

**Minutes  
City of Belle Meade  
Board of Zoning Appeals  
May 17, 2022**

**Board Members present**

Doug Hale, Chairman                      Joe Dughman, Vice Chairman                      Erick Clifford  
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 5:10 p.m.  
There were no conflicts of interest from the board members.

**Consideration of the minutes April 19, 2022**

**Motion to approve:**                      Dughman                      **Second:**                      Clifford

Zabaski: There is a question on the application of Nathan Lyons, the minutes state the master bedroom is the right rear corner.

Andrew Morton: It is the left rear corner.

Zabaski: That is the only correction.

**Chairman Hale: Motion to approve minutes as corrected:**                      **Vote: All aye.**

**Old Business:**

1. The application of Nathan Lyons (22042) 113 Bellevue Drive S., 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.

At the April 19<sup>th</sup> meeting, the board requested landscape elevations.

**Presentation:** Andrew Moreton, Vintage South Development, LLC

Moreton stated they had an updated landscape plan, presenting the plan to the board. Moreton also provided printouts of the plan.

- Chairman Hale: To Building Official Patterson: Can you re-visit us to the changes that have been made.
- Building Official Patterson: There was a question about the rear landscaping, and the height of the pool and some of the neighbors being able to see the wall. Is that correct Mr. Moreton?
- Moreton: I was asked to provide landscape elevations. The actual landscape plan has not changed.
- Vice Chairman Dughman: Are the ten-foot holly trees represented in the noted area at the rear of the property?
- Moreton: Yes.
- Vice Chairman Dughman: The house towers over the neighbors, how will these holly trees protect the neighbors.

- Moreton: If you look at the location of the pool, and the location of the house behind the property, you will not be able to see the pool from the house behind. The property is also buffered by existing large mature trees. The holly trees will not add any additional buffer to the pool, they will buffer the covered porch.
- Vice Chairman Dughman: But it won't buffer the house.
- Moreton: I did not know we had to buffer the house that was already approved. I thought I was asked to buffer the pool.
- Vice Chairman Dughman: The spoken objection by the neighbors at the last meeting was about the house towering over their property.
- Moreton: The objection was about the pool.
- Vice Chairman Dughman: I understood it differently, the house towers over the people that spoke at last month's meeting.
- Moreton: The house has already been approved. And that covered porch will be there. We are here to today for the pool.
- Zabaski: Along side the pool there is a deck, does the deck go to the end of the house?
- Moreton: Using the elevations he showed the location of the pool, the master bedroom, the pool the deck the kitchen and the covered porch.
- Zabaski: What is between the pool and the covered porch?
- Moreton: A deck.
- Zabaski: And the deck is ten-feet high?
- Moreton: Yes, that was part of the plan previously approved.
- Zabaski: Is that a retaining wall that holds the pool up.
- Moreton: Yes.
- Zabaski: With or without the pool there will be a deck and covered porch.
- Moreton: Yes.
- Vice Chairman Dughman: Will the ten-foot shrubs cover the pool from the neighbors.
- Moreton: No.
- Chairman Hale: That is the sensitive part to me, I want to make sure they will not be able to see the pool if they are enjoying their outdoor area.
- Moreton: Neither the pool nor the pool wall will not be visible because of the existing trees.

#### **Public Comment**

Matt Garvey, resident 200 Scotland Place, stated that his questions at the last meeting were about the plant screening, and at this time they do offer screening, but I am concerned about what happens during the winter months when the leaves have fallen. I would also like to ask if there are permanent lighting fixtures on the deck or the pool area?

- Moreton: There will be lighting fixtures along the rear of the house.
- Garvey: No floodlights?
- Moreton: There is one floodlight for security, which will be there with or without the pool.
- Garvey: I have another question; will there be plants along the retaining wall.
- Moreton: Using the elevation photo indicated planters.

Haley Dale, resident at 601 Enquirer, stated that she was not in favor of the pool because it feels like an above ground pool and was also not in favor of the ten-foot retaining wall.

- Zabaski: Mr. Chairman, I would like to ask a question of the Building Official Patterson. Mr. Patterson if they did not have a pool there, would they be able to put the ten-foot wall up and put a deck right outside the bedroom by right?
- Building Official Patterson: Yes. This is not a wall, it is a foundation to support the terrace and pool. A wall is a barrier in the yard to protect the pool.
- Zabaski: Is there anything in the ordinance about an above ground pool?
- Building Official Patterson: Technically this is an in-ground pool. And to answer the question, no, there is nothing in the ordinance about an above ground pool.

Bea Isenhour, resident 204 Scotland Place, stated that the neighborhood was not in favor of this. She asked if that when the plans were presented to the Historic Zoning Commission, were they required to present a landscape plan?

- Building Official Patterson: No. They focus on the house only.

Isenhour also asked if the plants would be raised, Moreton informed her they were at current grade. She also stated that she is still concerned about privacy and noise.

Richard Francis, resident 537 Jackson Blvd, stated that he had reviewed the landscape plans and considered them to be inadequate, stating that the wall would be seen by the neighbors, stating his concern for the size of the house and lights.

Moreton addressed concerns about stormwater issues stating that the plans had been approved by the city engineer Steve Casey. He also stated that from the grade below there would be no view of the pool, all you would see would be the house.

Zabaski: Mr. Moreton, have you and the owner considered lowering the pool and if not why not and could you do it.

Moreton: Then you would not have a deck/terrace at the same level as the pool, and you would not have a way to access the covered porch from the bedroom.

#### **Public Comment Closed**

#### **Board Comments and Questions**

- Vice Chairman Dughman: I think the inherent problem is that the house towers over the house behind it and there is no getting around that, and we are here for the pool only. The problem is the elevation of the house in relation to the house on Scotland Place.
- Zabaski: The yard slopes high to low in the back, the front is at ground level, and that is what makes it seem more obtrusive to the neighbors. The pool meets the conditions for conditional use.

- Clifford: I agree with the comments made, the neighbors have voiced concern about the elevation of the house and that is not what is in question here, it is the pool and I believe this board has the ability to recommend additional landscaping. But I don't think we have any authority to comment on the elevation of the wall or the deck.
- Chairman Hale: The ordinance gives us specific authority to protect and safeguard the character of the community, and one of those is we can require vegetative screening. I am sensitive about the large trees, I thought the house to the rear, was square behind and the holly behind the retention facility would provide that screen, but I now realize that the only thing to screen the pool would be additional screening. I would be in favor of requiring evergreen plantings to supplement the deciduous plantings that are there now.
- Vice Chairman Dughman: I would like to see that as well.
- Chairman Hale: Can you achieve the same opacity in the corner here that you have achieved here?
- Moreton: Yes, we can place additional Holly's here.

**Motion to approve as submitted: Zabaski**

**Motion failed for lack of second**

**Motion to approve subject to adjusting landscape plan to include additional evergreen screening from the southeast corner of the retention facility to the sideline with trees similar to those screening: Clifford**

**Second: Dughman**

**Board Discussion**

- Zabaski: It is subjective, the screening, once it is up it is done and we have no more authority over that, just so we understand the motion.
- Chairman Hale: We don't need to leave it as subjective; it needs to be as objective as possible.
- Zabaski: I think we need to include the number of plants.
- City Attorney Berry: In general, there is going to be some subjectivity. If you say evergreens on the southeast corner I think it is implied that they are to put in adequate plantings for screening.
- Zabaski: Mr. Moreton, what does that do to your timeline?
- Moreton: We were here last month, and this month and we need to get started. I would propose continuing the line of hollies from the retention pond to the corner and to the existing line.
- Vice Chairman Dughman: I recommend that the board request a specific landscaping plan with tall arborvitaes to protect the sight line in the winter months.

**Vote: Chairman Hale, Vice Chairman Dughman and Zabaski nay.**

**Motion to defer for sixty days: Zabaski Second: Dughman  
Vote: All aye**

2. The application of Tarek El Gammal (22044) 4434 Shepard Place, for a variance permitting the construction of a wall and addition building

height, a special exception for overage on hardscape, and a conditional use for a swimming pool. The building permit has been denied for the following reasons.

- A. Wall is over allowed height.
- B. Addition is over the allowed 25-foot height between the 60-85-foot zone.
- C. Swimming pool requires BZA approval.
- D. Hardscape is over the allowable by 1.6%

Presentation: Architect Ron Farris, Farris Concepts in Architecture and Landscape Architect Richie Jones HDLA,

Farris began with background on the 1969 era home, providing photos of the existing structure and elevation plans for the proposed additions and pool, noting that the plans for the home had been approved by the Historic Zoning Commission. Farris stated that the request for the height variance resulted from considering the masterplan for the site, the topography and the style of the home. In order to maintain greenspace and reduce hardscape, there is an addition consisting of a kitchen, garage and master wing that wraps around creating a courtyard with a pool and terrace. A portion of the roof of this addition is out of compliance with the allowable height. Farris provided handouts for the board, showing the addition as described. Farris noted that the grade of the property at the 25-foot setback was presenting a hardship to maintain the style of the existing home. With the aid of the elevation photo and handout, Farris pointed out the small section of the roof that was out of compliance. Farris stated that the overall height of the original house is 33 feet when measured from the average natural grade and that the home is well under the 40-foot maximum allowed.

- Zabaski: It is just a roof, no windows that look over a neighbor's home?
- Farris: That is correct, and there is no attic space.

Richie Jones stated they are proposing a new driveway, as well as a new entry walk into the front of the house, a new pool and surrounding terrace and deck. They are trying to tie into the existing finished floor elevations, as well as minimize grading change on the side of the home. Using elevation plans Jones provided information on areas where grading changes would need to take place, and the amount of grade change needed, providing information on a low stone wall that will screen the walk, tying into a side entry.

- Zabaski: Do you have walls higher than 36 inches.
- Jones: We have walls at a maximum height of 45 inches in the back of the house

Jones stated they would like a pool and pool terrace, the pool is within the building envelope, to accommodate the pool they have designed a driveway under the allowable surface, but the two added together takes the hardscape over by 1.6%.

#### **No Public Comment**

#### **Board Comment and Questions**

- Zabaski: I don't have a problem with the application.

- Chairman Hale: to Building Official Patterson: What is your recommendation:
- Building Official Patterson: Staff recommends approval.

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

**New Business:**

1. The application of Parker Griffith (22051) 216 Lynwood Blvd., for a conditional use permitting the construction of a swimming pool and changing room/cabana. The building permit has been denied for the following reasons:
  - A. Swimming pool requires BZA approval.
  - B. Accessory structures require BZA approval

Presentation: Landscape Architect Wade Rick, Daigh Rick Landscape Architects, LLC

Rick began by stating that the Griffiths had lived in their home on Lynwood Boulevard for over 20 years, and have slowly made additions to the house, and they would like to add a garden type swimming pool to the back yard. Using elevation plans, he noted the size of the pool and the changing room. Rick provided photos noting pool fencing was already provided on each side by neighbors, who already have pools. Rick noted that the pool equipment would go behind the small changing room, stating that they are within the allowable footprint. Rick also stated they would be adding landscaping to screen the pool equipment.

**Board Questions and Comment**

- Dughman: What is the box that appears to be empty?
- Rick: That is the pool equipment enclosure.
- Chairman Hale: Is that area also used to store other items?
- Rick: There may be a small HVAC unit for the changing room, but the primary use will be the pool equipment.
- Chairman Hale: Are all the improvements within the building envelope?
- Rick: Yes.

**No Public Comment**

**Motion to approve as submitted:**        Dughman        **Second:**        Clifford  
**Vote:** All Aye

2. The application of the Belle Meade Historic Site (22052) 5025 Harding Pike, seeking permission to build out a portion of the Stable Loft for gatherings. The permit has been denied for the following reason:
  - A. Appendix C; Construction and Alteration of Buildings: No addition to any building or structure on historic site may be altered or added to, and no new building or structure shall be constructed, without approval by the board of zoning appeals as to its purpose and location, and a finding that it is architecturally compatible with the original buildings or structure on the site. Applications for approval of such new

buildings or structure must be accompanied by plans prepared by a registered architect.

Building Official Patterson: Applicant has asked for a deferment for 60 days.

**Motion to defer for 60 days: Zabaski      Second: Dughman      Vote: All aye.**

**OTHER BUSINESS: NONE**

Chairman Hale adjourned the meeting at 6:30 p.m.

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Chairman Doug Hale

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City Recorder Rusty Terry