

**Minutes  
City of Belle Meade  
Board of Zoning Appeals  
March 15, 2022**

**Board Members present**

Doug Hale, Chairman      Erick Clifford      Gloria Sternberg      Pete  
Zabaski

**Staff Members present**

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

**Call to Order:** The meeting was opened by Chairman Doug Hale at 5:00 p.m.

**Consideration of the minutes February 15, 2022**

**Motion to approve:**      Sternberg      **Second:**      Clifford      **Vote:** All aye.

**Old Business:**

**NONE**

**New Business:**

1. **The application of Bryan Frist (22031)415 West Tyne Drive, for a conditional use permitting the construction of a swimming pool & spa and a special exception for a fence and gate. The building permit has been denied for the following reasons.**
  - A. **Swimming pools require BZA approval.**
  - B. **Spa requires BZA approval.**
  - C. **Fence & gate are in other than permitted location.**

**Presentation**

Gavin Duke, Landscape Architect, Duke Design Group

Duke stated that the Frist home at 415 West Tyne has a very pure architecture and the plan is to remain in keeping with that architecture. We are asking for a pool, it is within the building setback, it is within the square footage allowances and all the hardscape is within the requirements. The Spa is also within the building setback.

We are asking for a fence, which is not off the front of the house, but it is off of the master bedroom; using a drawing to show the location. Duke showed where a bath exits from the area. He stated that the plan is to do stone at the base to match the house; the spa equipment will be hidden by tall shrubbery. Duke provided a drawing showing the fence, which will be in keeping with the architecture of the house, a white wood fence with white wood gates. The gate on the left-hand side, meets the requirement coming off the rear service drive. The front gate is blocked from the street view by a large magnolia tree. Currently they are 236 feet back from West Tyne and there is an existing gate and fence that is within three-foot range. We need six feet to gain pool enclosure around the perimeter of the property.

**Board Questions and Comment**

- Sternberg: Can you review the fence line and talk about the materials.
- Duke: Using the elevation photos Duke provided the following information: The house has a stone base, and we are going to do a stone knee-wall to tie in the architecture to the landscape. Where the Spa is located we're going to bump up that area with a six-foot stone wall, which would be backed up with six-foot/five-foot greenery on the backside of that. The bunched planking will have a copper cap on top of the rail. The pedestrian entry gates, on both the east and west side, will be wood or metal, if they are metal they will be made to look like wood.
- Zabaski: How high are the pillars?
- Duke: They will be 6'8", which is what is allowed.
- Sternberg: Mr. Patterson, what does staff recommend?
- Building Official Patterson: Staff recommends approval.
- Chairman Hale: Why is the SPA equipment located outside the wall.
- Duke: Because of noise and the distance from the pool equipment. It is still in the building setback.
- Chairman Hale: And the special exception fence, extends from the front corner of the master bathroom going to the west, is this the only new fence being constructed..
- Duke: That one and the one by the garage.
- Chairman Hale: Has there been any contact with the neighbors about the request.
- Duke: I've talked to the neighbors behind, Hadley Reynolds, and the other neighbor they had no opposition to it. I'm not sure about the west and the east.
- Chairman Hale: Mr. Patterson, have any of the neighbors contacted your office?
- Building Official Patterson: They have not.

**Public Comment**

Louise Bryan, 4314 Iroquois Avenue, stated that she did not have any comment on this item specifically, but she wanted to comment on gates and fencing in Belle Meade. She noted that there appear to be more gates and fences receiving approval from the Board of Zoning Appeal, and she wanted to make the board aware that there are historical precedents. Belle Meade is supposed to have a landscape style that's naturalistic and cohesive and every time a fence and a gate is built as bigger or taller, or in a place where it shouldn't be, it actually disrupts everyone's axial view, even though it may give the owners a beautiful view from their backyard. I'm asking that you really consider every single time that a fence or gate application comes before you. Again, I'm not commenting on this specifically, but I am commenting tonight because both items on the agenda are asking for exceptions for gates and fences. And we're trying to maintain a beautiful, groomed neighborhood. A gate and a fence are defensive architecture. Again, I just asked the board to please consider this every time you have these come before you.

**Public Comment Closed**

**Board Discussion**

Chairman Hale: Ms. Bryan, do you have an objection to this item.

Bryan: No, I do not object to this item.

Zabaski: I don't have a problem with this fence, it is not unusual, to put a fence closer to the front to allow more use in backyard.

Clifford: I agree with that comment.

Sternberg: I would like to make a comment to Ms. Bryan. Within our codes we are limited to what we can do until there is a change to the codes. I think we would welcome that. But for now, we work with what we have in our codes.

**Motion to approve as submitted with wall not being higher than six-foot eight inches:      Zabaski      Second:      Clifford      Vote: All aye.**

**2. The application of Lionwolf Trust (22021) 515 Belle Meade Blvd., for a special exception permitting the construction of a fence and gate. The building permit has been denied for the following reasons.**

- A. Fence is in other than permitted location and over in height.**
- B. Gate is over the allowable height.**

Presentation Gavin Duke, Landscape Architect, Duke Design Group

Duke stated that the client at 515 Belle Meade Boulevard has security concerns and therefore the resident asked for a special exception for a fence and gate on the front of the property. Duke noted that he understood that the fence was a hard ask, and that the property currently had a thick barrier of magnolias and heavy planting behind the magnolias which could provide an additional deterrent, as opposed to the fencing the residents had asked for. He stated that the board had, at the February 15<sup>th</sup> meeting, approved six-foot gates for the residence at 1109 Belle Meade Boulevard and he was hopeful that the board would approve a five-foot wrought iron fence, with piers on each side. Duke provided photos showing other gates of similar and greater height that they are asking for.

**Board Questions and Comments**

- Sternberg: I thought the gate we approved at 1109 Belle Meade Boulevard was five feet.
- Duke: Was it approved at six feet?
- Patterson: It was approved at 5 feet.
- Zabaski: In reference to the photos, we can also show as many homes with six-foot pillars that don't have gates. Did you note which year those gates were installed?
- Duke: I know that 810 Jackson was approved I believe in 2012, I could provide dates on the others.
- Zabaski: In 1997, the Board of Commissioners changed the allowable height of gates. There are substantial three-foot gates that have been installed at various properties for security reasons.

- Duke: I know at 4425 Warner Place, and this would have been four years ago, we were allowed five-foot gates.
- Zabaski: My opinion has not changed, and unless the commissioners change the allowable height, it is hard for me to agree that they are necessary for security.
- Duke: It is not just for security but for aesthetics as well. It is set back off the street, with enough room to allow for delivery trucks to pull off of the street. I'm just wondering if one was approved last month, how that one faired through the same process.
- Zabaski: I voted against it.
- Sternberg: You are also requesting a fence as well.
- Duke: Yes, but you can bifurcate them.
- Sternberg: You do see some gates on Belle Meade Boulevard, but you don't see a lot of fences, it is usually done with hedge and or greenery.
- Duke: For the record, I was asked by the client to submit their request.

#### **Public Comment**

- Chris Whitson resident at 802 Westview Avenue, and an attorney with Sherrard Roe Voigt & Harbison, PLC, representing Julieann and Jeff Williams, who live at 519 Belle Meade Boulevard, next door to the subject property. Whitson stated that the Williams' opposition to the request was that it does not meet the requirement for a special exception, according to the code, 14-206C3E. Whitson stated the requirements listed in the code. He noted that one of the fences would be over the property line and be on the Williams property.
- Julieann Williams, resident at 519 Belle Meade Boulevard, provided photos showing a survey of the property line and where the infringement on their property would be.
- Whitson noted that the Williams have not agreed to a fence on their property, having said no on two separate occasions. Whitson restated the failure of the request to meet the special exception guidelines and asked the board to deny the request.
- Williams provided additional reasons why they are opposed to the request.
- Zabaski: My understanding, is that if they just put-up pillars and gate, one of the pillars would be on your property?
- Williams: No, the fence line would be on our property, the pillar and gate would not be on our property.
- Duke: For the record, my firm would not place a fence over the property line, there have been issues with several properties on Belle Meade Boulevard where there are overlapping lines.
- Rusty Moore, resident at 4422 East Brookfield, stated that he wanted to oppose the fence and gate, noting that Belle Meade is not intended to be a city of walls and fences and gates; and there were gates that had been approved in the past that should not have been approved. Moore stated that the Belle Meade code is very clear stating that fences and gates in the front of homes are confined to three feet in height. He

noted that he has the utmost respect for people who have security issues, stating that there are many high-profile Belle Meade residents, and encouraged the board to keep the height requirement of fences and gates to three feet in height.

**Public Comment Closed**

- Zabaski: The fence is a non-issue, and as far as a gate higher than three feet, at some point that needs to stop. Our opening states our purpose is to adhere to the integrity and the intent of city of Belle Meade and the ordinances and certainly the intent of the commissioners is not to have walls or gates over three feet tall in the front yard. It is clear to me.
- Chairman Hale: Are there any other comments, if not the chair will entertain a motion.

**Motion to deny the application as submitted:**                     Zabaski  
**Second:**                     Sternberg

**No Board Discussion**

**Vote on the motion to deny the application as submitted**                     All aye.

**OTHER BUSINESS: NONE**

Chairman Hale adjourned the meeting at 5:46 p.m.

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Chairman Doug Hale

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City Recorder Rusty Terry