



**CITY OF BELLE MEADE
BOARD OF ZONING APPEALS
SPECIAL CALL MEETING AGENDA PACKET
FEBRUARY 12, 2024, 04:00 PM**



**AGENDA BOARD OF ZONING APPEALS
SPECIAL CALL MEETING
FEBRUARY 12, 2024, 04:00 PM
BELLE MEADE CITY HALL, 4705 HARDING PIKE**

TO ALL MEMBERS OF THE BOARD OF ZONING APPEALS AND INTERESTED PARTIES:

This is to notify you of the regularly scheduled meeting of the Board of Zoning Appeals (BZA), with public hearing and public comment on the agenda items. Public comment will also be heard on any matters related to the BZA. Items for consideration are listed below and are available on the city website, www.citybellemeade.org. The meeting will also be available through Live Stream on the city website.

I. Call to Order

II. Approval of Minutes

Consideration of the minutes of the Board of Zoning Appeals held January 23, 2024.

Attachment: [January 23 Minutes.pdf](#)

III. Old Business - None Scheduled

IV. New Business

A. The application of Bill McGugin, representative of Devane Tennessee Community Property Trust, BZA 2023-17, 402 West Brookfield Avenue, for Conditional Use for a swimming pool, pool house, and a tennis court and a Variance for a fence in an alternative location.

Attachment: [APPLICATION PAID.pdf](#)
Attachment: [McGugin-SITE PLAN 01.08.24.pdf](#)
Attachment: [STAFF REPORT 402 W Brookfield Ave.pdf](#)
Attachment: [STAFF ANALYSIS.pdf](#)
Attachment: [KAREN RICH PUBLIC COMMENT.pdf](#)
Attachment: [SMALL FAMILY PUBLIC COMMENT.pdf](#)
Attachment: [WEAVER PUBLIC COMMENT.pdf](#)
Attachment: [McGugin-BZA Handouts.pdf](#)
Attachment: [Applicant email regarding tennis court concerns.pdf](#)
Attachment: [Tennis Courts with lights.pdf](#)

B. The application of Jack Fleischer BZA 2023-16, 112 Lynwood Boulevard, approval of a Conditional Use for a Swimming Pool and a Variance for a fence in an alternative location.

Attachment: [APPLICATION PAID.pdf](#)
Attachment: [SITE PLAN.pdf](#)
Attachment: [SITE CONTOURS FLOODPLAIN.pdf](#)
Attachment: [STAFF REPORT 112 Lynwood Blvd Rev 1.pdf](#)
Attachment: [BZA Minutes January 19 2021.pdf](#)
Attachment: [BZA Minutes March 16 2021.pdf](#)

V. Other Business: None Scheduled

VI.Other Public Comment

VII.Adjourn

The regularly scheduled meeting of the Board of Zoning Appeals on February 20, 2024 is cancelled. The next regularly scheduled meeting of the Board of Zoning Appeals will be held March 19, 2024 at 5:00 P.M. at Belle Meade City Hall, 4705 Harding Pike, Nashville, TN.



MINUTES
BOARD OF ZONING APPEALS – REGULAR MEETING
JANUARY 23, 2024, 5:00 PM
BELLE MEADE CITY HALL, 4705 HARDING PIKE

Call to Order

Acting Chairman Chris Tardio called the meeting to order at 5:00 p.m.

Board Members Present

Acting Chairman Chris Tardio
Charlie Atwood
Johnny Phipps
Ron Farris

Staff Present

City Manager Jennifer Moody
Planning Director Mary Samaniego
City Recorder Rusty Terry
City Attorney Doug Berry

Acting Chairman Tardio asked the board members if there were any conflicts of interest; Farris, Phipps and Atwood all had conflicts with item B, application BZA 2023-17.

Tardio stated that the item would be automatically deferred until the next meeting.

Approval of Minutes

Consideration of the minutes of the Board of Zoning Appeals held December 19, 2023.

Motion to approve: Farris Second: Phipps

Old Business - None

New Business

The application of Jack Fleischer BZA 2023-16, 112 Lynwood Boulevard, approval of a Conditional Use for a Swimming Pool and two Variances for a fence in an alternative location and pool equipment outside of the building envelope. DEFERRED

The applicant, or a representative were not present.

Motion to defer the application until the February 20, 2024 meeting:
Atwood Second: Farris

The application of Bill McGugin, representative of Devane Tennessee

Community Property Trust, BZA 2023-17, 402 West Brookfield Avenue, for Conditional Use for a swimming pool, pool house, and a tennis court and a Variance for a fence in an alternative location. DEFERRED

The application of Michael Goorevich, representative of Robert and Caitlin Harris, BZA 2023-18, 4424 East Brookfield Avenue, for Conditional Use for a swimming pool and a pool house.

Michael Goorevich, Architect for the Harris', reviewed the plans that had been submitted for the request for the conditional use for a swimming pool and pool house, noting where fencing would be added and the location of the pool equipment.

There were no questions of the applicant from the board.

Public Comment Opened

Rusty Moore, resident 4422 East Brookfield Avenue stated he was in favor of the project, suggesting evergreen screening between his property and the Harris property.

Public Comment Closed

Motion to approve as submitted: Atwood Second: Phipps Vote
All aye

Other Business: None Scheduled

Other Public Comment - None

Adjourn

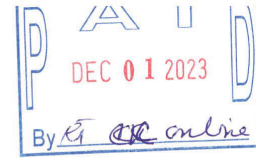
The meeting adjourned at 5:11 p.m.

Acting Chairman Chris Tardio

City Recorder Rusty Terry



CITY OF BELLE MEADE
APPLICATION FOR BOARD OF ZONING APPEALS



Subject to the provisions of the Code of the City of Belle Meade as they may be amended from time to time, the following general criteria are considered:

APPEAL # BZA 2023-17 **APPEAL FEE:** \$900.00

APPLICANT (Owner's Name) Mr Bill McGugin **PHONE #** _____

APPLICANT EMAIL ADDRESS clay@kaisertrabue.com

PROPERTY ADDRESS: 402 West Brookfield Avenue

REQUEST: SPECIAL EXCEPTION ☐ VARIANCE ☒ CONDITIONAL USE ☒

REASON FOR APPEAL – Be Specific Swimming pool, pool pavilion, and tennis court require Board's approval.

Pool enclosure fence at south side of house requires variance.

LAND TO BUILDING FLOOR AREA RATIO (F.A.R.)

***FAR IS ALL ENCLOSED COVERED STRUCTURES, MEASURED TO THE OUTSIDE WALLS, AND WILL INCLUDE ATTIC HEIGHT OF 5'6" AND ABOVE, ACCESSIBLE OR NOT. THIS DOES NOT INCLUDE BASEMENT OR GARAGE UNDER HOUSE.**

Example: .57 acres x 43,560 sq. ft. = 24,829 lot sq. ft. / 24,829 x 12% = 2,979 footprint of house / 24,829 x .225 = 5,586 total house.

LOT SQ. FT: { 93,077SF }	ALLOWABLE	EXISTING	TOTAL CHANGE	NET CHANGE +/-	% OVER
FOOTPRINT 12%	11,169	3787	8131	4344	0
ESTATE A 8%					

F.A.R. X LOT SQ. FT.					
LOTS <40,000 sq. ft. x .225 =					
LOTS > 40,000 sq. ft. x .196 =					

TOTAL ROOF AREA					
% of Low Slope Roof					
AREAS <6/12 Pitch 30%					

DRIVEWAY 12%	11,169	5282	5743		0
DRIVEWAY IN FRONT YARD 22%	6867	2527	2758		0
FRONT YARD SQ. FT.	31,213				

HARDSCAPE 8% OF LOT	7446	1684	5870		0
HARDSCAPE + POOL 8%					
POOL 2% OF LOT TOTAL	1856	N/A	900		
*** ACCESSORY AREA	13,962	N/A	13,652		

***** COMBINATION OF POOL/TERRACE, DECK, TENNIS COURT, OTHER ACCESSORY STRUCTURES OR USES SHALL NOT EXCEED 15%**

Continued on the next page

City of Belle Meade
Application for Board of Zoning Appeals
Page Two

Complete Check List

- ☒ Plot plan 1 inch = 30 feet "Show Magnetic North"
 - ☒ Show proposed structure shaded with setbacks (building envelope)
 - ☒ Show neighbor's house & measurements to it
 - ☒ Show all detached structures with elevations
 - ☒ Landscape design
 - ☒ Survey of lot, lot square feet with contours, average natural grade
 - ☒ Building envelope *highlighted*
 - ☒ Show all elevations, existing grade, finished grade, FFE's
 - ☒ Highlight coverages in grade change (Inside building envelope 6% of the lot up to 48 inches), (Outside building envelope 4% of lot up to 36 inches), (20 ft. off property line up to 24 inches). Does not include grade changes needed for the foundation.
 - ☒ Submittal, along with appeal fee the first Friday the month prior to the month of the scheduled hearing date.
- *MANDATORY** – Clearly highlight the areas that will be discussed in a bright color on the plans. **INITIAL** CT _____

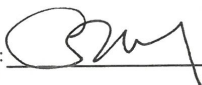
What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings, trees?)

Is the request for a variance the result of a self-induced hardship by the applicant?

The variance requested for the location of the pool enclosure wall stems from the desire to efficiently screen the pool area and pool equipment from neighbors as well as increase the open/green space at the front-side of the house.

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

SIGNATURE:



(Owner/Agent)

DATE: 1 December 2023

Submit all information, plans & application via email PDF to: inspector@citybellemead.org

BZA meets the third Tuesday of each month @ 5:00 p.m.

Submittal deadline is the first Friday of the month prior to the month of the scheduled hearing date.

LANDSCAPE ARCHITECTURAL CONSTRUCTION SUBMITTAL FOR

402 WEST BROOKFIELD DRIVE - NASHVILLE, TENNESSEE

MCGUGIN RESIDENCE

1. SCHEMATIC LANDSCAPE MASTER PLAN (1/16" = 1'-0")

2. TOPOGRAPHICAL SURVEY (1"=20'-0")

3. BUILDING ENVELOPE PLAN (1/16" = 1'-0")

4. TREE REMOVAL/REPLACEMENT PLAN (1/16" = 1'-0")

5. LAND TO BUILDING RATIO PLAN (1/16" = 1'-0")

6. GRADE CHANGE PLAN (1/16" = 1'-0")

7. ELEVATIONS AND DETAILS (FRONT ELEVATIONS - POOL ENCLOSURE WALLS)

8. ELEVATIONS AND DETAILS (POOL EQUIPMENT ENCLOSURE FENCE ELEVATION)

9. AREA CALCULATIONS PLAN (1/16"=1'-0")

A.2-1. ELEVATIONS AND DETAILS - POOL HOUSE

LANDSCAPE ARCHITECTURAL CONSTRUCTION SUBMITTAL FOR

402 WEST BROOKFIELD DRIVE - NASHVILLE, TENNESSEE

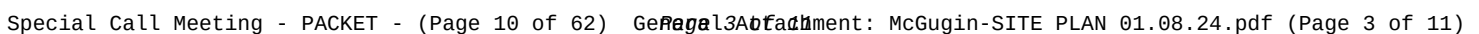
MCGUGIN RESIDENCE

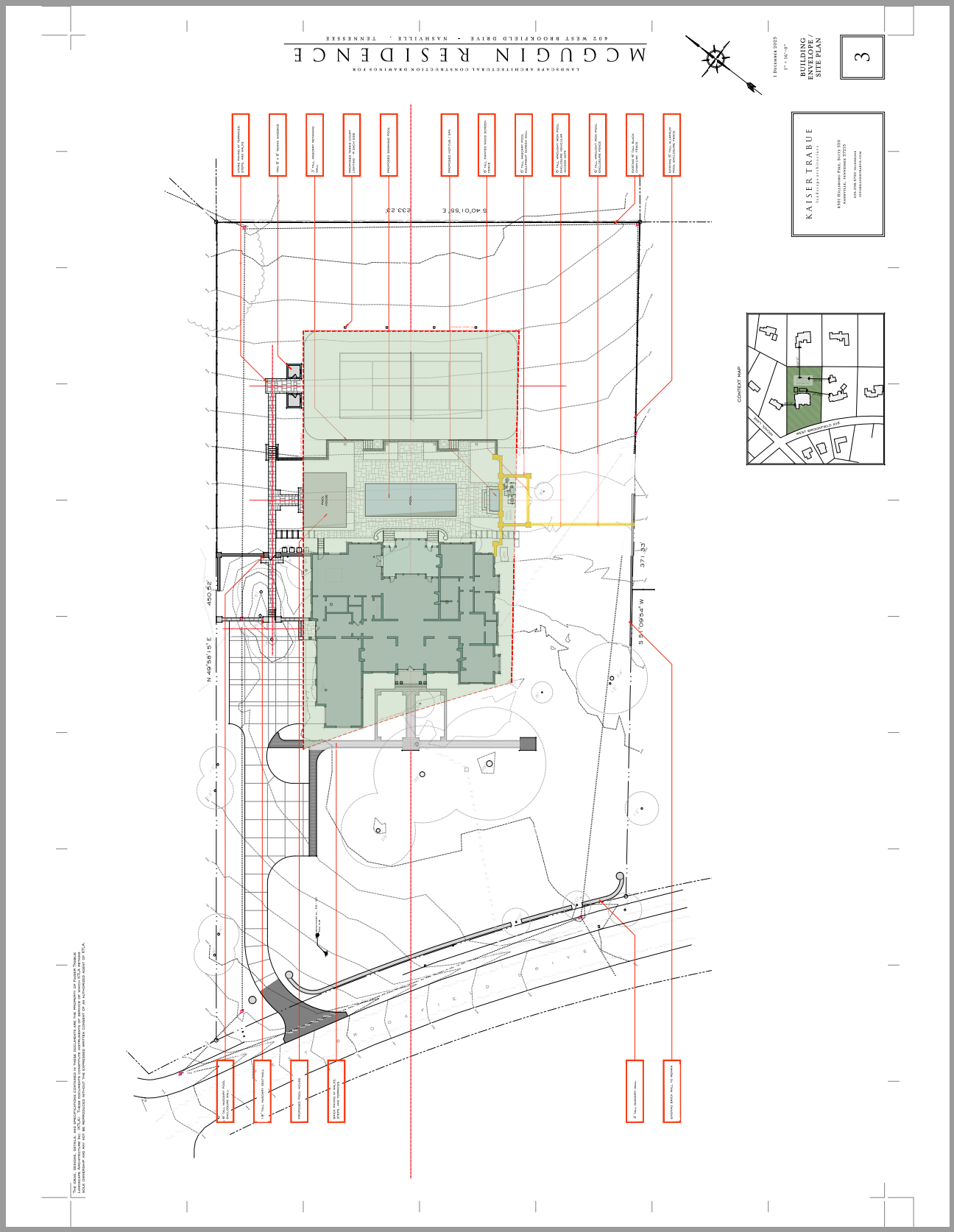
KaiserTrabue
LANDSCAPE ARCHITECTS
4010 HARRISON PARK DRIVE SDR
NASHVILLE, TENNESSEE 37205
615.261.1111
WWW.KAISERTRABUE.COM

1 DECEMBER 2023
MCGUGIN
RESIDENCE

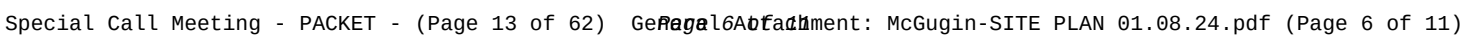
MCGUGIN

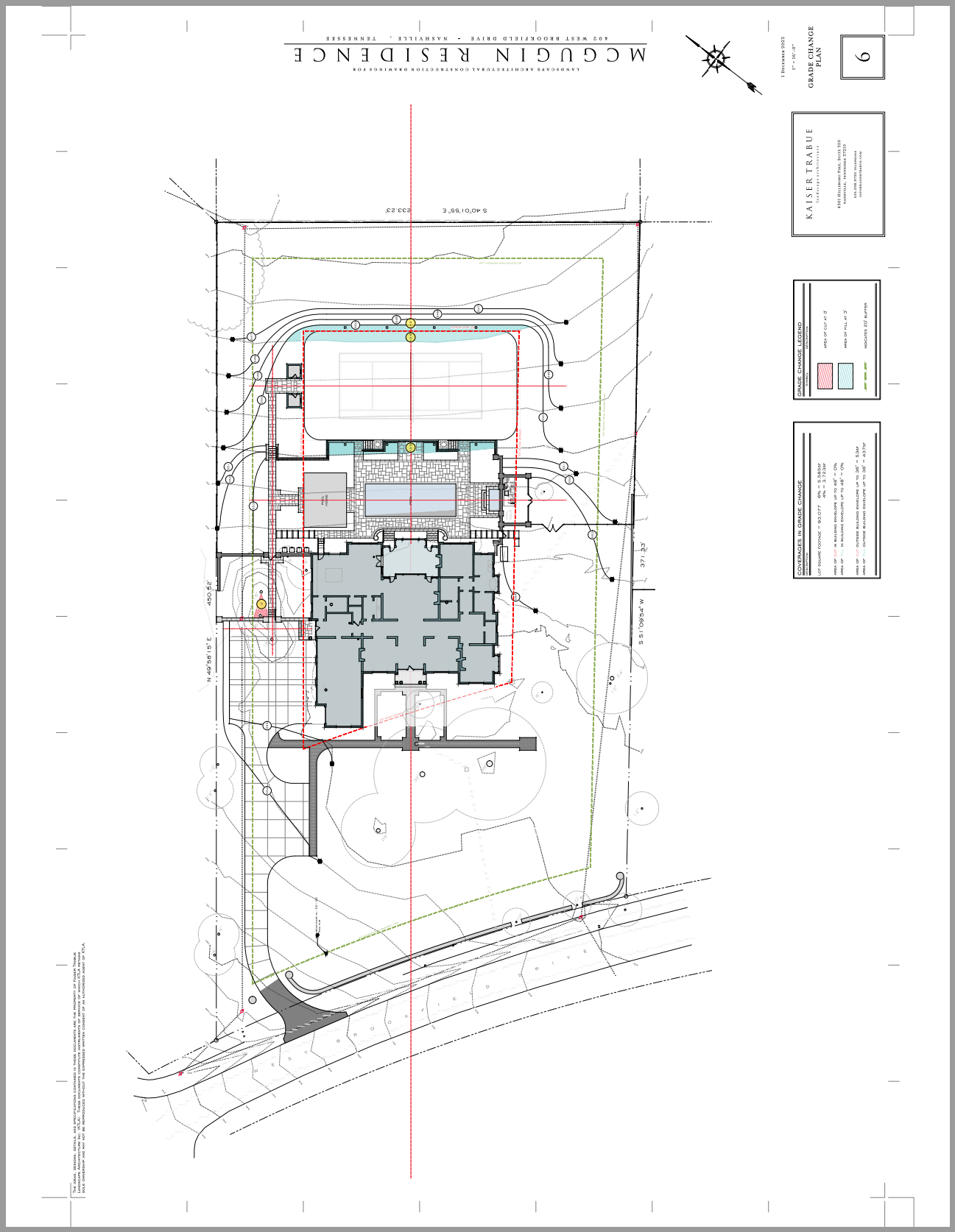


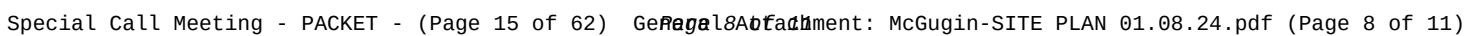


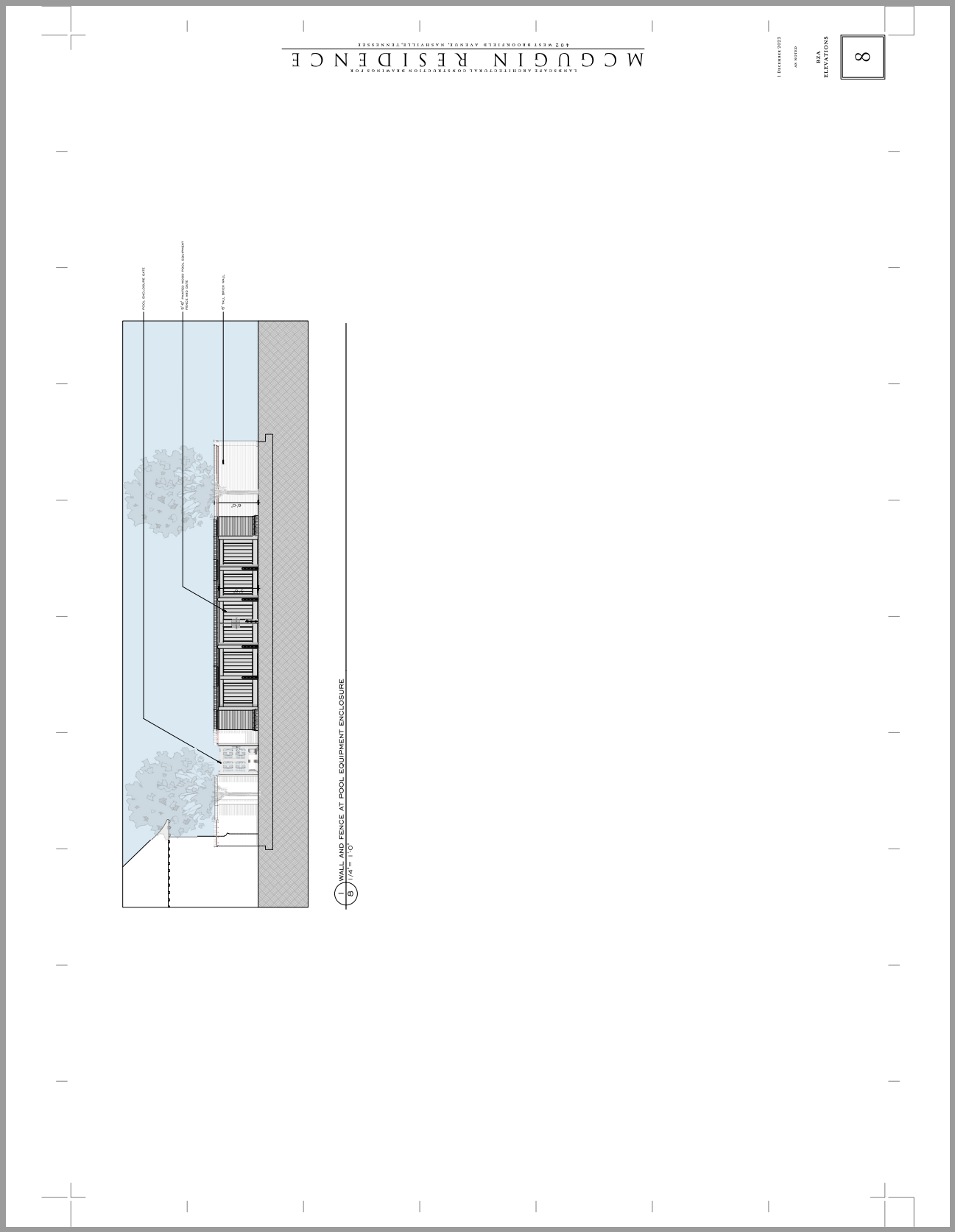










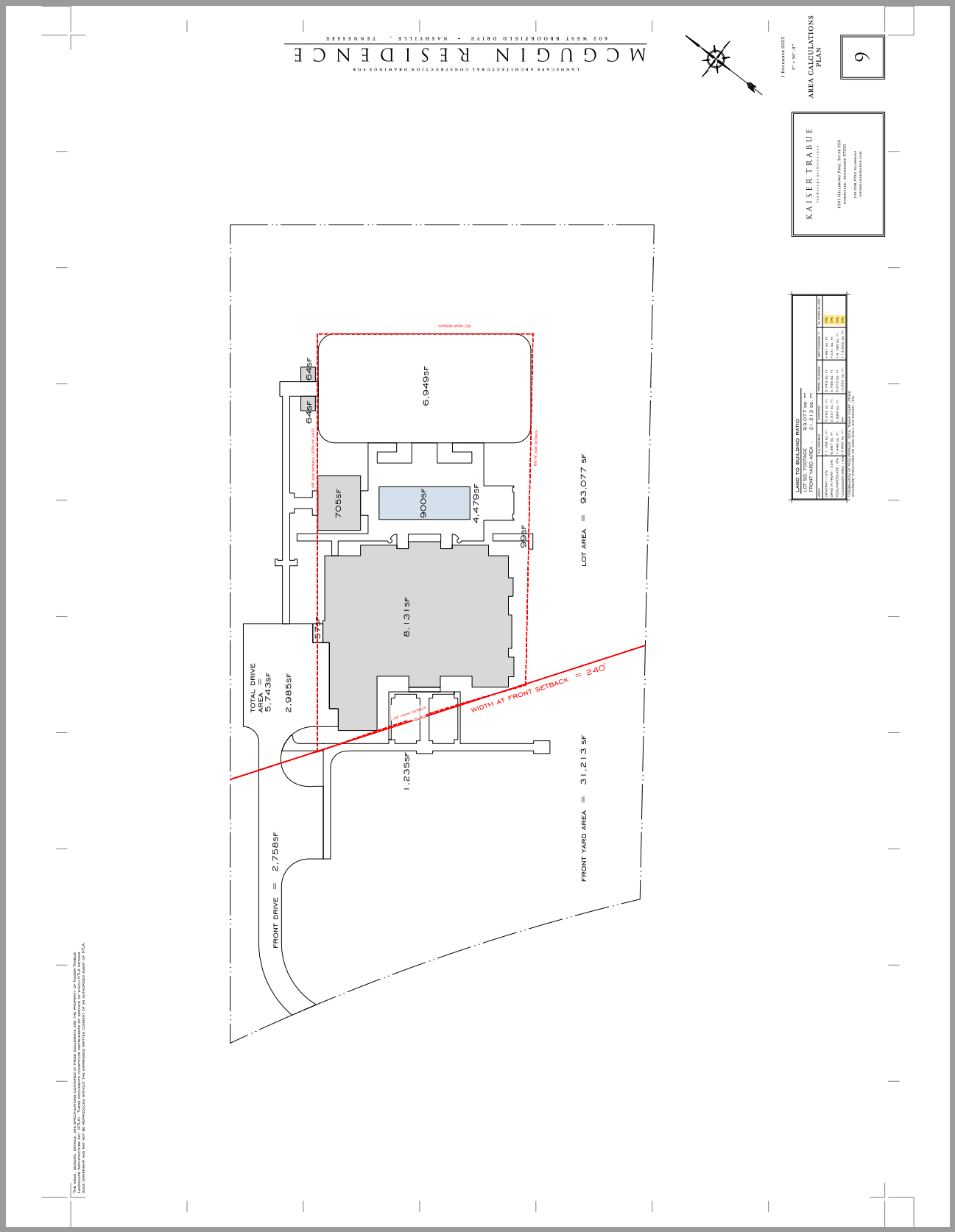


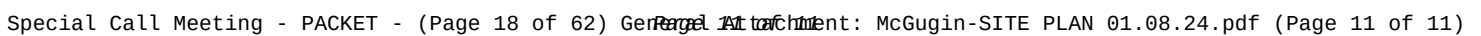
LANDSCAPE ARCHITECTURAL CONSULTING SERVICES
802 WEST BROADVIEW AVENUE, KANSAS CITY, MISSOURI 64108
MC GUGIN RESIDENCE

1 December 2023
AS NOTED
RZA
ELEVATIONS

8

1 WALL AND FENCE AT POOL EQUIPMENT ENCLOSURE
B 1/4" = 1'-0"





Staff Report

Agenda No.: IV.B.
Case No.: BZA 2023-17
Staff: Mary Samaniego, Planning Director
Applicant: Bill McGugin, representative of Devane Tennessee Community Property Trust
Request: Approval of a Conditional Use for a Swimming Pool, Pool House and Tennis Court and a Variance for a fence in an alternative location.
Location: 402 West Brookfield Avenue

Summary:

The applicant, representative of Devane Tennessee Community Property Trust, is requesting a Conditional Use for the construction of a swimming pool, pool house, and a tennis court and a variance for a fence in an alternative location. The applicant/owner has received approval by the historic zoning commission to demolish the existing residence in December of 2023. The new residence has not been submitted for approval by the historic zoning commission yet.

Planning Considerations:

The following general factors, planning concepts, and other facts should be considered in the review of this application:

1. The subject property is 2.14 acres (93,077 square feet).
2. Per Section 14-204(1)(m)(i) of the Zoning Ordinance, the square footage of the surface area of the water in a swimming pool as compared to the lot size shall not exceed two percent (2%) of lot. The allowable area of water within a pool for the proposed lot is 1,861 square feet.
3. The proposed area of water in the swimming pool is 900 square feet.
4. Per Section 14-204(1)(m) of the Zoning Ordinance, the square footage of hardscape, which shall include the maximum swimming pool area, as compared to the lot size shall not exceed eight percent (8%) of the lot area. The allowable area of hardscape including the pool for the proposed lot is 7,446 square feet.
5. The proposed pool house is 705 square feet.
6. The proposed area of the hardscape including the pool is 6,703 square feet.
7. Per Section 14-204(1)(m)(ii) of the Zoning Ordinance, the square footage of tennis court area, as compared to the lot size shall not exceed nine percent (9%) of the lot area. The allowable area of tennis court for the proposed lot is 8,374 square feet.
8. The proposed area of the tennis court is 6,949 square feet.
9. Per Section 14-204(1)(m)(iii) of the Zoning Ordinance, for maximum accessory areas being the combination of hardscape and the maximum tennis court area shall not exceed fifteen percent (15%) of the lot area. The allowable area of accessory areas including the tennis court for the proposed lot is 13,962 square feet.

10. The proposed maximum accessory area is 13,652 square feet.
11. The proposed pool as well as equipment, pool house, and tennis court are entirely within the established building envelope (see attached Staff Analysis of Site Plan).
12. The applicant is proposing a 6' stone/chain link/metal fence that will begin and end at a rear side edge of the proposed residence, but not the furthest rear edge (see staff analysis). Therefore, a variance is required.

Findings of Fact and Staff Recommendation:

The standards of proof required for each individual Conditional Use are established in the Zoning Ordinance. The Board of Zoning Appeals shall have power and authority to authorize the issuance of permits for Conditional Use in the following findings of fact for the particular use and/or structure per Section 14-202(1)(c):

1. such conditions and safeguards (specifically including, but not limited to, provisions for vegetative screening and/or lighting) as the board may require to protect the character of the community;
The proposed planting plan as well as existing property line trees should adequately screen the pool improvements from the adjoining properties.
 2. a finding by the board that the same will not interfere substantially with the use and enjoyment of adjacent property by its owners and occupants; and,
It is staff's professional opinion that the criteria established within the Zoning Ordinance for the creation of building envelopes and subsequent requirement for pools to be placed within said building envelope adequately provides for substantial use and enjoyment of the adjoining property owners on all sides.
 3. the approval by the board of the size, dimensions, and location of the same, the following may be constructed or erected within the building envelope:
(D) Swimming pools, together with all mechanical equipment necessary to the operation of the same; provided that:
 - (1) Every swimming pool shall be completely enclosed, either by the structural wall or walls of the dwelling to which it is an accessory, or by a fence or wall, not less than six feet (6') in height above the exterior adjoining grade, of the type required by the latest edition of the International Residential Code for one (1) and two (2) family dwellings which has been adopted by the City of Belle Meade.
 - (2) Any opening in said enclosure shall be capable of being closed with lock and key and shall be kept so secured at all times, except when attended by the owner of the property or his authorized representative.
 - (3) All pool lighting shall be located within the pool itself or no more than twenty-four inches (24") above ground level around the pool.
The property owner/applicant has illustrated compliance with this standard on the site plan and is aware of the long-term compliance standards.
- (F) Tennis courts (including all areas within their enclosures), subject to the following restrictions on lighting:

- (1) The illumination of tennis courts, within the primary playing area, shall be as defined by the current United States Tennis Association publication for residential installations.
- (2) The number, location, height, mounting, type, construction, and design of tennis court lights, and of the poles and fixtures therefor, shall be as determined by the board of zoning appeals.
- (3) Tennis courts may not be illuminated after 10:00 P.M.

The property owner/applicant has illustrated compliance with this standard on the site plan and is aware of the long-term compliance standards.

Findings of Fact and Staff Recommendation:

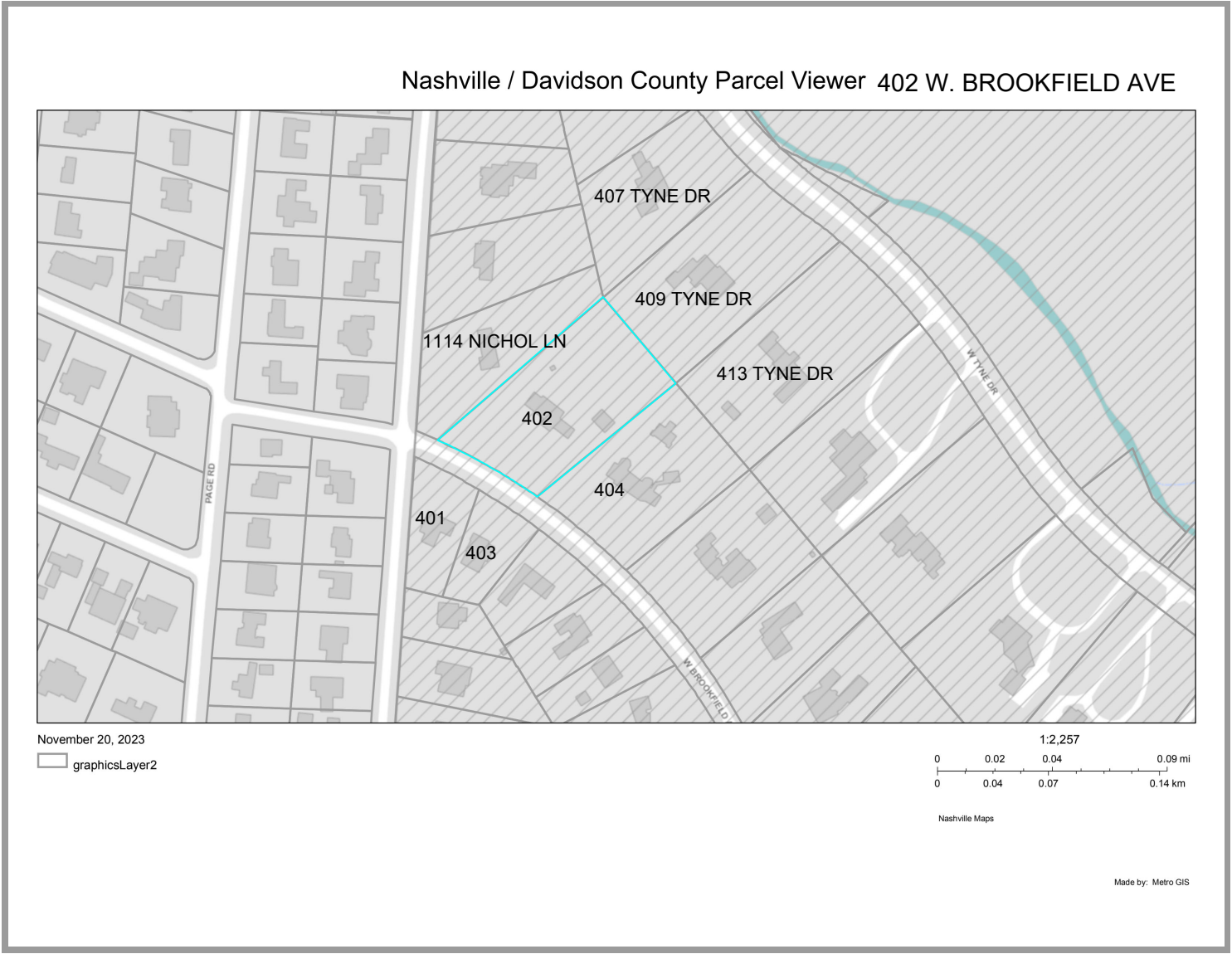
The standards of proof required for Variances are established in the Zoning Ordinance. The Board of Zoning Appeals has the authority to grant such variance as will not be contrary to the public interest and under the restrictions established with the Zoning Ordinance which states that if the property had on August 16, 1950, an extraordinarily unusual shape, size or topographic feature(s) as compared to other properties in the immediate neighborhood, then the Board of Zoning Appeals may grant a variance based on the following findings of fact:

1. The variance shall be granted that will not be a detriment to the public good;
The applicant is proposing to place the fence to the rear of the residence but not at the furthest edge (see application site plan). From West Brookfield Avenue right-of-way, it will appear that the fence is at the back edge because the back edges are inset.
2. The variance shall be granted that will not substantially impairing the intent and purpose of the Zoning Ordinance; and
The proposed fence does not follow furthest building edge as required. The intent and purpose of the fence provision, in staff's professional opinion, is to ensure that fences are placed in the rear yard as opposed to side yards. The proposed fence placement in the rear yard behind most of the residence meets this intent.
3. The resulting home will not be out of harmony with the other homes in the neighborhood.
The proposed fence will be placed on the lot out of sight of West Brookfield Avenue as well as behind existing and proposed vegetation to the north, south, and east. Given this information, the impact on surrounding properties when viewing the property from the street is negligible in staff's professional opinion.

Staff recommends approval of the three conditional uses and the variance request based on the written findings of fact.

Attachments:

1. Location Map
2. Staff Analysis of Site Plan





From: [karen.rich](#)
To: [Mary.Samaniego](#)
Subject: BZA 2023-17 402 West Brookfield
Date: Friday, January 19, 2024 1:24:01 PM

Mary,

Following up on our conversation, I would like to submit written comments with regard to the request by the applicant representing the Devane Tennessee Community Property Trust for Conditional Use for the construction of a swimming pool, pool house, fence location and tennis court at 402 West Brookfield. I would also request that you share these comments with members of the BZA prior to the meeting on January 23.

As representative of the 1114 Nichol Lane Trust as well as of the property owner, I would like to comment on each request separately. The fence relocation is reasonable. We are fine with the pool and the pool house; However, **we are not in agreement with allowing for a tennis court with lighting.**

The rear of the West Brookfield lot is essentially the back yard of the Nichol Lane lot. The Nichol Lane lot is an irregular pie shaped corner lot. The right side property line is the same as the rear property line. Because of this unusual orientation, the existing Nichol Lane house directly faces the rear of the West Brookfield property.

Adding any lighting to a tennis court will be a substantial detriment to the Nichol Lane property residents. The potential noise from a tennis court and especially the light pollution, will completely alter what is a beautiful, natural and peaceful neighborhood lot and home.

I would request that the members of the Board of Zoning Appeal not approve the request for a tennis court with lighting.

Thank you for your consideration,

Karen G. Rich
POA for Marilyn N. McAlister, and Trustee for the 1114 Nichol Lane Trust

From: [Douglas Small](#)
To: [Mary Samaniego](#)
Subject: BZA Meeting on January 23, 2024 and 402 West Brookfield
Date: Saturday, January 20, 2024 12:28:42 PM

Mary,

I am writing this email on behalf of Irvin Small (my father) who owns (through the Irvin L. Small 2018 Inter Vivos QTIP Trust) and lives at 409 West Tyne. His property shares a common boundary with the 402 West Brookfield property that is currently under review at the BZA. He attended the first meeting about this property but said that the sound system wasn't working well and he was unable to hear the presentation and remarks.

On his behalf (and with his POA), I am submitting these comments regarding the proposed construction of a house, swimming pool, fence location and a tennis court with lighting at 402 West Brookfield. We have reviewed the project plans, the staff review and comments and the variances requested. 409 West Tyne is the property that will be the most impacted by the project in question.

1. The fence relocation is within the property boundary and we have no objection to the variance.
2. The pool and the pool house have proper fencing and screening and we have no objection to them. In fact, the designer has done a god job in isolating them from adjoining neighbors.
3. We have a strong objection to the tennis court with lighting. The tennis court is the closest part of the project to the boundary line – with a setback of only 60 ft. per the drawings. The pool area has been developed to provide adequate screening from adjoining properties. Lighting shall be either within the pool or no more than 24" above ground level. So the screening and fence will keep the lighting from interfering with enjoyment of adjoining properties. However, the lighting in the tennis courts will be on tall light poles and – while designed to illuminate the courts – will also significantly impact the enjoyment of the back yards of adjoining properties and MOST SPECIFICALLY 409 West Tyne. Any lighting to the tennis courts will also illuminate the back yard of 409 West Tyne and the owners of 409 West Tyne will be looking into tennis court lights while sitting on their patio. The trees and shrubs along the boundary line are not sufficient to block out the lights AND the noise. The potential noise from a tennis court – even up to 10:00 pm every evening -and the light pollution – will significantly change the enjoyment of a beautiful and natural environment.
- 4.

I request that the members of the Board of Zoning appeals not approve the request for a tennis court with lighting.

Thank you for your consideration.

Douglas Small & Irvin Small
POA for Irvin Small & Trustee for the Irvin L. Small 2018 Inter Vivos QTIP Trust

From: [Alice Weaver](#)
To: [Mary Samaniego](#)
Subject: Re:Requested Zoning Change for DeVane(old Russell Brothers) Home W. Brookfield
Date: Monday, January 22, 2024 4:01:46 PM

Mary,

It was a pleasure speaking with you by phone today regarding the zoning change request for the above mentioned property.

Dempsey & I live at 1112 Nichol Lane, next door to the McAlister home at the corner of Nichol & W Brookfield.

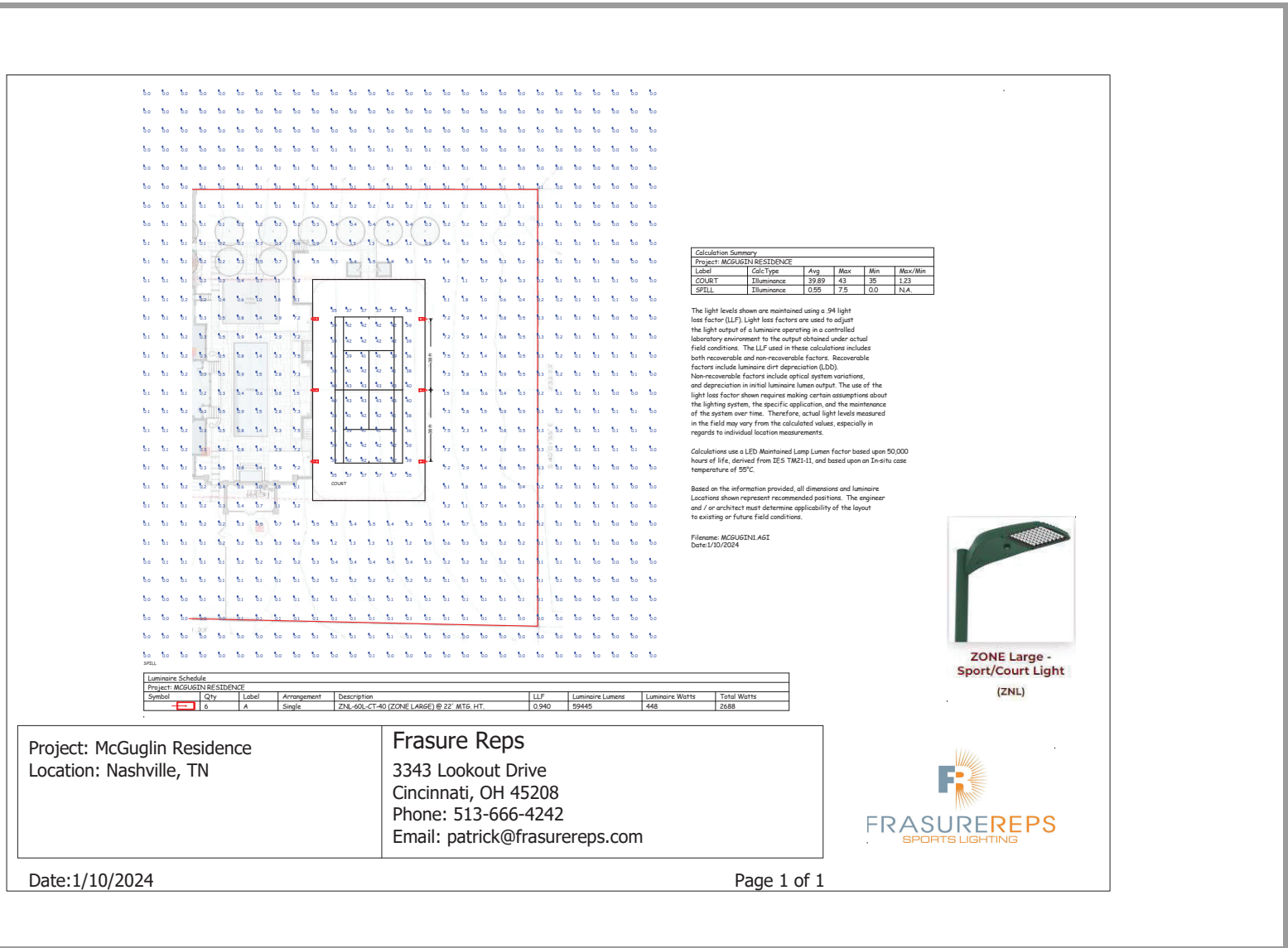
We are fine with several of the requested changes including a swimming pool & pool house being built, the only request we object to is the tennis court and lighting to use the court in the evening hours. Our back yard is in direct line of sight to the DeVane back yard and we feel the noise and bright lights that go with using a tennis court are not commensurate with quiet use of our back yard especially in the warm weather months. We feel that a tennis court would have a negative impact and would prefer that it would not be allowed.

Many thanks,
Alice

Alice Moore Weaver,CRS
Certified Residential Specialist
52 Years Selling Homes in Nashville

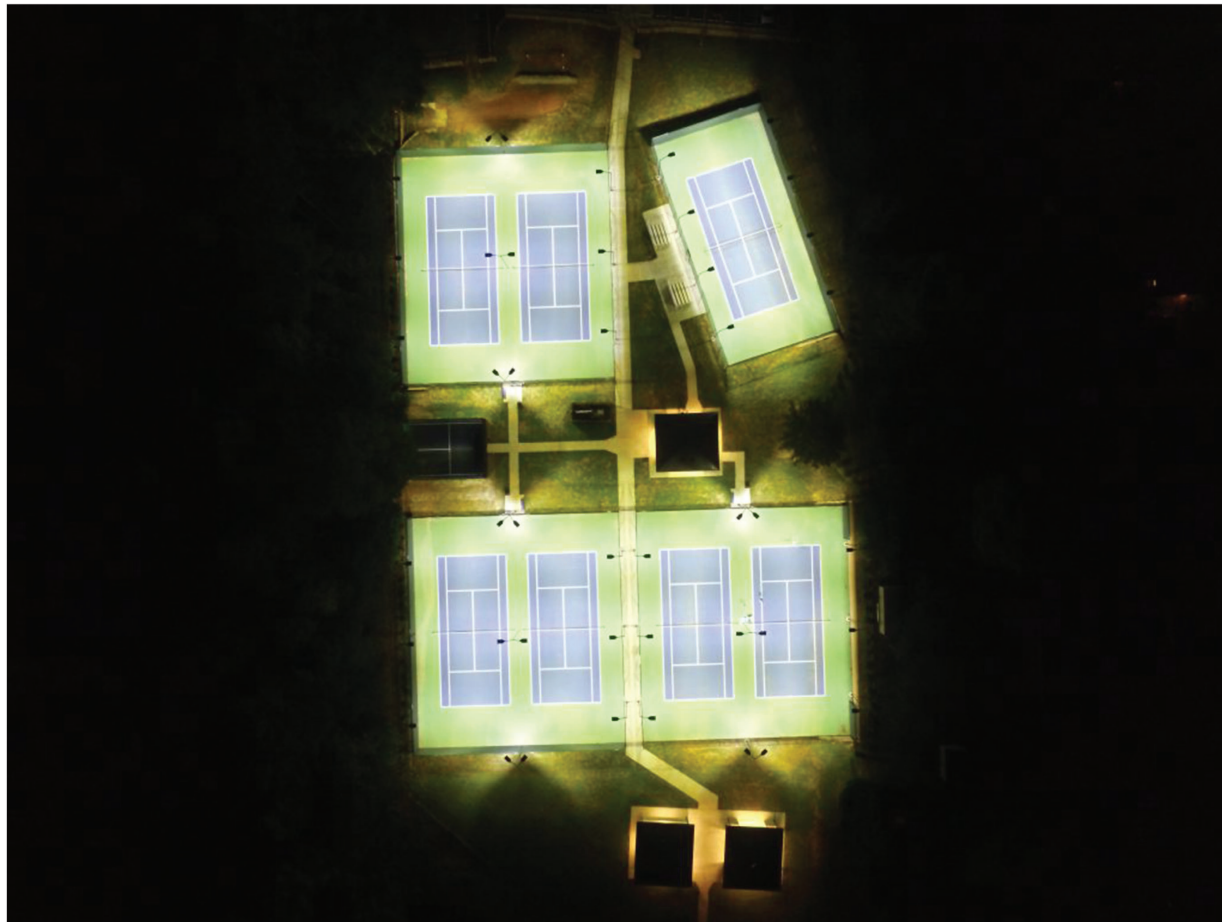
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Nashville, TN 32715
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Certified Residential Specialist
Life Member Awards of Excellence









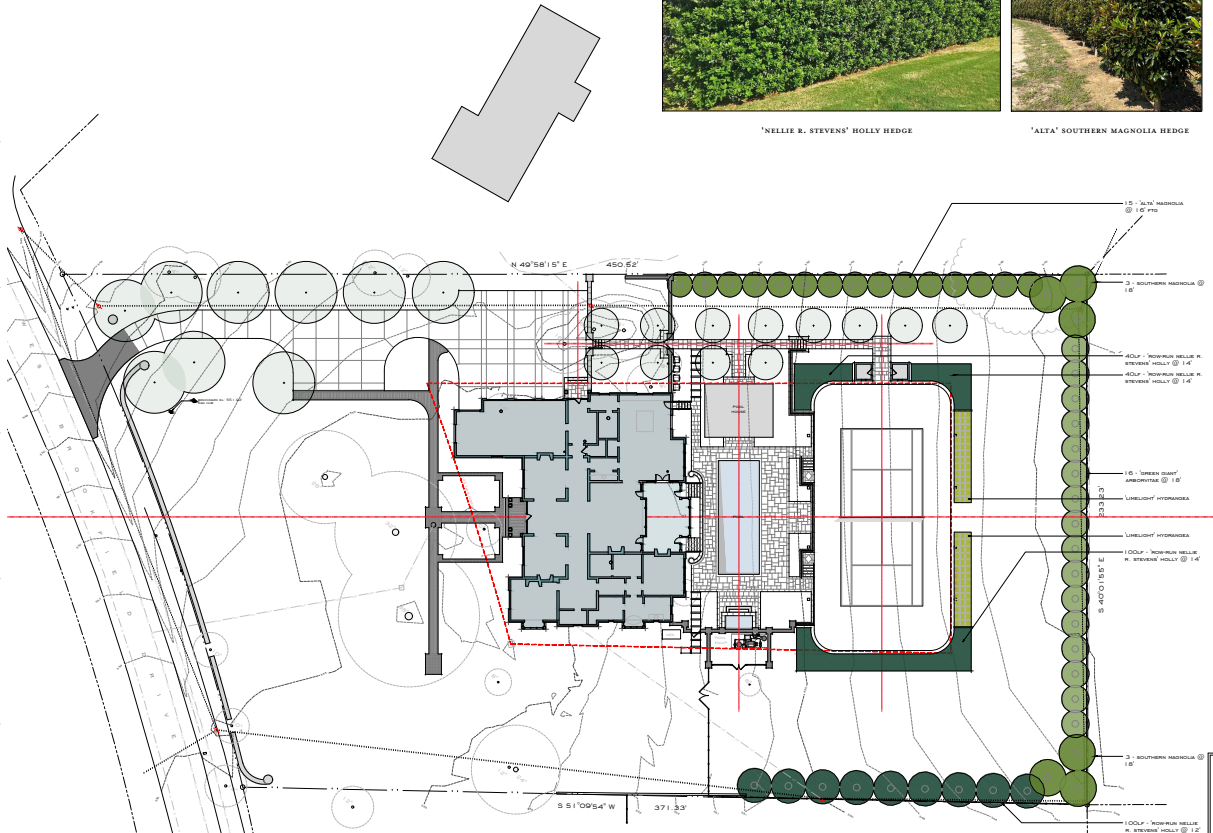




'ALTA' SOUTHERN MAGNOLIA HEDGE



'GREEN GIANT' ARBORVITAE HEDGE



LANDSCAPE ARCHITECTURAL CONSTRUCTION DRAWINGS FOR

MCGUGIN RESIDENCE

402 WEST BROOKFIELD DRIVE - NASHVILLE, TENNESSEE



19 JANUARY 2024

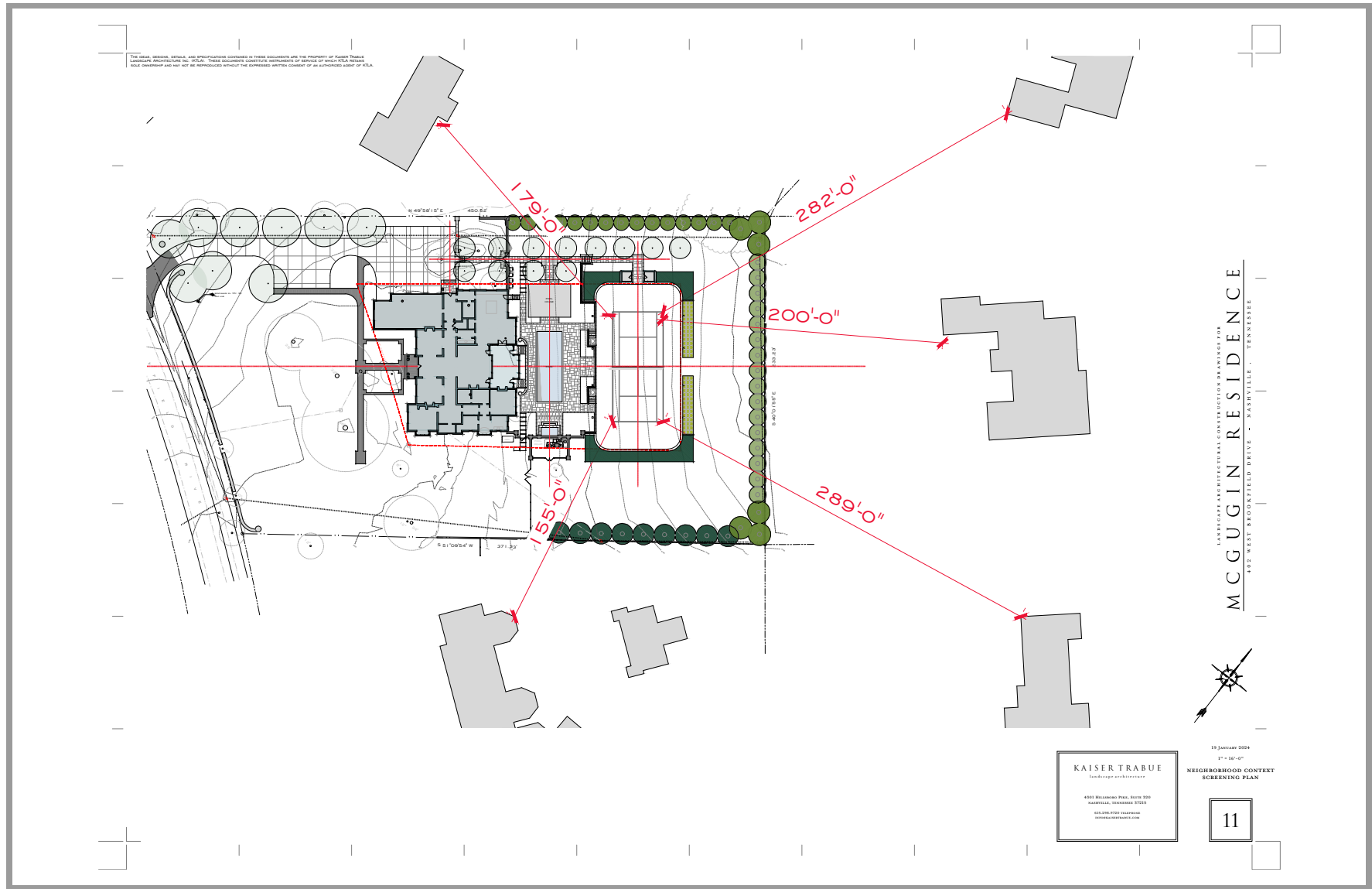
PROPOSED PROPERTY LINE
SCREENING PLAN

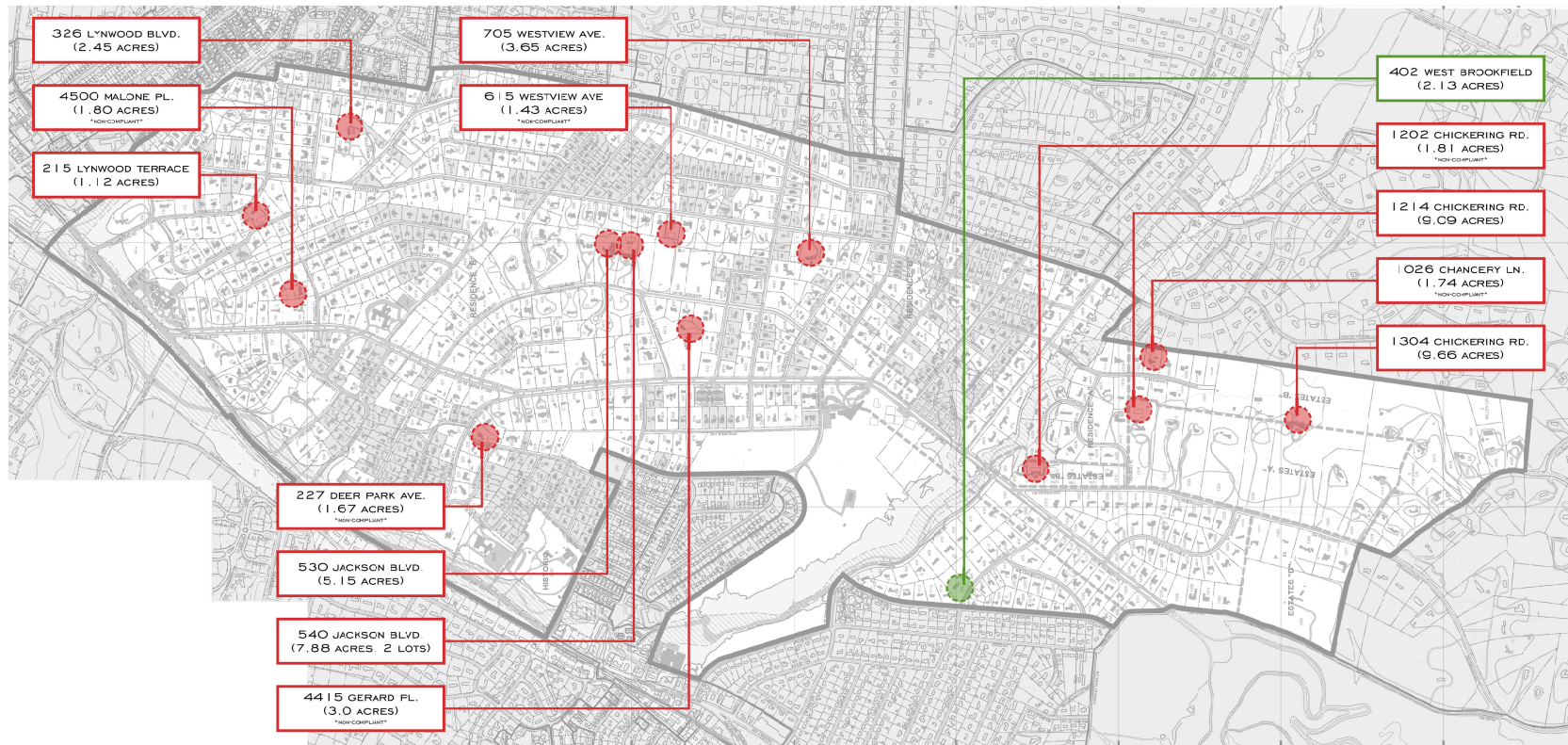
10

KAISER TRABUE
landscape architecture

4501 HILLARIO RD. SUITE 300
NASHVILLE, TENNESSEE 37215

615.398.9790 TELEPHONE
INFO@KAISERTRABUE.COM





From: [Mary Samaniego](#)
To: [Mary Samaniego](#)
Subject: FW: BZA 2023-17 402 West Brookfield
Date: Tuesday, January 23, 2024 10:08:54 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

From: Bill McGugin <bill@reitig.com>
Sent: Monday, January 22, 2024 2:04 PM
To: Mary Samaniego <msamaniego@citybellemead.org>; Clay Trabue <clay@kaisertrabue.com>
Subject: RE: BZA 2023-17 402 West Brookfield

Mary,

Thank you for sending the feedback. We are sensitive to concerns others may have about our plans. Please see below for a few points that address concerns from Mrs. Rich (note: does not reside in the neighborhood and represents a vacant house) and Mr. Small and may be worth sharing with the BZA.

1. As you know, along with our Landscape Architects – Kaiser Trabue, we met many times during the development of these plans to demonstrate great respect for and to ensure that we follow all Belle Meade guidelines and ordinances. Your guidance was most helpful and influential as the plans were developed. The submitted design demonstrates we have made every effort to ensure the tennis court will be in harmony with the neighborhood and in harmony with other tennis courts throughout the city.

Along with confirming the tennis court will be located within all setbacks, our efforts have been focused on complying with the tennis court conditional use considerations and our designs for vegetative screening and court lighting will insure harmony to the neighborhood.

2. I want to emphasize to the BZA that the vegetative screening is specifically designed to maximize privacy both looking out and looking in. Given the garden-style nature of the court landscaping combined with the surrounding robust planting plan, unless one has both feet on the tennis court, the court itself will not be visible.
3. The technology and configuration of modern tennis court lighting is such that the direction of the light solely illuminates the playing surface. Light does not spill outside the court, much less to a neighbor's yard. Again, one would need to be right next to the court to be exposed to the court lighting. In contrast, far more light is emitted from a neighbor's exterior house lighting than would come from this tennis court.

We are thankful for your detailed help during this process and trust the BZA will recognize the plans as presented falls within the Belle Meade code and zoning guidelines and ordinances and will be approved as presented.

Please let me know if there is anything else you need from us that may be helpful.

Kind regards,

Bill

From: Mary Samaniego <msamaniego@citybellemeade.org>
Sent: Friday, January 19, 2024 1:43 PM
To: Bill McGugin <bill@reitig.com>; Clay Trabue <clay@kaisertrabue.com>
Subject: FW: BZA 2023-17 402 West Brookfield

Bill and Clay – please see below neighbor comment regarding your upcoming BZA hearing. I have added this email to file for BZA member review.

Thank you for your time and attention,

Mary Samaniego
Planning Director
City of Belle Meade
4705 Harding Road, Nashville, TN 37205
Phone 615-297-2364 Fax 615-297-0255



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"This message may contain confidential and/or proprietary information and is intended for the person/entity to which it was originally addressed. Any use by others is strictly prohibited."

From: karen rich <kgrich@comcast.net>
Sent: Friday, January 19, 2024 1:24 PM
To: Mary Samaniego <msamaniego@citybellemeade.org>
Subject: BZA 2023-17 402 West Brookfield

Mary,

Following up on our conversation, I would like to submit written comments with regard to the request by the applicant representing the Devane Tennessee Community Property Trust for Conditional Use for the construction of a swimming pool, pool house, fence location and tennis court at 402 West Brookfield. I would also request that you share these comments with members of

the BZA prior to the meeting on January 23.

As representative of the 1114 Nichol Lane Trust as well as of the property owner, I would like to comment on each request separately. The fence relocation is reasonable. We are fine with the pool and the pool house; However, **we are not in agreement with allowing for a tennis court with lighting.**

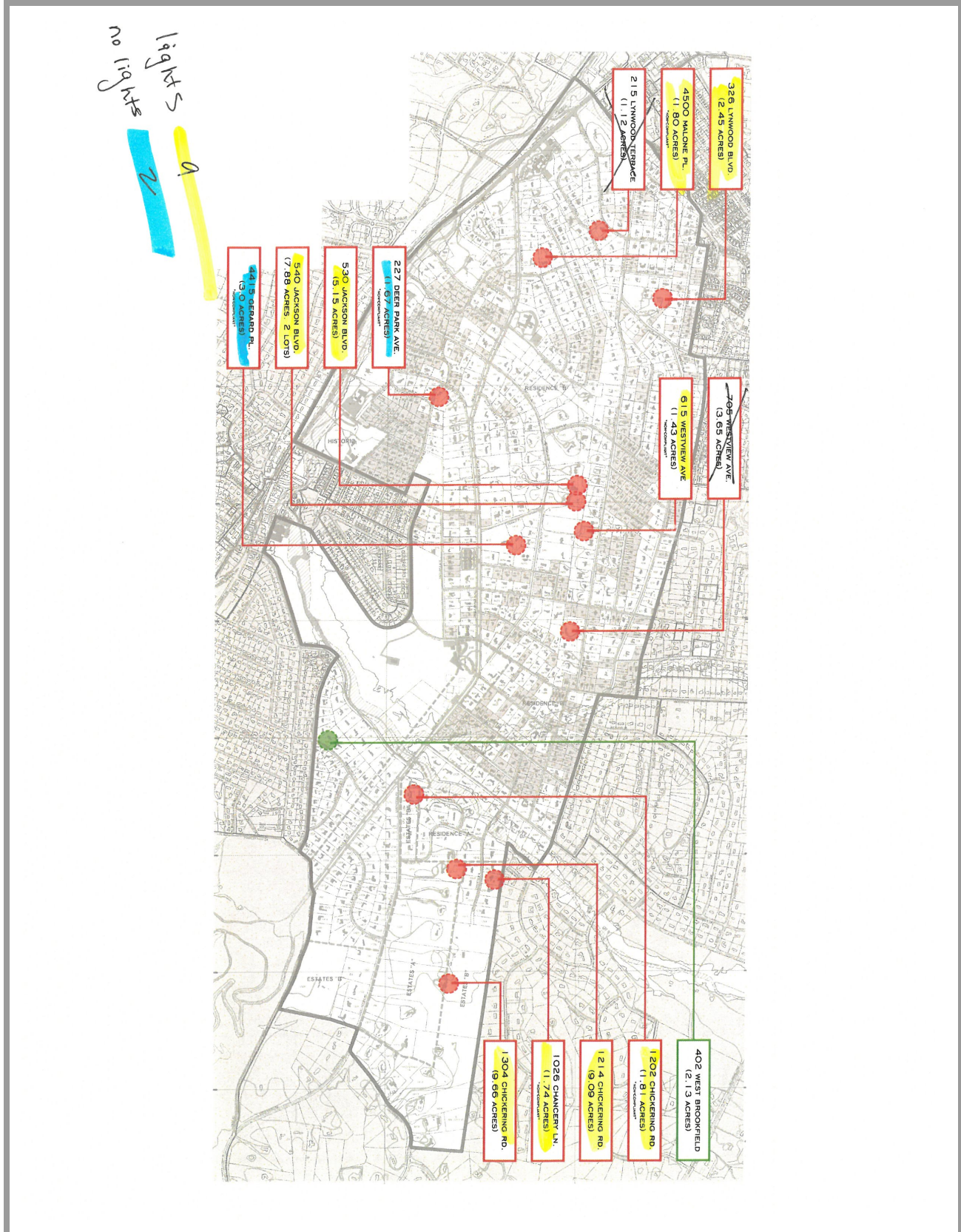
The rear of the West Brookfield lot is essentially the back yard of the Nichol Lane lot. The Nichol Lane lot is an irregular pie shaped corner lot. The right side property line is the same as the rear property line. Because of this unusual orientation, the existing Nichol Lane house directly faces the rear of the West Brookfield property.

Adding any lighting to a tennis court will be a substantial detriment to the Nichol Lane property residents. The potential noise from a tennis court and especially the light pollution, will completely alter what is a beautiful, natural and peaceful neighborhood lot and home.

I would request that the members of the Board of Zoning Appeal not approve the request for a tennis court with lighting.

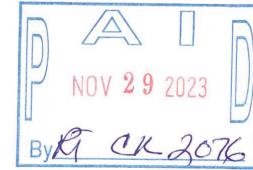
Thank you for your consideration,

Karen G. Rich
POA for Marilyn N. McAlister, and Trustee for the 1114 Nichol Lane Trust





CITY OF BELLE MEADE APPLICATION FOR BOARD OF ZONING APPEALS



Subject to the provisions of the Code of the City of Belle Meade as they may be amended from time-to-time, the following general criteria are considered:

APPEAL #: BZA 2023-16

APPEAL FEE: \$900.00

APPLICANT (Owner's Name) Jack Fleischer PHONE# 615-975-9119

ADDRESS OF PROPERTY NEEDING APPEAL: 112 Lynnwood Blvd hesco@yahoo.com

REQUEST: SPECIAL EXEMPTION [] VARIANCE [X] CONDITIONAL USE [X]

REASON FOR APPEAL; Be Specific Build Swimming Pool fence location

LAND TO BUILDING FLOOR AREA RATIO (F.A.R.)

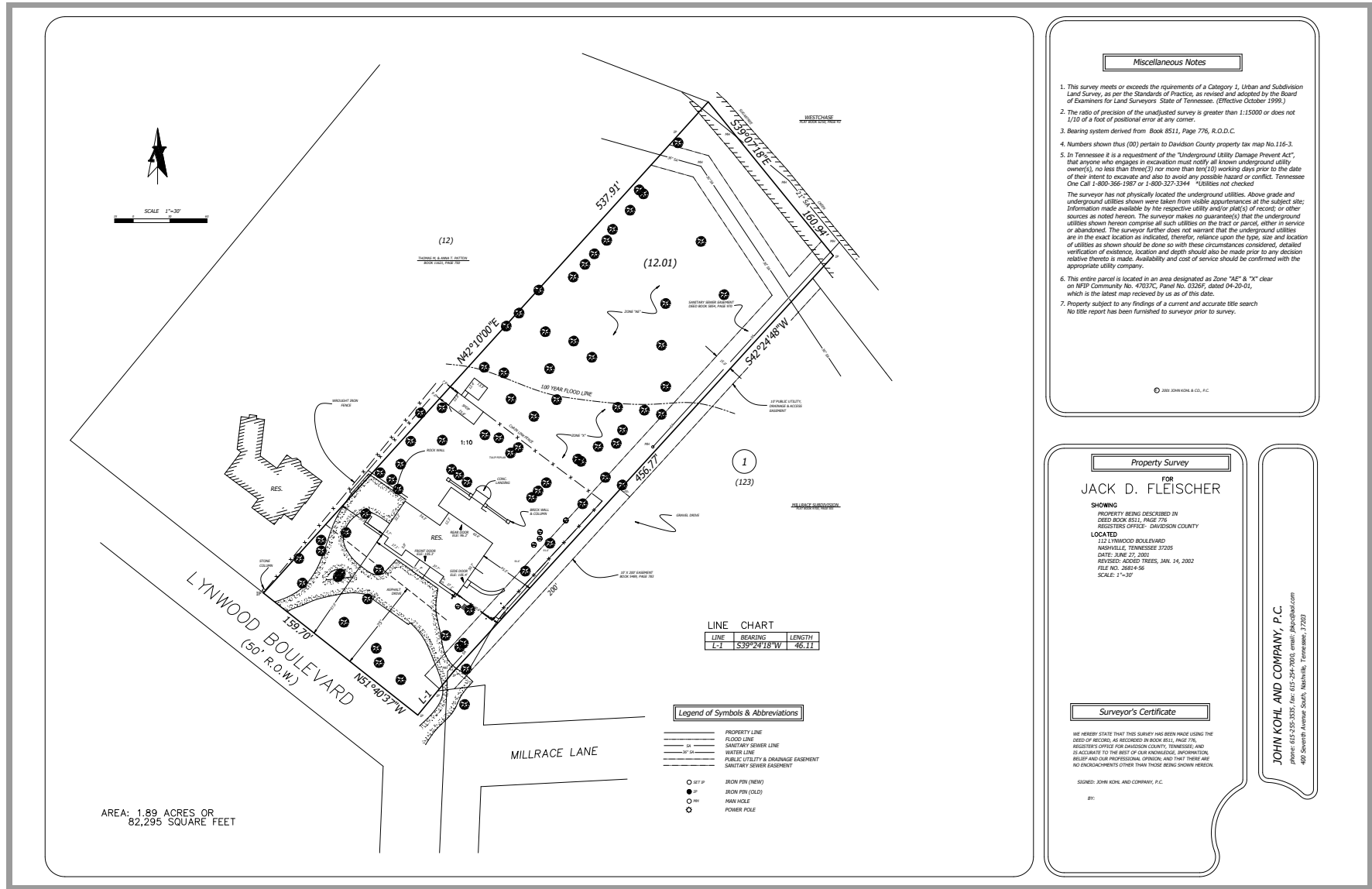
	ALLOWABLE	EXISTING	TOTAL CHANGE	NET CHANGE +/-	% OVER
LOT SQ. FT. <u>82,764</u>					
FOOT PRINT <u>12%</u>	<u>9,941</u>	<u>4,122 SF</u>	<u>none</u>		
ESTATE A <u>8%</u>	<u>NA</u>				
*F.A.R. X LOT SQ. FT..					
LOTS <u><40,000 X .225</u>					
LOTS <u>>40,000 X .196</u>	<u>16,222</u>	<u>4,122 SF</u>	<u>none</u>		
*FAR IS ALL COVERED STRUCTURES, MEASURED TO THE OUTSIDE WALLS, AND WILL INCLUDE ATTIC HEIGHT OF 5'6" AND ABOVE, ACCESSIBLE OR NOT. DOES NOT INCL. BASEMENTS OR GARAGE UNDER HOUSE					
TOTAL ROOF AREA: _____					
TOTAL % OF LOW SLOPE _____					
AREA <6/12 PITCH 30% _____					
DRIVEWAY <u>12%</u>	<u>9,932 SF</u>	<u>6,040 SF</u>	<u>none</u>		
FRONT YARD SQ FT: _____	<u>15,343 SF</u>				
DRIVE IN FRONT <u>22%</u>	<u>18,208 SF</u>	<u>4,830 SF</u>	<u>none</u>		
**HARDSCAPE + POOL <u>8%</u>	<u>6,621 SF</u>	<u>0</u>	<u>2,785 SF</u>	<u>30%</u>	
**HARDSCAPE INCLUDES ALL PORCHES, TERRACES AND SCREENED PORCHES OPEN TO THE ELEMENTS.					
POOL 2% OF LOT _____	<u>1,655 SF</u>		<u>+840 SF</u>	<u>100%</u>	<u>0</u>
***ACCESSORY AREA _____	<u>12,415 SF</u>	<u>1,945 SF</u>	<u>+840 SF</u>	<u>30%</u>	<u>0</u>
***COMBINATION OF POOL / TERRACE, DECK, TENNIS COURT, OTHER ACCESSORY STRUCTURES OR USES SHALL NOT EXCEED 15%.					

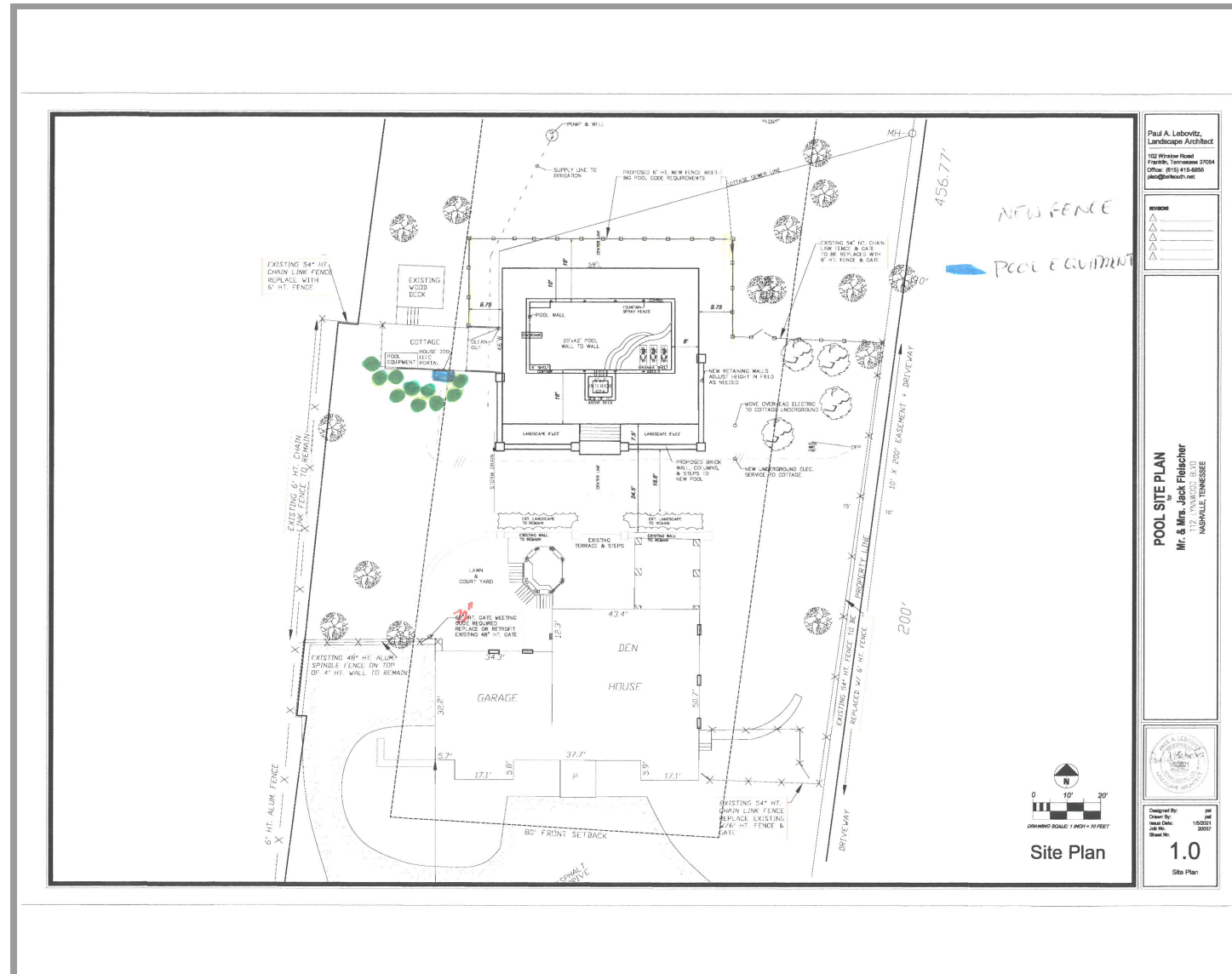
- ☐ 6 sets of plans 18x24 & 1 set PDF merged.
☐ 1 set of plans submitted 30 x 42
☐ Show neighbor's house and measurements to it.
☐ Landscape design
☐ Building envelope *highlighted*
☐ Highlight overages in grade change (inside building envelope 6% of the lot up to 48 inches), (Outside building envelope 4% of the lot up to 36 inches), (20 ft. off property line up to 24 inches) Does not include grade changes needed or the foundation.
☐ Submittal, along with appeal fee 15 days prior to the third Tuesday of the month.
☐ MANDATORY - Clearly highlight the areas that will be discussed in a bright color on the plans.
- ☐ Plot plan 1 inch = 30 feet Show Magnetic North
☐ Show proposed structure shaded with setbacks (building envelope)
☐ Show all detached structures with elevations
☐ Survey of lot, lot square feet with contours, average natural grade
☐ Show all elevations, existing grade, finished grade, FFE's

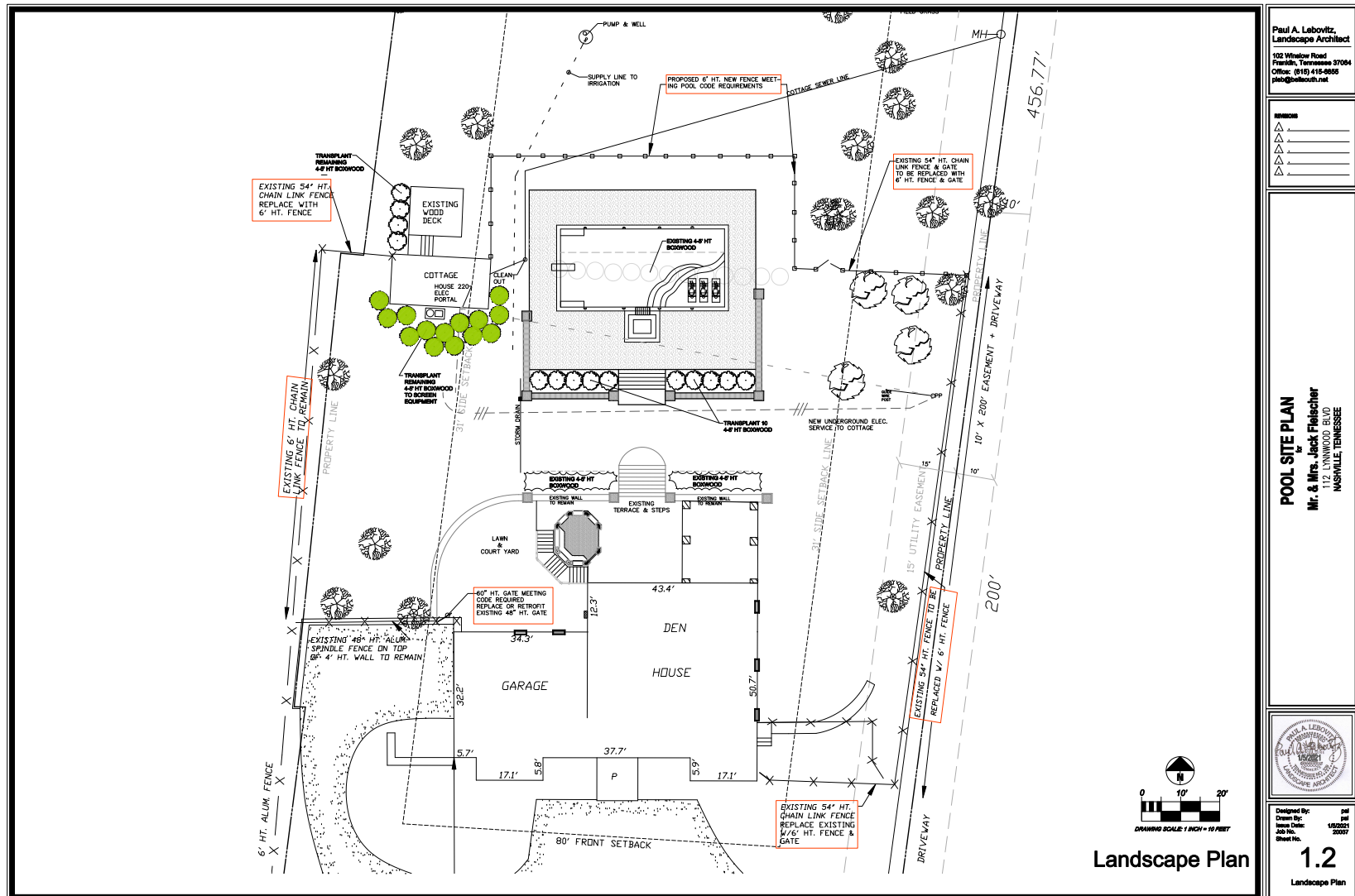
SIGNATURE: Jack Fleischer (owner/agent)

DATE: 11/29/23 Dec. 2, 2020

BZA meets the third Tuesday of each month @5:00pm, cut off for submittal is 15 days prior by 12:00pm, no exceptions.

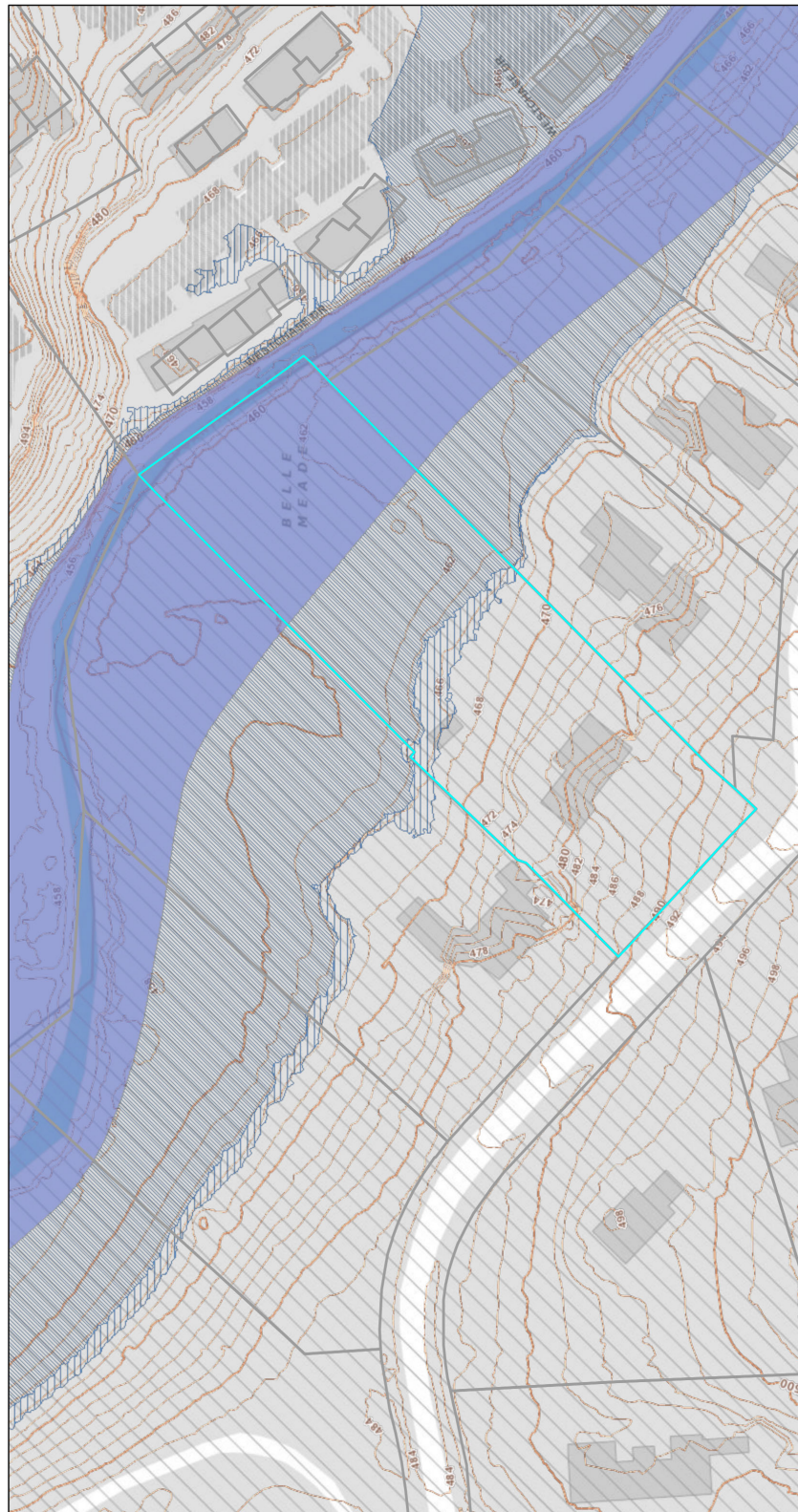








Nashville / Davidson County Parcel Viewer



January 11, 2024

graphicsLayer2

1:1,128

0 0.01 0.02 0.04 0.07 mi
0 0.02 0.04 0.07 km

FEMA, Nashville Maps, Metro GIS

Made by: Metro GIS

Staff Report

Agenda No.: IV.A.

Case No.: BZA 2023-16

Staff: Mary Samaniego, Planning Director

Applicant: Jack Fleischer

Request: Approval of a Conditional Use for a Swimming Pool and a Variance for a fence in an alternative location.

Location: 112 Lynwood Boulevard

Summary:

The applicant/property owner is requesting re-approval for a Conditional Use for the construction of a swimming pool as well as Variances for alternative fence placement. The property owners received board of zoning appeals conditional use approval for swimming pool at the January 19, 2021, meeting. The fence alternative placement special exception was approved at the March 16, 2021, meeting. However, permits were not applied for and therefore those approvals expired per zoning code Section 14-206(3)(ii).

Planning Considerations:

The following general factors, planning concepts, and other facts should be considered in the review of this application:

1. The subject property is 1.90 acres (82,764 square feet).
2. Per Section 14-204(1)(m)(i) of the Zoning Ordinance, the square footage of the surface area of the water in a swimming pool as compared to the lot size shall not exceed two percent (2%) of lot. The allowable area of water within a pool for the proposed lot is 1,655 square feet.
3. The proposed area of water in the swimming pool is 840 square feet.
4. Per Section 14-204(1)(m) of the Zoning Ordinance, the square footage of hardscape, which shall include the maximum swimming pool area, as compared to the lot size shall not exceed eight percent (8%) of the lot area. The allowable area of hardscape including the pool for the proposed lot is 6,621 square feet.
5. The proposed area of the hardscape including the pool is 2,785 square feet.
6. The proposed pool and associated pool equipment are entirely within the established building envelope (see attached Staff Analysis of Site Plan).
7. The proposed 6' fence is at both the rear corners of the residence and continues to the side property line. However, the fence does not continue all the way to the rear property line but rather is 8' from the pool deck (see staff analysis).
8. The rear part of the property is in the regulatory FEMA floodway and constructional improvements (fences) are prohibited per the floodplain regulations in Section 12-407(3)(a).

Findings of Fact and Staff Recommendation:

The standards of proof required for each individual Conditional Use are established in the Zoning Ordinance. The Board of Zoning Appeals shall have power and authority to authorize the issuance of permits for Conditional Use in the following findings of fact for the particular use and/or structure per Section 14-202(1)(c):

1. such conditions and safeguards (specifically including, but not limited to, provisions for vegetative screening and/or lighting) as the board may require to protect the character of the community;
The proposed planting plan as well as existing property line trees should adequately screen the pool improvements from the adjoining properties.
2. a finding by the board that the same will not interfere substantially with the use and enjoyment of adjacent property by its owners and occupants; and,
It is staff's professional opinion that the criteria established within the Zoning Ordinance for the creation of building envelopes and subsequent requirement for pools to be placed within said building envelope adequately provides for substantial use and enjoyment of the adjoining property owners on all sides.
3. the approval by the board of the size, dimensions, and location of the same, the following may be constructed or erected within the building envelope:
(D) Swimming pools, together with all mechanical equipment necessary to the operation of the same; provided that:
 - (1) Every swimming pool shall be completely enclosed, either by the structural wall or walls of the dwelling to which it is an accessory, or by a fence or wall, not less than six feet (6') in height above the exterior adjoining grade, of the type required by the latest edition of the International Residential Code for one (1) and two (2) family dwellings which has been adopted by the City of Belle Meade.
 - (2) Any opening in said enclosure shall be capable of being closed with lock and key and shall be kept so secured at all times, except when attended by the owner of the property or his authorized representative.
 - (3) All pool lighting shall be located within the pool itself or no more than twenty-four inches (24") above ground level around the pool.*The property owners/applicants are required to illustrate compliance with this standard on the site plan and associated application at the time of building permitting.*

Findings of Fact and Staff Recommendation:

The standards of proof required for Variances are established in the Zoning Ordinance. The Board of Zoning Appeals has the authority to grant such variance as will not be contrary to the public interest and under the restrictions established with the Zoning Ordinance which states that if the property had on August 16, 1950, an extraordinarily unusual shape, size or topographic feature(s) as compared to other properties in the immediate neighborhood, then the Board of Zoning Appeals may grant a variance based on the following findings of fact:

1. The variance shall be granted that will not be a detriment to the public good;

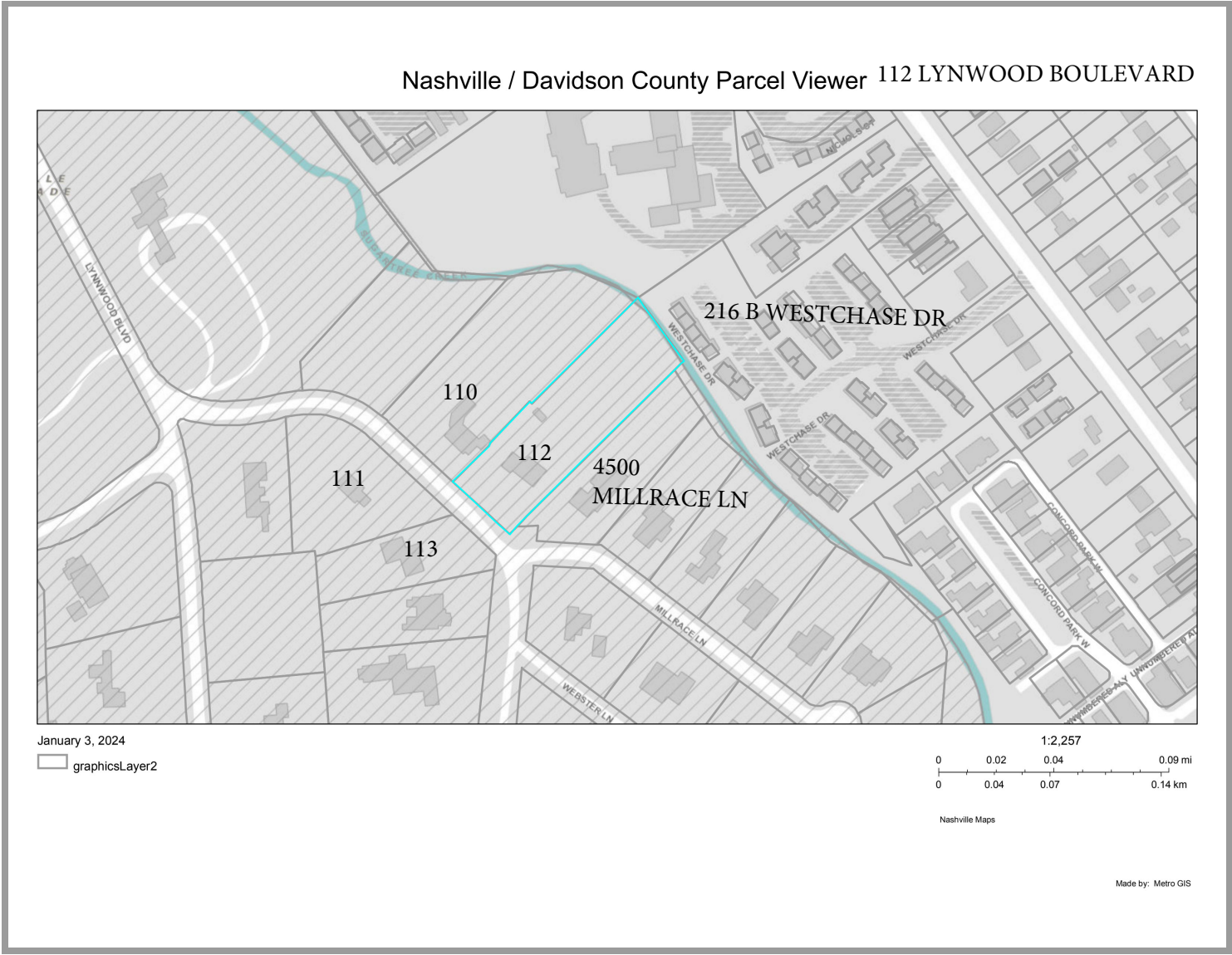
The applicant is proposing to follow the required fence placement as close to compliance as possible with an existing fence while also recognizing the FEMA floodplain regulations prohibition of man-made obstructions to flood waters.

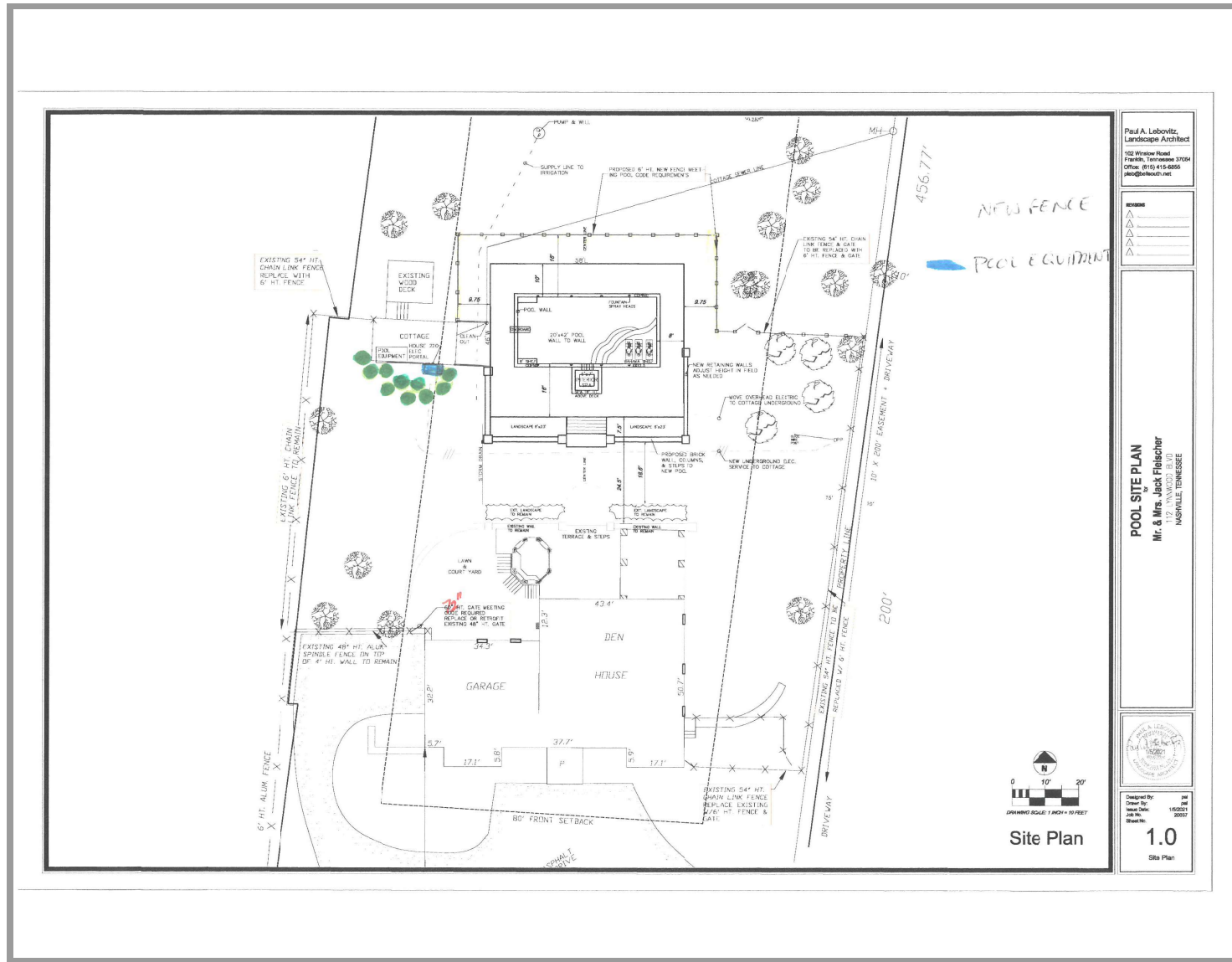
2. The variance shall be granted that will not substantially impairing the intent and purpose of the Zoning Ordinance; and
The proposed fence does not the fence placement line as required. The intent and purpose of the fence provision, in staff's professional opinion, is to ensure that fences are placed in the rear yard as opposed to side yards. The proposed fence placement in the majority of the rear yard outside of the FEMA floodplain meets with intention of both the zoning ordinance and flood damage prevention ordinance. The subject property has slopes that decrease by approximately 30' from the front property line to the rear property line. The existing residence as well as driveway, terraces, and a cottage are all constructed with the use of soil retaining structures.
3. The resulting home will not be out of harmony with the other homes in the neighborhood.
The proposed fence will be placed on the lot out of sight of Lynwood Boulevard by the proposed and existing landscaping as well as the residence. Given this information, the impact on surrounding properties when viewing the property from the street is negligible in staff's professional opinion.

Staff recommends approval of the conditional use and the variance requests based on the written findings of fact.

Attachments:

1. Location Map
2. Staff Analysis of Site Plan





Labovitz, it is just below the cottage to the left. It can not be seen from the street. That location is probably 20 feet lower than the street.

Zabaski, what is Staff recommendation?

Patterson, Staff recommends approval on the pool. Staff has reservations on the pool equipment and the fence. The existing fence is 54 inches in height. Our ordinance states 72.

Sternberg, the fence is six feet, but the gates are going to be changed?

Fliescher, I am comfortable with changing the whole fence line to the six foot height. We are talking about leaving the rest, updating the gates or any other entrances to the area.

Labovitz, there would be one fence that is 54 inches. It is in a lot of vegetation. You can not really see it.

Fliescher, I sent some pictures to Lyle Patterson of the fence. It is so buried in vegetation that you can not see if from the street. The fence line runs behind the boxwoods down the whole side.

Sternberg, does the fence enclose the whole pool?

Labovitz, yes, it encloses the pool and will have the correct child proof gates on them. On the far left side of the property the fence is already six feet tall. On the far right side of the property the fence is 54 inches and as the photos show, it is covered in vegetation which increases the height to probably 10 or 12 feet tall. Towards the back of the property to the right we will put in a 6 foot fence to meet your code.

Zabaski, the code for a six feet fence can not be changed by this Board. It is not only a Belle Meade code it is also a Metro code. There is no choice in that matter. There has to be a six foot fence enclosing the pool. We can vote on the location of the fence but not the height of the fence that is pre-determined.

Patterson, the IRC states 48 inches, Belle Meade ordinance states 72 inches.

Zabaski, we can not rule less than a six foot fence. Doug Berry is that correct?

Berry, it is part of the zoning code so you possibly could but not a safety type code. You cannot waive that.

Labovitz, safety was set up by the State at 48. I don't know how Belle Meade chose 6 feet.

Berry, local ordinances can differ.

Dughman, why do you have to have the pool equipment outside the building envelope?

Labovitz, we have several things going on. If we put it up close to the house, we have a hydraulic issue because it goes up 14 steps or 10 to 12 feet. We would like to have it blend in by the cottage with all the boxwoods surrounding it and not be sitting out in the open.

Zabaski, the pool equipment location is not on the Agenda. It is not before the board right now.

Fliescher, I did discuss this prior to with Mr. Patterson that this was an area of exception.

Patterson, that discussion took place today and the agenda goes out fifteen days prior to this meeting. I spoke with Paul about this as well.

Labovitz, we had the discussion. I do not know why it is not on the Agenda. We would like to have the discussion now.

Dughman, we can only consider matters that are on the Agenda.

Sternberg, could you move the pool equipment into the building envelope?

Labovitz, we do not care too. But at this point if you cannot discuss it, we will have to bring it up in another meeting. To get approval we can put it in the site plan now.

Sternberg, it is my understanding if it is in the building envelope it would not become an issue.

Berry, if it is outside the building envelope it would require a variance. If it is not it would not be an issue if it is within the building envelope.

Board Discussion:

Dughman, the fence is not to Belle Meade Code, is that correct?
Patterson, that is correct.

Motion to divide the question with the pool and fence: Zabaski
Second: Sternberg Vote: All aye

Motion to approve the pool as submitted: Zabaski Second: Sternberg
Vote: All aye

Motion to defer the fence issue: Zabaski Second: Sternberg

Amend Motion to defer the fence issue for 60 days: Zabaski
Second: Sternberg Vote: All aye

Motion to defer the fence issue for 60 days: Zabaski Second: Sternberg
Vote: All aye

Tardio, Mr. Berry our ordinance is six feet on the fence. Do we have the authority to waive that? I would consider it a safety ordinance.
Berry, if it is not in the zoning ordinance, and it is a Safety Code, no, it cannot be waived by this board or modified.
Patterson, the IRC which is the national standard says four feet. Belle Meade code says 72 inches, six feet.
Zabaski, page 1416 of the zoning code says every swimming pool shall be completely enclosed either by a structural wall or walls of a dwelling to which it is an accessory or by offensive while not less than six feet in height.

Berry, if it is part of the zoning ordinance it can be varied under the standards for variance, but the outcome would have to show why those criteria had been met and the item would have had to be advertised as requested for variance. I don't see that in the Agenda that it was advertised or analyzed that way. It just says fences and other than permitted location. A valid reason for deferral is that issue. It is not in the separate building code but is in the zoning ordinance.

Labovitz, if it was advertised and it's been discussed, why are we continuing this?

Dughman, the BZA is concerned about the height. We are deferring it to give you an opportunity to come back to consider a different height. You know what our regulations require. It is up to you and the applicant. We did not approve the fence which is part of your proposal.

Fliescher, the vegetation is dense on that side. If we have to pull the fence, we are going to disrupt the vegetation that's been there for decades or more. That is pushback from our neighbors in terms of getting a Fence Company in there and rearranging it. The main issue is the sides of the fence on both property lines because they are heavily embedded within the vegetation that the removal and replacement of them will damage a tremendous amount of existing vegetation.

2. The application of Vintage South LLC (21012) 113 Bellevue Drive South, for a special exception permitting the construction of entry walls to courtyard and a pier. The building permit has been denied for the following reasons.

A. Courtyard entry wall (inside building envelope) is over allowed height and in other than permitted location.

B. One Pier is over allowed height by 12 inches.

Presentation: Ron Farris, Farris Concepts in Architecture, last month this design was reviewed and approved by the Historic Zoning Commission. We were asked to make minor alterations to the style and type of windowpanes, which is reflected in the submission before you this evening. All comments that the Historic Zoning Commission had regarding the project have been revised and updated in this submission. Here tonight we are asking the board to consider the construction of the courtyard walls and two piers. The house footprint is "H" shaped and creates complimentary courtyards both in the front and rear of the residence. The topography of this lot falls from the top left corner to the bottom right corner, or the lot slopes toward the front of the house from the street. We are experiencing some vehicular and pedestrian activity along Bellevue Drive that would look down and into the building envelope and our proposed residence. The proposed courtyard walls help define and create the private entry sequence that was reviewed by the Historic Zoning Commission and commented on as likability. The walls provide additional privacy from activity along Bellevue Drive. And in my opinion, the courtyard walls are a significant component in the style and aesthetic of the residence. The courtyard wall is identifying the entry sequence and creating the inner courtyard. At the first arch window is a small gate that allows you entry into the entry sequence and then underneath that covered portico that heads to the front door. The center arch is an axial and aligned with the front window that is back at the back end of the courtyard. The left arch, the complimentary arch, brings symmetry and balance to that composition of stone and gate materials. These are rendered in stone and articulated with complimentary arches and gates, establishing, and maintaining a design cue that is found on all four elevations. There is a consistency of theme with all four elevations. I am quite excited about how we're using the arches front and back and the stone, as it wraps around and down to create the base of the house. Important to note that the courtyard walls are located within the allowable building envelope and within all setbacks. The courtyard walls are not designed or intended to manipulate grade. It's not their function, their function is for creation of an outdoor space and privacy along the front. And as a compliment and design cue to the overall residents. The two peers, defining and complementing the guest parking and entry sequence are too low console walls. Attached to the two yellow squares are shaped and contoured stone contour walls. The way the grade falls, I'm using the stone console walls and peers to allow for a slight transition up from the guest parking to the walkway that enters the front portico.

In addition, these walls bring definition to the guest parking and passage through for the circle drive. Because of the grade fall, left to right and towards the house, the piers are in compliance on the left side and out of compliance on the right side at four feet. I think these stone piers help bring termination to the console walls and help give definition to that guest parking. We are asking for a slight modification to the three foot requirement just these two areas, two little piers, to go to four feet. They would also allow for the addition and inclusion of two low hanging gas lanterns or the guest parking and eliminating the guest parking in that area. With that, I will open it up for board questions.

Board Questions and Concerns

Sternberg, on the piers can you explain why one is four foot and one is three foot? Is that because of the grade?

Farris, both of the piers will be four feet, sorry for the confusion.

Sternberg, Mr. Patterson can you give your reasons for approving.
Patterson, the walls are inside the building envelope and they are part of the house. If a second story or flooring system was on top of this courtyard, we would not be having this discussion.

Board Discussion:

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

Zabaski, I would agree with Mr. Patterson that it is inside the building envelope. The walls are not abusive at four feet.

Tardio, what is the allowed height of the courtyard entry wall and what is the proposed height?

Patterson, we do not have one specific to courtyard walls. We have a wall ordinance talking mainly about walls coming off the corners of the house running over the property line and that would be three feet. Anything over that would have to come to the board for approval.

Tardio, and these are how tall?

Patterson, it is 10 feet, and the maximum height over the arch is 12 feet 6.
Sternberg, could you clarify why the four foot piers versus the three foot piers?

Patterson, as far as piers go, your fence or wall is allowed to be three feet by right and your columns or piers can be 8 inches taller.

Farris, ordinance allows for three foot walls without review by the board. I am requesting a four inch variance on those piers for a slight bit more height in the inclusion of the light fixture.

Sternberg, is that necessary, will it make that big of a difference?

Farris, I think it will. It gives the piers enough prominence about each of the curved console walls from a scale factor.

3. The application of Jay Sangervasi (21013) 1104 Belle Meade Boulevard, for a conditional use permitting the construction of a swimming pool and a variance/conditional use for a pool house.

A. Swimming pools require BZA approval.

B. Pool house is outside rear setback due to irregular shaped lot and trees.

Presentation: Ron Farris, Farris Concepts in Architecture, requesting to add an addition of a pool and a pool house. This property is located in residence A District. It has 70 foot and 100 foot rear setbacks. The pool portion of the improvements is placed inside the 70 foot rear setback. For the pool house to be inside the rear setback we would be impacting two existing mature trees. One a pecan and the other a large magnolia. We would like to allow those trees to remain and be unimpacted for the pool house placement. Both trees contribute significantly to the character of their rear garden, shading and buffering between their side yard neighbor. As proposed the pool house falls in a position that we feel is least impactful to either side yard neighbor. The properties along Belle Meade Boulevard and Chickering are irregular and with angled rear property lines resulting in several of the properties having narrowed or shallow rear yards when you apply the resident A setback to them. It puts several of the components not only on this property but others, in noncomplying category.

The pool house was intentionally designed to be two small scaled cabanas with an open trellis between them for shaded outdoor sitting. This type of design results in a pool house of reduced scale and smaller massing and in short, precludes the pool house from being a large single mast structure. It is our

goal for the pool house items to read as twin garden follies and to be an overall complement to the pool and garden experience with the rear yard. The rear neighbors would be the most impacted by the pool and the pool house. This has been discussed with them. There are existing single line trees that serve as buffering to the rear neighbors. The rear neighbors have issued a letter in favor of the proposal.

Board Questions and Concerns

Zabaski, what is the hardship on this lot that qualifies it as a variance? Farris, physical items on the site, weather it's shape or physical elements that create hardship, those are the tree and the particular shape of the property.

Zabaski, are you saying every lot on that plot, with maybe the exception of the corner lot, qualified as a variance?

Farris, from my experience with residence A Districts and the setbacks is that these lots were created prior to an overlay of the Residence A and the 70 foot rear setback. Because of their irregularity starting with 1100, then 1205, 1207, and 1104 you can see that those four particular pieces of property have unique shallowness to them. It grows worse on properties 100 and 1205. Had those lots been regular shaped and deep the 70 foot rear setback would put our proposed pool house in compliance.

Dughman, what is the potential impact to the side neighbor's yard?

Farris, currently it is screened with some additional vegetation and fencing. If the pool house is constructed there it begins to be a permanent physical mass that you will not be able to see through even if it's filtered. In the backyard there is additional vegetation, even below the existing trees that I think really compliment that whole experience from the neighbor.

Dughman, do you have any pictures of the trees in that area?

Farris, yes (photos displayed)

Sternberg, where is the pool equipment? What is the height of the existing wall?

Farris, the wall is 6 feet. The pool equipment will be placed in the top right portion of the building envelope.

Dughman, could you move the pool to get the pool house in a little better without disturbing the trees?

Farris, there is some fine tuning of the pool position and pool house as proposed. The pool and the pool house are all centered on a composition about the existing terrace. There are two bays in the existing terrace and in the middle of those two bays is the centerline of the pool and the pool house. That orientation to me is the architectural moment that I would hate to disrupt.

Dughman, I understand the architectural aspect of it and appreciate it. The pool is 42 feet long. Could you shorten the pool to fit the pool house in without disturbing the trees? I am just asking hypothetically.

Farris, looking at the drip line of the trees, particularly the pecan, the pool house would have to be slid well out from underneath the drip line for those trees to remain. The pool house would be slid in front of and in conflict with the existing terrace/courtyard. The code does allow for Gazebos of 250 square feet which this is what is lying between these two structures. The gazebo portion of this could be slid and moved all the way back to the rear property line and be 10 feet off of the property line. We looked at that but felt that was not the right move for it as well. Many considerations in terms of how we placed this structure and recognize the difficulty of our request.

Board Discussion:

Motion to divide the question, motion to divide the pool from the pool house:
Zabaski Second: Tardio Vote: All aye

Motion to approve the pool as submitted: Zabaski Second: Sternberg
Vote: All aye

Motion to approve as submitted: Zabaski Second: Sternberg
Vote: All aye

Dughman, I don't see any irregularity in this lot compared to the other ones. But on the other hand, if this is considered an irregular lot, in and of itself, I understand the argument. Chris I am curious to know your interpretation of variance statute. Do you interpret it to mean that this lot in question, in and of itself has to be irregular compared to the others or that all the others to be taken into consideration together?

Tardio, in my opinion, if you can qualify it under either of those tests, so to speak, it would be, it could qualify as a variance. I do not know that it is one or the other.

Sternberg, it appears that the variance is established.

Tardio, are Pete and Gloria considering both the shape of the lot and the trees to constitute the variance?

Sternberg, yes

Zabaski, yes, it is a narrow approval of a variance but in my opinion can qualify as a variance.

Tardio, I agree.

Meeting adjourned at 6:22pm

Chairman Joe Dughman

City Recorder Edie Glaser

Minutes
City of Belle Meade
Board of Zoning Appeals
March 16, 2021

The meeting was called to order by Chairman Joe Dughman at 5:00pm via "Zoom".

Board Members present

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

Staff Members Present

Beth Reardon, City Manager	Doug Berry, City Attorney
Lyle Patterson, Assistant City Manager and Building Official	
Edie Glaser, City Recorder	

Consideration of the Minutes February 16, 2021

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

Old Business:

1. The application of Jack Fleischer (21011) 112 Lynwood Boulevard for a conditional use permitting the construction of a swimming pool and a special exception for a fence and a variance for pool equipment. The building permit has been denied for the following reasons.

- A. Swimming pool requires BZA approval. *Approved February 16, 2021.*
- B. Fence is in other than permitted location.
- C. Pool equipment is outside building setback.

Presentation: Jack Fleischer, 112 Lynwood Boulevard, the new fence moves from the cottage to the back portion of the property across the back of the swimming pool and up to the current fence line. The back portion is what I am asking for on the exception. At the last meeting I had explained that my neighbor did not want me to disturb the mature vegetation that is along his side of the yard. I have since found a fencer who will re-sleeve it to raise the elevation. All existing fence that is not conforming to the 72 inches will be moved up to the 72 inches.

Board Questions and Comments:

- Sternberg, is there a gate?
- Fleischer, there is an existing gate. It does not meet the current regulation and it will be raised.
- Lyle Patterson, the Agenda reads, the fence is in other than permitted location (item B), it technically runs over the property line and closes the backyard. They wish to close just short of the pool they do not want to enclose the entire backyard.
- Fleischer, item C is in regard to the placement of the pool equipment. We currently have an outbuilding on the property. The majority of the structure is over the setback line and grandfathered in. I have not updated that structure but understand I now can with the new rules. That will become the pool house. Where the air conditioner is coming out of the structure will become a door to the cottage with a deck. The existing boxwoods will be clustered in the front of the cottage. We are

trying to hide the pool equipment with the boxwoods. The boxwoods are six foot in diameter. The first boxwood would go on the corner of the cottage and as close as I can put it to the setback line. But some of the pool equipment is going to extend over that setback line. It is the correct location for it. If I go to the other side of the cottage, it is more imperil. If I move it more towards the pool, it creates a problem with trying to cover it, shield it, and sound it. I believe this is the correct location for it.

- Dughman, I see the boxwood straddles the envelope line, why can you not move it more to the right?
- Fleischer, if I move it more to the right, I will have to move it off of the building and the tail end I believe will still be across the setback line.
- Dughman, I do not know what would stop you from moving it more to the right to be inside the setback line. Is there a physical barrier or something that prevents you from going to the right?
- Fleischer, if you look at the terrain as it runs, that wall goes down just past where the pool equipment is located on the plan. If I move it there, I am closing down the steps. I am trying to create a walkway there that would allow access.
- Zabaski, have you applied for a variance? A variance has to do with a lot and in order for us to have authority to approve this, we have to agree that this lot qualifies as a variance. I agree with you that this is a good location for the equipment but unfortunately, unless that lot is a variance, we cannot approve it, we do not have the authority. The variance gives you several criteria to consider. I need a convincing argument or proof that the lot qualifies as a variance.
- Fleischer, the lot slopes towards the back of the property. There is a wall there that was put there to handle the terrain. If we move it into the cottage area, I do not know that it will all fit in the envelope. It will also create a blockage of the pathway to move through there. You would have to go down the stairs two times and cut over around through the pool area to be able to access the cottage. It just does not make sense to kick it out to the wall. The location where we have it seems like the most natural place for it because of how it runs and how it lays down. The lot slopes far down from the street. You can not see the cottage from the street.
- Hale, I am having difficulty establishing a basis for a variance. I appreciate the design challenges but have not heard anything yet.
- Fleischer, I can identify exactly on the cottage the property line and instead of running it parallel to the cottage trying it horizontally towards the house. I will do my best to get it right in there. That location makes sense to be able to hook up to the electrical.
- Tardio, what is Lyle Patterson's recommendation? Is there anything about the topography of the lot that you think precludes putting in the full pool equipment there?
- Patterson, no, there is room within that envelope to put the pool equipment.
- Fleischer, let us place it there. I will get the survey on the property line. I have a civil engineer working right now on a stormwater plan. As long as I can be on the property line, I can make that work. Does the pad need to stay inside the line as well?
- Patterson, no, it does not.

Board Discussion:

Motion to divide the fence and pool equipment into separate motions:
Sternberg Second: Hale Vote: All Aye

Motion to deny the applicants request for a variance on the pool equipment:
Sternberg Second: Tardio Vote: All Aye

Motion to approve the fence as submitted: Hale Second: Sternberg
 Vote: All Aye

Lyle Patterson stated to the applicant, when you submit your construction drawings, please be sure to have spot elevations on the terrace steps especially at the top of the wall. The max height on the walls is three feet unless you want to come back before the Board of Zoning. I will need topography as well.

New Business:

1. The application of Josh Payne (21031) 607 Belle Meade Boulevard for a conditional use permitting the construction of a swimming pool and a pool cabana. The building permit has been denied for the following reasons.

- A. Swimming pools require BZA approval.
- B. Accessory structure required BZA approval.

Presentation: Joel Lyons, Chandelier Development, the pool itself and the pool equipment are within the building setbacks. We indicate the code compliant fencing for the pool and the cabana are under the FAR. Dana Woods with the Addison Group is also here to answer any questions. They are the landscape architects on the project.

Board Discussion:

Motion to approve the application as submitted: Sternberg
 Second: Tardio Vote: All Aye

2. The application of Noel Williams (21032) 1 Webster Lane, for a variance permitting the construction to build fences, walls, columns, and gates. The building permit was denied for the following reason.

- A. Fence is in other than permitted location and over on allowed height.
- B. Wall is in other than permitted location and over on allowed height.
- C. Columns are over on allowed height.
- D. Gate is over on allowed height.

Presentation: Mike Kaiser, landscape architect, this property is at the dead end of Webster Lane. They have experienced almost daily security issues. Anyone who drives down Webster Lane uses their driveway to turn around. For security reasons they would like to modify access to their property by erecting gates to prevent people from lopping around the front of their house to get out. The Webster Lane dead end does not really have a way for people to turn around except to use their driveway. For that reason, they came to us and asked us to design some gates for them in the context of their property and the house itself. Our aesthetic judgement is that the allowable height is not aesthetically appropriate, nor would it serve as an effective deterrent as a taller gate. Not to mention that the driveway descends in the property.

Having a little more height to the gate does allow the gates to have a bit more visual prominence. And as a result, visual president's presence as a security measure. In asking for this variance, we have also made not of some surrounding conditions. There are really no neighbors on that street that use the end of Webster Lane, other than the homeowners. The adjoining neighbors would not be affected by this appeal, either physically or visually. The house directly across the street does have a black aluminum wrought iron fence that is six feet in height. In talking to Building Official, Lyle Patterson, about the feasibility of requesting this type of a variance, he brought up that there is a significant drainage issue that has nothing to do with the current owners of the house, that preceded their ownership of the property. It has to do with the runoff that is naturally draining down the applicant's driveway through the back corner of their rear yard on to Millrace Lane. In talking with Lyle and the owners, we came up with a solution that basically entails creating a rain garden, that will allow runoff that is currently sheeting off the adjoining property and the owner's driveway. It will be planted with plants that can handle periodic inundation and will be landscaped so it looks pretty from Millrace Lane and the owner's perspective. It is sort of a concession or gift if you will to the city to resolve an existing drainage problem. An encouragement for you to see favorably upon our request to do a couple of gates taller than permitted.

Board Questions and Concerns:

- Sternberg, why does the top of the pier need to be ten inches higher, and could you expand on the four feet fence between the gates?
- Kaiser, the fence is there as a visual deterrent. We can live with out the fence and effectively plant to act as a significant deterrent and concede with the fence. We are mostly interested in trying to make these gates as tall as we have drawn them. We feel we need something that is six feet tall to act as a significant deterrent and again to be aesthetically in scale with the house. There is precedent directly across the street.
- Sternberg, six feet is not the issue, it is the extra ten inches.
- Kaiser, we can bring that down some. If the gates are five foot three, and we came down another five or six inches, I think aesthetically that cap still wants to be taller than the gates themselves to bracket them aesthetically. But I think we could come down to six foot four or six foot five and still be proportionally correct.
- Sternberg, can the gate come down a bit too?
- Patterson, what is the distance from the property line to the gate and the approximate fall?
- Kaiser, it is about the width of the gate, about 12 feet. The fall is about two feet.
- Patterson, having been on this site many times. I can attest to how difficult this situation is. There is zero places you can turn around. That is why I said staff approval.
- Zabaski, your two inches over and I am sure you can bring that down two inches.
- Kaiser, that is correct.

Board Discussions:

Motion to divide the question of the fence in the middle from the columns and the gate: Tardio

Motion that the fence can not be more than three feet in height: Gloria
Second: Tardio Vote: All Aye

Kaiser, there is an existing less than six foot fence that goes down where we were talking about doing the rain garden. As part of that project, we would like to instead of retaining that fence we would like to return it to an existing wall of the existing cabana. There is a small section of wall that we would like to construct that is six fee tall. That fulfills the pool enclosure requirements, and it joins the corner of an existing wall.

Motion to approve a six foot brick wall in addition to a chain link fence for the pool enclosure: Sternberg Second: Tardio Vote: All Aye

Motion to approve the six foot and eight inch cap for the columns for the gate which is two inches below what was submitted: Sternberg
Second: Tardio Vote: All Aye

Motion to approve the gate as submitted: Sternberg Second: Tardio
Vote: All Aye

3. The application of the Belle Meade Country Club (21033) 815 Belle Meade Boulevard for a special exception permitting the construction of Pickle Ball Courts. The building permit has been denied for the following reason.

A. Under the Zoning Ordinance, Appendix D, Country clubs, construction or improvements upon a country club site requires BZA approval.

Presentation: Alan Oakley, Tennis Committee Chair, we would like to repurpose the parking lot for pickleball courts. Four courts with fencing. The fencing design will be the same as what is existing there now. There will be lights, the same as what is there now with the tennis courts.

Board Questions and Concerns:

Sternberg, regarding lighting, how long will people be able to play?
Oakley, it will be available until 9pm Monday through Friday, Saturday, and Sunday the Club closes at 6pm.

Board Discussion:

Motion to approve as submitted: Sternberg Second: Tardio
Vote: All Aye (Zabaski, Sternberg, Tardio)

Meeting Adjourned 6:10pm

Vice Chair Pete Zabaski

City Recorder Edie Glaser