The existing boxwoods will be clustered in the front of the cottage. We are

trying to hide the pool equipment with the boxwoods. The boxwoods are six foot in diameter. The first boxwood would go on the corner of the cottage and as close as I can put it to the setback line. But some of the pool equipment is going to extend over that setback line. It is the correct location for it. If I go to the other side of the cottage, it is more imperil. If I move it more towards the pool, it creates a problem with trying to cover it, shield it, and sound it. I believe this is the correct location for it.

- Dughman, I see the boxwood straddles the envelope line, why can you not move it more to the right?
- Fleischer, if I move it more to the right, I will have to move it off of the building and the tail end I believe will still be across the setback line.
- Dughman, I do not know what would stop you from moving it more to the right to be inside the setback line. Is there a physical barrier or something that prevents you from going to the right?
- Fleischer, if you look at the terrain as it runs, that wall goes down just past where the pool equipment is located on the plan. If I move it there, I am closing down the steps. I am trying to create a walkway there that would allow access.
- Zabaski, have you applied for a variance? A variance has to do with a lot and in order for us to have authority to approve this, we have to agree that this lot qualifies as a variance. I agree with you that this is a good location for the equipment but unfortunately, unless that lot is a variance, we cannot approve it, we do not have the authority. The variance gives you several criteria to consider. I need a convincing argument or proof that the lot qualifies as a variance.
- Fleischer, the lot slopes towards the back of the property. There is a wall there that was put there to handle the terrain. If we move it into the cottage area, I do not know that it will all fit in the envelope. It will also create a blockage of the pathway to move through there. You would have to go down the stairs two times and cut over around through the pool area to be able to access the cottage. It just does not make sense to kick it out to the wall. The location where we have it seems like the most natural place for it because of how it runs and how it lays down. The lot slopes far down from the street. You can not see the cottage from the street.
- Hale, I am having difficulty establishing a basis for a variance. I appreciate the design challenges but have not heard anything yet.
- Fleischer, I can identify exactly on the cottage the property line and instead of running it parallel to the cottage trying it horizontally towards the house. I will do my best to get it right in there. That location makes sense to be able to hook up to the electrical.
- Tardio, what is Lyle Patterson's recommendation? Is there anything about the topography of the lot that you think precludes putting in the full pool equipment there?
- Patterson, no, there is room within that envelope to put the pool equipment.
- Fleischer, let us place it there. I will get the survey on the property line. I have a civil engineer working right now on a stormwater plan. As long as I can be on the property line, I can make that work. Does the pad need to stay inside the line as well?
- Patterson, no, it does not.

Board Discussion:

Motion to divide the fence and pool equipment into separate motions:

Sternberg                      Second: Hale                      Vote: All Aye

Motion to deny the applicants request for a variance on the pool equipment:

Sternberg                      Second: Tardio                      Vote: All Aye

Motion to approve the fence as submitted: Hale                      Second: Sternberg  
Vote: All Aye

Lyle Patterson stated to the applicant, when you submit your construction drawings, please be sure to have spot elevations on the terrace steps especially at the top of the wall. The max height on the walls is three feet unless you want to come back before the Board of Zoning. I will need topography as well.

New Business:

1. The application of Josh Payne (21031) 607 Belle Meade Boulevard for a conditional use permitting the construction of a swimming pool and a pool cabana. The building permit has been denied for the following reasons.

- A. Swimming pools require BZA approval.
- B. Accessory structure required BZA approval.

**Presentation:** Joel Lyons, Chandelier Development, the pool itself and the pool equipment are within the building setbacks. We indicate the code compliant fencing for the pool and the cabana are under the FAR. Dana Woods with the Addison Group is also here to answer any questions. They are the landscape architects on the project.

Board Discussion:

Motion to approve the application as submitted: Sternberg  
Second: Tardio                      Vote: All Aye

2. The application of Noel Williams (21032) 1 Webster Lane, for a variance permitting the construction to build fences, walls, columns, and gates. The building permit was denied for the following reason.

- A. Fence is in other than permitted location and over on allowed height.
- B. Wall is in other than permitted location and over on allowed height.
- C. Columns are over on allowed height.
- D. Gate is over on allowed height.

**Presentation:** Mike Kaiser, landscape architect, this property is at the dead end of Webster Lane. They have experienced almost daily security issues. Anyone who drives down Webster Lane uses their driveway to turn around. For security reasons they would like to modify access to their property by erecting gates to prevent people from lopping around the front of their house to get out. The Webster Lane dead end does not really have a way for people to turn around except to use their driveway. For that reason, they came to us and asked us to design some gates for them in the context of their property and the house itself. Our aesthetic judgement is that the allowable height is not aesthetically appropriate, nor would it serve as an effective deterrent as a taller gate. Not to mention that the driveway descends in the property.

Having a little more height to the gate does allow the gates to have a bit more visual prominence. And as a result, visual president's presence as a security measure. In asking for this variance, we have also made not of some surrounding conditions. There are really no neighbors on that street that use the end of Webster Lane, other than the homeowners. The adjoining neighbors would not be affected by this appeal, either physically or visually. The house directly across the street does have a black aluminum wrought iron fence that is six feet in height. In talking to Building Official, Lyle Patterson, about the feasibility of requesting this type of a variance, he brought up that there is a significant drainage issue that has nothing to do with the current owners of the house, that preceded their ownership of the property. It has to do with the runoff that is naturally draining down the applicant's driveway through the back corner of their rear yard on to Millrace Lane. In talking with Lyle and the owners, we came up with a solution that basically entails creating a rain garden, that will allow runoff that is currently sheeting off the adjoining property and the owner's driveway. It will be planted with plants that can handle periodic inundation and will be landscaped so it looks pretty from Millrace Lane and the owner's perspective. It is sort of a concession or gift if you will to the city to resolve an existing drainage problem. An encouragement for you to see favorably upon our request to do a couple of gates taller than permitted.

#### **Board Questions and Concerns:**

- Sternberg, why does the top of the pier need to be ten inches higher, and could you expand on the four feet fence between the gates?
- Kaiser, the fence is there as a visual deterrent. We can live with out the fence and effectively plant to act as a significant deterrent and concede with the fence. We are mostly interested in trying to make these gates as tall as we have drawn them. We feel we need something that is six feet tall to act as a significant deterrent and again to be aesthetically in scale with the house. There is precedent directly across the street.
- Sternberg, six feet is not the issue, it is the extra ten inches.
- Kaiser, we can bring that down some. If the gates are five foot three, and we came down another five or six inches, I think aesthetically that cap still wants to be taller than the gates themselves to bracket them aesthetically. But I think we could come down to six foot four or six foot five and still be proportionally correct.
- Sternberg, can the gate come down a bit too?
- Patterson, what is the distance from the property line to the gate and the approximate fall?
- Kaiser, it is about the width of the gate, about 12 feet. The fall is about two feet.
- Patterson, having been on this site many times. I can attest to how difficult this situation is. There is zero places you can turn around. That is why I said staff approval.
- Zabaski, your two inches over and I am sure you can bring that down two inches.
- Kaiser, that is correct.

#### **Board Discussions:**

Motion to divide the question of the fence in the middle from the columns and the gate: Tardio

Motion that the fence can not be more than three feet in height: Gloria  
Second: Tardio      Vote: All Aye

Kaiser, there is an existing less than six foot fence that goes down where we were talking about doing the rain garden. As part of that project, we would like to instead of retaining that fence we would like to return it to an existing wall of the existing cabana. There is a small section of wall that we would like to construct that is six feet tall. That fulfills the pool enclosure requirements, and it joins the corner of an existing wall.

Motion to approve a six foot brick wall in addition to a chain link fence for the pool enclosure: Sternberg      Second: Tardio      Vote: All Aye

Motion to approve the six foot and eight inch cap for the columns for the gate which is two inches below what was submitted: Sternberg  
Second: Tardio      Vote: All Aye

Motion to approve the gate as submitted: Sternberg      Second: Tardio  
Vote: All Aye

3. The application of the Belle Meade Country Club (21033) 815 Belle Meade Boulevard for a special exception permitting the construction of Pickle Ball Courts. The building permit has been denied for the following reason.

A. Under the Zoning Ordinance, Appendix D, Country clubs, construction or improvements upon a country club site requires BZA approval.

Presentation: Alan Oakley, Tennis Committee Chair, we would like to repurpose the parking lot for pickleball courts. Four courts with fencing. The fencing design will be the same as what is existing there now. There will be lights, the same as what is there now with the tennis courts.

#### Board Questions and Concerns:

Sternberg, regarding lighting, how long will people be able to play?  
Oakley, it will be available until 9pm Monday through Friday, Saturday, and Sunday the Club closes at 6pm.

#### Board Discussion:

Motion to approve as submitted: Sternberg      Second: Tardio  
Vote: All Aye (Zabaski, Sternberg, Tardio)

Meeting Adjourned 6:10pm

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Vice Chair Pete Zabaski

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City Recorder Edie Glaser