

Minutes  
City of Belle Meade  
Board of Zoning Appeals  
June 15, 2021

The meeting was called to order by Chairman Doug Hale at 5:00pm

**Board Members present**

Doug Hale                      Erick Clifford                      Gloria Sternberg  
Pete Zabaski                  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

**Consideration of the Minutes May 18, 2021**

**Motion to approve:**    Zabaski                      **Second:**    Clifford                      **Vote:**    All aye

**Old Business:**    None

**New Business:**

1. The application of James Hudley (21061), 4407 Howell Place, for a special exception permitting the construction of an addition of a screened porch. The building permit has been denied for the following reason.

A. Addition is outside the building setbacks but within the existing footprint of the home.

**Presentation:** Nancy Moore, The Porch Company, the home is outside the building envelope. We would like to build the screened porch behind the existing house. It would not extend beyond the existing footprint of the house as it is today. The rear of the home faces an alley, and it would be a nice enhancement to the home and the homeowner's perspective as well.

**Board Questions and Comments:**

- Zabaski, is there a reason why you did not extend the back wall to the property line?
- Moore, I thought it would be nice if the porch did not go all the way to the same line of the house. I recessed it about two feet.
- Patterson, there is a sixty foot rear setback, and they are encroaching to that, but they are still within the building envelope in the rear.

**Board Discussion:**

**Motion to approve as submitted:**    Zabaski                      **Second:**    Tardio  
**Vote:**    All aye

2. The application of Don Orr (21062), 1001 Belle Meade Boulevard, for a conditional use permitting the construction of a pool cabana and special exception for replacing walls. The building permit has ben denied for the following reasons.

A. Pool cabanas require BZA approval.

B. A portion of walls outside building setbacks are being relocated and are over allowed height.

**Presentation:** Gavin Duke, Page/Duke Landscape Architects, we are within the building envelope, we are coming before the board seeking approval for the pavilion. We are within all of the square footages and the requirements. The height complies as well at sixteen feet.

Lyle Patterson commented that the walls are three feet and can be relocated anywhere on the property.

**Board Questions and Comments:**

- Zabaski, the Agenda says that a portion of the walls are over allowed height, is that not the case?
- Duke, that is not true.

**Board Discussion:**

**Motion to approve as submitted:** Tardio      **Second:** Sternberg

**Vote:** All aye

3. The application of Kevin Millslagle (21063), 438 Royal Oaks Drive, for a conditional use permitting the construction of a swimming pool and spa. The building permit has been denied for the following reasons.

A. Swimming pools and spas require BZA approval.

Staff recommends approval.

**Presentation:** Wade Rick, Landscape Architect, the pool sits within the rear setbacks. The pool equipment is within the setback.

Lyle Patterson commented that this application came before the Historic Zoning Commission and passed.

**Public Comment:** Jenny Baren, Glen Eden Drive, I am the next door neighbor to 438 Royal Oaks Drive and one of my concerns is the fencing. My property has an elevation to it. It slopes down to their property. When I am on my first floor screened porch, I can see quite a distance based on the fact that the property has a slope to it. I am concerned with the landscaping and want to make sure there is some dense landscaping between our properties. There is currently a lot of native material there that has a great screen to it. I cannot see their property now however if they are putting in a new fence, I am concerned that if the screening is removed that there will be something to replace it. My concerns to the Board are the fencing, the screening, and the type of landscaping.

Wade Rick, there will be a fence along the property line. In order to comply with the current zoning code, it needs to be six feet tall. I need to check and see if the current chain linked fence on the property line is six feet tall. If it is, we would entertain the idea of tying into it. As far as the existing brush that is currently on site. There are several trees that we are proposing to keep in the back along the property line as well as remove some of the invasives to open up some viable yard. Along the property line we do have a magnolia proposed and some evergreen holly type materials. At the time when we go to install the plantings, we would be happy to meet with the neighbor to make sure that concerns are heard, and seen, and addressed.

**Board Questions and Comments:**

- Hale, is it possible that you can leave as much native existing vegetation as possible and still supplement that with your vegetation?
- Rick, yes, and we are proposing to keep the existing trees.
- Zabaski, Mrs. Baren is your existing fence 6 feet?
- Baren, I believe it is 5 feet.
- Zabaski, the problem we get into is adding a fence. There can be a dead man's zone, where there is a space between the two fences.
- Rick, we are proposing to put our fence on the property line to hopefully avoid the dead man's zone between the two properties.
- Zabaski, will you be able to put it on the property line and keep the existing trees there?
- Rick, correct.
- Zabaski, you can commit to having screening that would satisfy the neighbor?
- Rick, yes.
- Hale, you will install vegetation to have lesser visibility in the Fall than there is now.
- Rick, yes.

**Board Discussion:**

**Motion to approve as submitted with the condition that the landscaping is adequate to meet the concerns of the neighbor, and the neighbor and the applicant will get together and review the plan with City of Belle Meade Staff if needed: Zabaski Second: Tardio Vote: All aye**

Sternberg, my concern is that the motion still leaves a lot open as compared to what is on the plan.

**4. The application of Liz Palmer (21064), 124 Clarendon Avenue, for a variance permitting the construction of a covered porch. The building permit has been denied for the following reasons.**

**A. Covered porch is over the rear building setback but within the existing footprint of the home.**

**B. Existing home is over the allowed footprint by 23% with this addition.**

**Presentation:** Betsy Poe, landscape architect, we are looking at doing a small open area on the back of their house. Their footprint is over the allowable. The existing footprint of the add is 17% over. In looking at the footprint of the houses on their block, the immediate block of Clarendon and Evelyn Avenue, their lot is the second smallest at .53 acres which is a little over 23,000 square feet. In Residence B, it states the minimum is 40,000 square feet. They are considerably smaller. They are on a corner with a large curve, so it is a very unique shape, not a typical rectangular lot. The depth of their lot front to back is also a lot shorter than the others. They are right at 203 square feet and the others average out to be 227 square feet. That directly impacts their rear setback line. The porch we are proposing is encroaching on the rear setback, as well as extending the footprint. We are proposing to cover the existing 10 x 16 patio. This will give them some shaded area in the back. It will be one story with a flat roof with decorative railings around it. It is quite modest at 10 x 16.

**Board Questions and Comments:**

- Zabaski, is there a covered porch now on that property?
- Poe, there is a small, covered area on the East side. It is more of an entry.
- Zabaski, what is your argument that this lot qualifies as a variance?
- Poe, it is the size and the shape of the lot.
- Hale, it is a very private area.
- Poe, it is going to be tucked into the inside L of the house. The idea is to do a very low sloped roof with a decorative railing around it on both sides. This is just to be covered, it will be open. Supported by a couple of columns.
- Hale, do you know if this house was added to or renovated in the past.
- Liz Palmer, the house was originally a single story house built in 1940. The family who owned it in the late 80's put on a half story. That is the last time that it has been renovated.

**Board Discussion:**

Patterson, staff does not recommend, they are already over 17%, and with this addition although it is footprint only it would go to 23%.

Zabaski, it is 160 square feet, and it is just a cover over an existing patio. It is just covering what is already there.

Hale, there is zero coverage on the entire patio.

**Motion to approve as submitted and the variance has been determined by the shape and the size of the lot and it is in harmony with the neighborhood:** Sternberg      **Second:** Zabaski      **Vote:** All aye

5. The application of Steve Cates (21065), 325 Walnut Drive, for a conditional use permitting the construction of a swimming pool. The building permit has been denied for the following reason.

A. Swimming pools require BZA approval.

**Presentation:** Anne Daigh, Daigh Rick Landscape Architects, we are asking to construct a pool of which the proposed conditions comply with the Belle Meade zoning regulations. The pool and pool equipment are well within the building envelope. We are keeping the pool tucked in closer to the house to create more of a courtyard effect. The size of the pool is 12ft by 21, which is approximately one third of the allowable pool size. It is significantly smaller than what an average size pool would be allowed on this size lot. Because the pool is smaller than the allowable size, the associated terraces are reduced as well, and less impactful on the site.

Our landscape plan includes screen plantings around the property to create a lush environment.

**Public Comments:**

Phillip Trella, 328 Walnut Drive, I sent a letter to the BZA. I am not opposed to the pool on the property, my concern is the house is on a hill. There is an incredible amount of centration of house building structure when contrasted to the previous property. Walnut Drive has had a history of stormwater drainage issues. We hired a civil engineer at our expense and what I have found is that stormwater drainage is an inexact science. There have been a number of cuts in this. The water flows underground have no doubt been disturbed. They have also created a gravel storage area up the hill to direct the flow of water. It is designed correctly, and the elevations have checked but we still do not know that it is going to work until over time. We feel that it would be reasonable to defer the pool for a year or two or three or some amount of time. To make sure the stormwater problem is dealt with correctly. Let's do it right then I would not resist a pool. Stormwater is a real serious issue. Cuts displaced a dramatic amount of land and I think there is significant risk out there.

**Board Questions and Concerns:**

- Patterson, the main goal of the stormwater plan for any lot is to ensure that the post development, the water runoff, is either equal or less than predevelopment. In this case it is going to be less than predevelopment. The situation will be better post than pre. This is a very detailed and expensive plan. It has been reviewed very closely. Mr. Trella you mentioned you had even a third review?
- Trella, yes, our engineer recommended that the silts of the front parking pad, the elevation, be changed another foot.
- Patterson, that change was made yesterday. It was a minor detail. 95% of the water was going into the gravel pit, now 100% will be going into that pit. This lot has been scrutinized over and over. They have an extremely more than adequate plan for this lot.

- Trella, I am not against the pool as I have said, but I would like to make sure the drainage works. I do not want to get into a cure problem, and I lack confidence in what has happened with this property from the beginning.
- Zabaski, engineers are hired to do their job and stormwater is a big issue all over the Community. Anytime there is a new home built or an addition, it goes through stormwater review, process, and design. If we held up every pool that was brought before us because of concern about stormwater, I do not think that is fair to the applicant.
- Hale, Mr. Patterson is the applicant 100% compliant with the ordinance?
- Patterson, yes.
- Hale, the stormwater drainage is not within our jurisdiction to address. The building permit does address stormwater. Was this done to your satisfaction Mr. Patterson?
- Patterson, yes, and the satisfaction of our City Engineer.
- Hale, and to the City's benefit there was a third party, civil engineer qualified to address the matter and the city responded to that. Has the City Engineer been in discussion with the third party engineer and reached an agreement that the plan should work?
- Patterson, yes.

**Board Discussion:**

**Motion to approve the pool:** Tardio      **Second:** Clifford      **Vote:** All aye

**Motion to adjourn meeting at 6:08pm:** Sternberg      **Second:** Zabaski  
**Vote:** All aye

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Chairman Doug Hale

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City Recorder Edie Glaser