Minutes City of Belle Meade Board of Zoning Appeals August 16, 2022

Board Members present

Doug Hale, Chairman Vice Chairman Joe Dughman Gloria Sternberg Chris Tardio Puneet Mishra

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.

Puneet Mishra recused himself from hearing Item #1 under New Business

Consideration of the minutes July 19, 2022

Motion to approve: Tardio Second: Mishra Vote: All aye

New Business:

- 1. The application of Tom Cowhey (22081) 1 Webster Lane, for a special exception/conditional use, permitting the construction of a spa, a special exception for additional hardscape & expansion of driveway. The building permit has been denied for the following reason.
 - A. A portion of spa is over the rear building setback.
 - B. Hardscape is over the allowable by 8.2%.
 - C. Driveway is over the front yard allowable by 48% and over the total allowable by 17%.

Presentation

Ed Tessier with BFTLand Design, landscape architecture firm Using submitted plans, Tessier provided information on expanding the front motor court area and adding a spa to the property. He stated that the expansion of the motor court area would also include the conversion of approximately 3,000 square feet of existing and additional hardscape area into a permeable driveway to assist with stormwater issues. Tessier provided information on the existing setbacks, indicating that the house is already outside what the current code allows. Tessier provided details on the addition of the spa, and expansion of existing paved areas to allow for more chairs and a fire pit.

Public Comment

Ethan Colclasure, 4520 Millrace Lane, stated that he was in favor of the hardscape plans, and spoke to a recently corrected stormwater issue and wanted to make sure the drainage was being properly managed. Colclasure also pointed out an area of property on the outside of the Cowhey's fenced area that was not being maintained, using the plans submitted by Tessier, he indicated the area in question. Colclasure noted that the property had been absorbed by the Webster neighbors when the Millrace HOA dissolved.

Tom Cowhey, owner 1 Webster Lane, gave a brief update on the stormwater issue, stating that he had required that it be corrected before purchasing the property and also stating that he would maintain the land on the back side of the fence.

Public Comment Closed

- Sternberg: What does staff recommend?
- Building Official Patterson: Staff recommends approval.
- Vice Chairman Dughman: Why can the proposed spa not be in the setback area.
- Tessier: There is a bay window and placing the spa in the setback area would place the spa very close to the house. The current plan is to create a landscape and greenery area to keep the spa from being right up against the house.
- · Vice Chairman Dughman: What is the distance between house and spa now.
- Tessier: About 6 feet.
- Vice Chairman Dughman: Tell us again why you want to add more hardscape area to the property.
- Tessier: Using the submitted diagrams provided the information on the expansion of the motor court area.

Motion to approve as submitted: <u>Dughman</u> Second: <u>Sternberg</u> Vote: All aye

- 2. The application of Ray Hayles (22082) 1207 Canterbury 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.
 - B. A portion of the pools sun shelf is outside the rear building setback but under the maximum depth of 18 inches.

Presentation Gavin Duke, Duke Design Group

Duke stated that the plan is within the square footage allowances for the hardscape, pool and spa, and are requesting to add a sun shelf, noting that the ordinance states that anything under 18 inches is not considered a pool; this is the same type of sun shelf that was recently approved for the Jeff Orr home. Duke also stated that there are stormwater issues that will come up and they have hired Ron Hales, a Civil Engineer to do a full stormwater study that will benefit the neighbors.

- Chairman Hale: Asked for Duke to use the plans to show the location of the sun shelf.
- Duke: Pointed this out
- Tardio: Is the sun shelf the only piece outside of the building envelope?
- Duke: Yes.
- Vice Chairman Dughman: Mr. Chairman, whether or not the sun shelf is part of the pool or not, it is still outside the building envelope, correct?

- Duke: It (the ordinance) does not state anything about a fountain having to be within the building envelope.
- Vice Chairman Dughman: This pool is 37 feet long, why can't the pool be reduced by five feet.
- Duke: A standard pool is 25' x 40' and we are trying to get as much room as we can, they have a large family.
- Vice Chairman Dughman: I am only asking to see if the pool size can be reduced to be in the building envelope.
- Duke: Yes, the pool is pretty close to the house, we are only about 10 feet from the covered porch, and yes we are trying to put a lot in a small area.
- Tardio: Did we approve the similar project you mentioned?
- Duke: Yes, it was approved.
- Sternberg: Mr. Patterson, what does the staff recommend.
- Building Official Patterson: Staff recommends approval.

Public Comment

Charlie Thornburg, 1212 Nichol Lane, stated they are opposed to the pool, primarily because of the noise; also noting that there are significant stormwater/drainage issues which is also of concern.

Public Comment Closed

Board Discussion

- Tardio: To City Attorney Berry: from and interpretation of the ordinance perspective; hypothetically if this sun shelf were separate from the rest of the pool, we wouldn't have to approve it.
- City Attorney Berry: That is correct.
- Tardio: I know we are not responsible for the stormwater plan, but it does factor into this; is that going to address the pool drainage, is the pool considered in the stormwater plan?
- Building Official Patterson: Yes, it is.
- Tardio: If hypothetically we approve the pool, the plan will include the pool drainage.
- Building Official Patterson: Yes
- Tardio: How are you addressing the noise, is there a buffer?
- Duke: We will have an adequate back screen, which we will begin planting soon. There will be 14- to 16-foot magnolias which will help to keep the noise level down.
- Chairman Hale: Is the pool at grade?
- Duke: It is close to grade, but we do have a five-foot elevation between the front and back so it may be slightly elevated. The grading plan has been turned over to the civil engineer.
- Mishra: Can you indicate, on the plan, where the pool equipment will be, and will it be enclosed?
- Duke: Indicating the location Duke stated that it will be fenced in a six-foot enclosure.
- Dughman: We have an ordinance and a setback line for a reason, I am very sensitive to people who don't have room for a pool, and they are

limited because of the size of the lot, but I do not see that as the case with this application. And to me with the sun shelf, which is part of the pool, the pool is over the setback.

Motion to defer up to sixty days: <u>Sternberg</u> Second: <u>Dughman</u> Vote: All Aye

- 3. The application of Alison Uchrin (22083) 22 Lynwood Lane, 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, Gavin Duke, Duke Design Group
We are asking for a pool, it is all within square footage allowance, and it
is within the building setback. We do have a proper fence enclosure; the pool
equipment is within the building setback. We do have the screening shown on
the landscape plan for the neighbors.

No Public Comment

Motion to approve: <u>Dughman</u> Second: <u>Sternberg</u> Vote: <u>All aye</u>

- 4. The application of Patrick Lewis (22084) 705 Belle Meade Blvd., for a conditional use permitting the construction of a swimming pool. The building permit has been denied for the following reasons.
 - A. Swimming pools require BZA approval.

Presentation, Gavin Duke, Duke Design Group We are asking for an approval for a pool, it is within the building envelope, we are under square footage allowances; we have the pool equipment within the building envelope, and the landscape plans is also available.

No Public Comment

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

OTHER BUSINESS: NONE

Chairman Hale adjourned the meeting at 5:52 p.m.

Chairman	Dona	Hale		
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City Rec	order	Rustv	Terry	