

**Minutes
City of Belle Meade
Board of Zoning Appeals
December 21, 2021**

Board Members present

Doug Hale, Chairman Joe Dughman, Vice Chairman Chris Tardio
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 5:01pm

Consideration of the minutes November 16, 2021

Motion to approve: Dughman **Second:** Tardio **Vote:** Hale, Dughman,
Tardio aye; Zabaski - Abstain (Not present at November meeting)

Old Business: NONE

New Business:

1. The application of Jay Davis (21121) 700 Enquirer Ave, for 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:

Isaac Wantland, landscape architect, presented for the Davis', the plan to replace an existing pool with one that is longer, and remains within the building envelope. There will also be some modifications to the existing hardscapes, but do not exceed the hardscape requirements.

No Public Comment

No Board Questions or Comments

Motion to approve: Zabaski **Second:** Dughman **Vote:** All aye.

2. The application of Joel Lyons (21122) 712 Lynwood Blvd., for a variance exceeding the allowed height requirement of 25 feet. The building permit has been denied for the following reason.
 - A. Majority of the structure is over the 85-foot setback. The building envelope was approved by the Municipal Planning Commission June 2021.

Presentation:

Charlie Rankin, architect presented for Mr. Lyons, applying for a variance to exceed the height outside of the 60-foot setback line. This is based on hardship created by lot size and corner lot conditions.

This is lot is on the corner of Lynwood Blvd. and Trimble Rd. The corner lot ordinance allows for a lot of this type to go before the Planning Commission to receive a unique building envelope if necessary. Rankin used the drawing

presented to the Planning Commission in June of 2021, noting where the new building envelope was located, as well as the location of the original home. The front setback off Lynwood is the typical setback, as is the south side setback. The rear setback is grandfathered in off the original home.

The Planning Commission could not rule on the height of the structure relative to the rear setback. We have designed a structure and are asking for you to decide on a reasonable height based on the design. The design has been approved by the Historic Zoning Commission.

The allowable footprint for this property is 2,732 sq. ft. The allowable FAR is 5,123 sq. ft. To realize the potential of this lot it requires a two-story structure. In sensitivity to the neighbor and to provide as much back yard as possible, we have devised an L shaped plan, which also aids in keeping the house off the back property line.

Rankin pointed out measurements for reference pertaining to the home and the real property line. Noting the southeast corner of the home is the only part the touches the rear setback; and that the design was shifted so the tallest forms would be as far forward on the property as possible. For precedence, Rankin pointed out the similarities of properties in Belle Meade:

- 212 Deer Park Circle
- 712 Belle Meade Boulevard
- 617 Royal Oaks Place
- 208 and 210 Paddock Lane

This is a challenging lot, we have stayed within our setbacks that were approved by the Planning Commission, we are within our footprint we are within our FAR allowances, we have tried to design in a manner that respects the spirit of the zoning ordinance, even though we are outside the 85- and 60-foot setbacks. We have shown a handful of precedence of similar type structures throughout Belle Meade

Board Questions and Comments:

- Zabaski: The house fronts Trimble, not Lynwood?
- Rankin: The house will front Lynwood.
- Dughman: The driveway will access off Trimble?
- Rankin: Yes.
- Dughman: And it will have a Lynwood address?
- Rankin: Yes.
- Zabaski: Do you have a site plan of how this house lines up with the house behind it?
- Rankin: There is a vicinity map.
- Zabaski: I guess the reason for the ordinance is to keep you from looking over the neighbor's back yard. Is that how you would reason it?
- Rankin: Yes.
- Zabaski: I notice on the rear elevation the second story has a lot of glass overlooking the neighbor's back yard. Do you know the distance between the back master bedroom and the neighbor behind, the distance in feet?
- Rankin: It is 55 and ½ feet on a diagonal.

- Zabaski: Have you had any conversations with the neighbors
- Rankin: I personally have not.
- Zabaski: Is there a landscape plan.
- Rankin: There is not; we are currently working through the stormwater management plan and planting will be related to the results of that plan.
- Zabaski: Can you not build a two-story home in the building envelope instead of part being one-story and part being two-story?
- Rankin: There is the L shape which came about for 2 reasons, we wanted to preserve as much of the back yard as possible, as well as providing privacy in the back yard.
- Zabaski: Could you build a two-story home utilizing the envelope without encroaching into the setback line as you are proposing to do?
- Rankin: There is not a possibility to build a two-story home within the approved building height. There is only 11 feet of depth that could be two-story. So, the answer is no.
- Hale: What is the recommendation of the staff?
- Building Official, Patterson: Staff recommends approval.
- Tardio: I would like to have the Building Official take us through why he thinks it should be approved.
- Building Official, Patterson: Asks Rankin to re-explain the setback lines.
- Rankin: Re-explains the setback lines, again stating that there is only 11 feet of depth that could be a two-story home.
- Building Official, Patterson: The Planning Commission grandfathered the setbacks according to the original structure. Therefore, staff recommends approval.
- Zabaski: The red line you refer to in the site plan is the average setback on that street?
- Rankin: Yes, that is the average of the lot.
- Building Official: They are bringing this home forward as far as possible from the original home.
- Tardio: Is the 55 feet from the house in the rear within the ballpark of the comparison houses? Or is it much less.
- Rankin: I did not analyze. We could re-examine the precedence photos for a visual comparison.
- Tardio: I ask because the house to house is the concern. But if you did not measure, that is fine.
- Zabaski: I would like to see the precedence photos again.
- Rankin: Points out the similarities in the precedence photos.
- Zabaski: Are any of the precedence houses new, or are they all old houses?
- Rankin: The newest looking one would be the addition on the Deer Park Circle house. To my knowledge, none have been built within the last couple of years, but I do not know the dates on them.
- Zabaski: I understand the lot is an odd lot to work with on that corner. What is the FAR on the house?

- Rankin: Allowable FAR is 5,123 sq. ft. It ends up being right at 4,000 sq. ft. heated and cooled. We are at the allowable FAR. Actual living space is 4,000 sq. ft.
- Zabaski: Let's go back to the landscaping; what are your landscaping plans?
- Rankin: I think we would like to provide a screen buffer on the side along Trimble, and across the back to screen the master bedroom.

No Public Comment

Motion to approve as submitted: Zabaski Second: Dughman

Board Discussion:

- Dughman: We do this often; the size and shape of the lot limits the size of the home you can put on this property.
- Tardio: This provision is there to apply when we have a situation where the rear setback and the height do not match up as in a normal build.
- Zabaski: Had the neighbor had concerns about the landscaping plans I would have recommended a deferment until we could see those plans, but they do not seem to be concerned.
- Tardio: I assume someone lives in the house at the rear?
- Rankin: I do not know; it is definitely an older home.

Vote: All aye.

- 3. The application of Jeff Orr (21123) 1201 Canterbury Drive, for a variance permitting the construction of a second story addition and a conditional use for a swimming pool. The building permit has been denied for the following reasons.**
- A. Second story addition is outside the side setbacks but within existing footprint.**
 - B. Swimming pools require BZA approval.**

Presentation:

Ron Farris, architect and Gavin Duke, landscape architect
Farris presenting specific to the residence and Duke presenting the site design.

Farris stated the conditional use is accurate and there is also a special exception request for fencing.
Farris noted that the HZC granted approval for the design, stating the original structure was built in 1955, placing the residence in the category of property of conservation. It is believed that in the 1970's an awkward addition composed of flat roofs was added to the rear of the home, Farris provided photos showing those additions and the original structure. The additions presented to and approved by the HZC, bring the house back in to harmony with the current neo-classical style.
The lot is long and narrow and tapers toward the rear. A portion of the original structure and the additions fall outside current ordinance setbacks. The board is being asked to consider approving the setbacks established by the original structure. Farris, using the site elevation plan indicated, the additions to the front and rear, including a railing on what will remain of a flat roof addition on the garage. Farris noted that the additions do fall on

top of the existing non-conforming conditions and that the existing setbacks are not decreasing, and are within the allowable footprint and FAR.

Board Questions and Comments:

- Dughman: May we see the existing and new elevation plans.
- Farris: Explained the changes concerning the addition of the step-back section on the front of the home.

Duke added that on the front elevation there are two large evergreen's that will continue to provide screening for the new second story addition Farris had just explained.

Duke stated this project was an exercise in preservation, in trying to save an older home we had to embellish the driveway and the hardscape. The driveway is under the existing but over allowable. Using site plans, Duke points out where the hardscape has been diminished and reorganized to allow for parking and turn-around. At the rear, there is an existing condition with the garage which creates the need to have the pool fencing come off the rear section of the house. The vehicular access it provides is not allowed. We have done a similar project on Warner Place, which was approved by the BZA. The pool has a sun-shelf that is 9 inches on the shallow end, the deeper section of the pool is within the setbacks. The pavilion at 250 sq. ft. is allowable.

Board Questions and Comments:

- Zabaski: Where will the fencing be.
- Duke: Explained the fencing placement.
- Zabaski: The top of the pool is outside the building envelope?
- Duke: It is a 9-inch sun shelf which is less than the allowable 18 inches.
- Zabaski: And the fence is between the pool and the house and runs the full length of the back yard to the walkway into the pool.
- Duke: Yes, there should be a gate shown there.
- Zabaski: And why are you placing it there instead of the back of the house?
- Duke: Between the house and the pool there is a driveway, and we are not allowed to use vehicular gates for that enclosure. The pool equipment is under the new terrace, inside the building envelope. We are proposing evergreen landscaping to screen the pool equipment.
- Zabaski: The driveway is existing?
- Duke: Yes.
- Dughman: Where the two cars are parked, that is existing also?
- Duke: Yes.

No Public Comment

Board Discussion

- Zabaski: What is the recommendation of the staff?
- Building Official: The staff recommends approval.

Motion to approve as submitted: Zabaski Second: Dughman Vote: All aye.

4. The application of Alex Palmer (21124) 533 Belle Meade Blvd., for a Conditional use permitting the construction of a swimming pool, a variance for grade change and a special exception for walls in other than permitted location. The building permit has been denied for the following reasons.
 - A. Grade change exceeds the allowed 3 feet outside the building envelope and exceeding allowed 2-foot inside the buffer zone.
 - B. Swimming pool requires BZA approval.
 - C. Walls are in other than permitted location.

Presentation

Ben Page, landscape architect, presenting for Mr. Palmer, began with a site-specific survey which revealed a large hole in the backyard which had not been visible until a large thicket had been removed.

The neighbor in the rear is 160 feet and tilts to 165 feet from the pool, the neighbor adjacent to him is 197 feet from the pool at the rear of the home.

Page mentioned the hole at the beginning, because to have a relationship between the house and the pool and to have a minimal impact on grade it requires a corner retaining wall, creating a grading change of 50 square feet that is over the allowable minimum. The rear elevation shows the relationship to the fill (for the hole), the new grades, and the walls and fencing. There is a six-foot wrought iron fence all around the pool which interacts with the back corner and right-side corners of the house.

Mr. Palmer was very concerned about privacy so with the landscape plan, in consideration of the neighboring apartment building, the privacy screening has been overdone on that side. There will be an intense planting scheme at the rear as well. Overall, the property has a substantial landscape plan.

Board Questions and Comments:

- Zabaski: I would like for you to go back to the grade change, in reference to the hole.
- Page: When we first walked the property, at the rear there was so much vegetation at the rear corner we could not tell what was there. You could not walk there it was so dense. In the first clearing we found a 7-foot differential between the floor elevation of the original house and the rear corner. The topographical survey indicated the intensity of the drop off. And that is what created the need for the retaining wall.
- Zabaski: How tall is the retaining wall?
- Page: It goes from 3 feet to 6 feet around the pool equipment, this mitigates the sound and hides the pool equipment from neighbors.
- Dughman: The six-foot portion is inside the building envelope?
- Page: Yes, it is.

No Public Comment

Board Discussion

- Zabaski: What is staff recommendation?
- Building Official, Patterson: Staff recommends approval.
- Hale: On all three items?
- Building Official, Patterson: Yes.

Motion to approve as submitted: Dughman Second: Tardio
Vote: All aye.

Chairman Hale: If there be no further business, then without objection,
meeting is adjourned.

The meeting adjourned at 6:10 p.m.

Chairman Doug Hale

City Recorder Rusty Terry