

**Minutes
City of Belle Meade
Board of Zoning Appeals
October 19, 2021**

Board Members present

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

Staff Members present

Beth Reardon, City Manager Rusty Terry, City Recorder
Lyle Patterson, Assistant City Manager and Building Official
Doug Berry, City Attorney

Call to Order: The meeting was opened by Chairman Doug Hale at 5:00pm

Consideration of the minutes September 21, 2021

Motion to approve: Dughman **Second:** Sternberg **Vote:** All aye

OLD BUSINESS:

1. The application of Margaret Greathouse (21072), 218 Deer Park Drive, for a special exception permitting the rebuilding of a garage. The building permit has been denied for the following reasons:
 - A. Garage/addition is partially outside the rear building envelope.
 - B. Garage/addition is over the allowed footprint by 21.8%.

Presentation:

Lee Greathouse presented the revised plan for their garage and addition. He stated they would like to replace an original 825 sq. foot garage that was destroyed when a tree fell years ago. It was demolished and they could not afford to replace it at that time. Mr. Greathouse stated they heard the Board's directive last month, and introduced Steven Wells, architect for their project. Mr. Wells stated they worked hard to reduce the percentage of overage of the house footprint. The challenge here is how to alter a house almost 100 years old so it works with today's modern family life and preserves it for future generations.

The current home does not have a family room, and the kitchen is at the back of the house and not connected to the living areas or dining room. He did not want to lose some of the crucial updates when working on this revision so they removed the garden shed that was bumped out of the back of the garage, and relocated it within the setbacks. We also sacrificed the breakfast room, which was a hard decision, but it allowed us to pull the garage very close to the rear setback. The plans were revised to enclose the side porch by the driveway that is not currently used and make it the breakfast room. Moving parking to the front will re-establish the front door as the primary entrance. These changes reduce the footprint overage. Mr. Wells stated they also slimmed and reduced the driveway so it now meets code.

Board Questions and Comments:

- Zabaski - Will the garage be used to park cars?
- Greathouse - Absolutely, it will be nice since I own an electric car.

Public comment: None

Public Hearing closed by Chairman

Board Discussion:

- Sternberg - what is staff recommendation?

- Patterson - this is difficult, but staff does not recommend approval. They have existing and proposed overages that total 21.8%.
- Hale - When was the last addition that resulted in the existing overage?
- Wells - The only addition was a small screened porch on the side that was done about 8 years ago. The remainder of the house is original and just does not meet the current standards.
- Zabaski - There are existing mandates that are in play here. One is that since 1997, a house must have a garage, possibly to ensure most cars would be out of sight. The other mandate is footprint restrictions, possibly to preserve greenspace. By my calculations, they are 963 sq. feet under the allowable for driveway, which could be used to compensate for the overage in footprint.
- Dughman - Will the proposed garage be in harmony with the existing house?
- Wells - Yes, the house is stucco and the garage will be stucco also. The garage actually will not be visible from the street.
- Dughman - One criteria for a special exception is that it will not adversely impact abutting properties, including those across the street.
- Wells - Neighbors across the street were happy with these plans, and parking on the street will be reduced since the driveway can accommodate more vehicles.

Motion to approve based on meeting the criteria for a special exception:
Dughman Second: Zabaski Vote: All aye

2. **The application of Tom Grier (21091), 215 Deer Park Circle, for a conditional use permitting the construction of a swimming pool, and a special exception for a covered porch. The building permit has been denied for the following reasons:**
 - A. **Swimming pools require BZA approval.**
 - B. **Covered porch is outside the building setbacks but within the existing footprint. (Approved at the September 21st meeting)**

Deferral of 90 days approved at September 21, 2021 meeting is continued

NEW BUSINESS:

1. **The application of David Murfree (21102) 621 Westview Avenue, for conditional use permitting the construction of a swimming pool and pool house and a variance for walls and grade change. The building permit has been denied for the following reasons:**
 - A. **Swimming pools require BZA approval**
 - B. **Accessory structures require BZA approval.**
 - C. **Walls are over allowed height and in other than permitted locations.**
 - D. **Grade change is over allowable.**

Presentation: Wade Rick, Landscape Architect stated the home was built in 1937 and the owners desire to keep as much of the original structure as possible. Ron Farris is the architect and has designed an addition and renovation well under the allowable for footprint, and the hardscape, pool included, is under allowable by about 1,000 sq. feet. The front door of the house is one of, if not the highest, points in Belle Meade. Everything from a topography standpoint falls down and away on all sides from the elevation of the front door, which leads to the hardship case for this appeal. The rear of the property has a 26 foot grade change from the elevation of the front door. The two conditional

uses requested are a pool and a 525 sq. foot accessory structure which is a covered cabana type building. The pool equipment is located behind the accessory structure.

The two variances requested are due to the topographic nature of the lot. The garage is located to the rear of the house, along the right hand side of the house. We are proposing a wall along the service parking court to hold up the driveway to allow for in/out access to the garage. The highest point at the rear-most corner of the wall is 11 feet, 9 inches tall. The wall slopes towards Westview, and at its lowest point, it is 5 feet, 6 inches tall. The necessity for the wall height is to allow for egress in and out of the garage doors. We made attempts to lessen the height of the wall, by terracing the wall or lowering the finished floor elevation (FFE) of the garage. Terracing the wall at heights of 7 to 8 feet would push it closer to the property line and from a stormwater perspective, it pinched the access area for water to run down between the base of the wall and the property line. Lowering the garage FFE 18 inches below the finished floor of the house brought the wall height down. The second variance we are requesting is the grade manipulation. Currently, inside the building envelope, we are allowed up to 48 inches of grade change, which we are under. Outside the building envelope we are limited to 36 inches of grade change, and we are proposing at the back corner of the wall to exceed this limit. Also, within 20 feet of the property line, up to 24 inches of grade changes is allowed, and we are over that limit in certain areas that total .4% of the property.

Two additional things to note about this property, with it being built in the 1930s. First, there was never a stormwater management plan in place, so currently all water freely flows across and off the property in all directions. We are complying with the City's requirement to create an engineered stormwater plan. Secondly, we came before this Board in 2019 with a request to demolish this home and build a much larger one in its place (almost 10,000 sq. ft.), which was approved, but never built. Note that this is not the first time this property has come before BZA.

Board Questions and Comments:

- Dughman - Can you explain why you need to have the wall at the proposed height to access the garage?
- Rick - In order to have the driveway remain at the same level as the garage, we need to build this retaining wall. Currently, the driveway is held up by fill dirt which slopes very dramatically and drastically, so the wall will serve the purpose of holding the driveway up. There is no wall now, and a car could go too far and drive off the end of the driveway.
- Zabaski - Are you proposing to keep the garage at the same level as the main floor of the house and building this wall as shown as opposed to dropping the garage down so the wall wouldn't be so high?
- Rick - Yes, that is correct. We would like to keep the garage, rear terraces, and the pool area accessible for a family member who is in a wheelchair.

Public comment: -

- Tom Connor, 619 Westview - lives next door and has concerns with the height of the wall, which his kitchen and dining room will face.
- Dughman - Is there any kind of landscaping there currently?
- Connor - Just bushes and some trees. I am wondering if the wall goes higher than the driveway - it's hard to tell from the plans.
- Dughman - How would you feel if there was sufficient greenery to shield your view of the wall?

- Connor - Yes that would help, but I am perplexed as to why the wall has to be so high. I have a brick wall now that goes from 5 feet to 7 feet close to the proposed wall, so there will be an alley way once the new wall is built.
- Rick - There are plantings and significant screening planned, but could not be shown on these plans for the presentation tonight. We absolutely plan to screen the wall from the Connor's side and other neighbors.
- Dughman - What kind of planting are you considering?
- Rick - Evergreen, about 12 feet tall and planted so they will grow together and form a green screen to conceal the wall. Another item brought up by Mr. Connor was the driveway turnaround area. It is designed to be 35 feet wide from the garage door to the edge of the driveway surface. We could have designed this to be broader, but decided to pull it down and make it as tight as possible for today's domestic vehicles.
- Zabaski - You brought up that the wall is higher than the driveway - how much higher?
- Rick - Between 4-6 inches higher. There is a 5-foot buffer between the driveway edge and the wall to allow for even more planted screening.
- Zabaski - Our code requires a minimum of 25-foot turnaround area; could you not pull this in somewhat and then terrace the wall?
- Rick - We did look at terracing the wall, but a 25-foot turnaround is really tight for today's larger vehicles.
- Hale - You said you looked at terracing the wall, was this not a viable option?
- Rick - in consulting with our civil engineer, the wall itself is 16 feet off the property line and that 16 feet corridor is where want to push the water downhill so it is not going in any other direction.
- Sternberg - Is there a danger of a person or car falling off the driveway?
- Rick - That is the purpose of the 5-foot planting buffer.
- Sternberg - What is staff recommendation?
- Patterson - Recommend approval for A., B., C., and D. - all items.
- Dughman - Back to the terracing idea, if you terraced the wall down and had dirt there, wouldn't it provide runoff capabilities?
- Rick - We need to allow for water to run from the Murfree property down between the bottom of the wall and the property line and still have room to plant the screening.
- Zabaski - I understand that you have a 5-foot planted buffer at the edge of the driveway, but shouldn't you also have a wrought iron or similar fence there also?
- Rick - According to the International Residential Building Code, a buffer is adequate.
- Dughman - Again, is there any reason why this wall could not be terraced?
- Rick - It can be terraced, but the cost will be greater, thus reducing the budget for plant materials.
- Hale - Can you build three 4-foot walls, terraced? Something to mitigate the starkness and massiveness of an 11-foot wall.
- Rick - There is a code specifying 6 feet separation between terraced walls, which, with 3 walls, would put us over the property line.
- Zabaski - I am still not convinced you need 35 feet for the driveway turnaround. There is a lot of room to play with between 25 feet and 35 feet.
- Tardio - Can we hear Lyle's reason for approving this appeal?
- Patterson - The pool and accessory structure are inside the building envelope; as we've been discussing, you will still have a wall over 11 feet, whether it is one, two or three walls; and Wade Rick stated they will plant

12 foot tall evergreens, which will immediately cover and hide the wall. The grade change on this lot absolutely qualifies it for a variance.

- Dughman - If you reduce the driveway turnaround to 30 feet, you will have more room to the setback area to put two, maybe three walls terraced, some of them hidden by dirt. We don't have a landscaping plan, so we don't know what is going to be planted.
- Peter Zimmerman, 600 Jackson Blvd. - A prior owner removed a lot of vegetation in the rear yard several years ago, causing drainage issues on my property, so I am pleased that a stormwater plan is required. Also I am concerned with any outdoor lighting that may be installed and hope that it is not directed towards my property.
- Jerry Ishee, 4402 Howell Pl. - I experienced water issues 15 years ago when 625 Westview was built, and do not want that to happen again with the changes to the Murfree property. Years ago all the vegetation between my property and this property was removed, and increased the flow of water to my property. I appreciate that that the City is requiring a stormwater plan.

Public Hearing Closed by Chairman

Board Discussion:

Motion to approve items A. and B., pool and accessory structure.

Sternberg Second: Dughman Vote: All Aye

Motion to defer items C. and D. for up to 60 days so the homeowners and landscape architect can work with the neighbors on a landscape plan to provide proper screening.

Sternberg Second: Zabaski

Discussion: Zabaski does not feel neighbors should be driving the landscape plan. The landscape architect has heard all the comments and concerns and should be responsible for preparing the plan and showing it to the neighbors.

Dughman made a motion to include requiring the landscape architect to provide options for terracing the wall in the deferral. After discussion, he withdrew his motion.

Sternberg was asked to restate the motion:

Defer for up to 60 days items C. and D. of the application so the landscape plan can be specified and brought back to the Board for approval.

Motion: Sternberg Second: Dughman

Vote: Aye: Sternberg, Dughman, Hale Vote: No: Tardio, Zabaski

Motion Carries: 3 to 2

Other Business: None scheduled

The meeting was adjourned at 6:10 pm:

Chairman Doug Hale

City Manager Beth Reardon