

Planning Commission
Public Hearing
October 8, 2019

The meeting was called to order by Chairwoman Rebecca Bush and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Jeff Lahasky, Rebecca Bush, Bill Sones and Brian Rhinehart

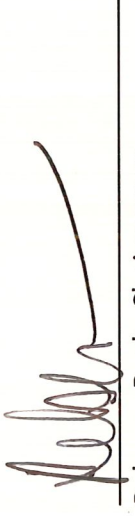
Absent: None

Also Present: Louisette Scott, Director, Planning Department; and Cara Bartholomew, Planner

Adoption of the minutes of the May 14, 2019 meeting was deferred until the next meeting.

Mr. Fairley moved to adjourn the meeting, seconded by Ms. Bush and was unanimously approved.


Lori Spranley, Secretary


Rebecca Bush, Chairwoman
Planning Commission

**Zoning Commission
Public Hearing
October 8, 2019**

The meeting was called to order by Chairman Nixon Adams and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Rebecca Bush, Jeff Lahasky, Bill Sones and Brian Rhinehart

Absent: None

Also Present: Louisette Scott, Director, Planning Department; and Cara Bartholomew, Planner

Mr. Adams announced that written notice of decisions regarding zoning variances will be filed in the Board's office the following day of this meeting at which time applicable appeal time will begin to run.

Adoption of the minutes of the May 14, 2019 meeting was deferred until the next meeting.

The first case discussed was V19-09-33 Benjamin and Jennifer Boudreaux request an exception to Section 7.5.1.3, R-1 Site Development Regulations and Article 9, Parking and Landscaping, more specifically to Section 9.2.5.2, Vegetative Protection Requirements, a portion of lot 1, square 90, 2603 Lakeshore Drive, zoned R-1

Ms. Scott presented that the applicant was proposing to build a 7,552 square foot residence on a portion of lot 1, Square 90, which was the northwest corner of Lakeshore Drive and Wilkinson Street. The lot measured 90'x 375'. The property was a total of 33,570 sq. ft (.77 acres). The property was the site of the Lange House until it was moved to its current location on Carroll Street. It was currently improved with an accessory dwelling which will be renovated as part of the redevelopment of this site. The Historic Preservation District Commission had reviewed the plans and had been approved.

There are 3 significant live oaks on the property:

1. 48" Live Oak located in the front yard on the west side of the property,
2. 72" Live Oak at the center of lot toward the west side just in front of the existing accessory structure, and
3. 38" Live Oak located on the east side of the property with the canopy extending toward the rear north side of accessory structure.

CLURO Section 9.2.5.2 stated: The Vegetation Protection Zone for live oaks will be a circle with a radius which is eighty-two (82) percent of the canopy of the tree, measured from the trunk to the drip line.

The original plans showed significant pavers and a fountain on the front of the property. The plan had been revised to remove the paver area and install a surface walkway. One of the questions was whether there would be any plumbing for the fountain and it was clarified there was not. The 72" live oak had an encroachment with the pool, decking, driveway, skirt, etc. The revised plan removed these areas of encroachment. The 38" live oak was proposed to contain parking with paver stones and that was also removed. The revised plan shifted the house to the south by 5'. The previous areas of encroachment were removed. The front walkway was reviewed by the Consulting Arborist with no digging on the surface so Dr. Guidry indicated there was no adverse impact. The 72" live oak where there was to be pool decking was now limited to 48 square feet of encroachment. Dr. Guidry said after another site visit with the applicant and the designer, he presented a letter stating "due to the location of the former pool the roots were not able to grow within the area. With this being the case, there exists limited

area for in ground construction of the proposed structures, specifically in respect to the roots.” The original pool was not removed, but had holes punched in it and filled. The staff wanted to understand how the original pool location interfaced with the new construction and whether there was any adverse impact to the root system. Pictures were provided of the original pool location. There was an overlay of the original Lange House and pool onto the proposed site plan. When evaluating the plan, the corner encroachment had no roots in the area because of the existing pool. Dr. Guidry did not feel there were any roots in the area because of the pool location. He was more concerned about the roots on the east side where there was no previous construction and the proposed pool was in that location. He asked the house be moved up a few feet. The original revised plan was 5’ and after further discussion with Dr. Guidry to provide additional space for the pool, decking and the live oak tree, the plan moved the house an additional 3’ for a total of 8’. The pool would be completely out of the tree’s dripline. The master suite and garage still encroached under the tree, but this was the location of the original pool and there were no roots.

With the house pushed toward Lakeshore Drive, the encroachment was 27.6 square feet. The other variance was to the street side yard setback. The requirement was a 25’ front yard setback and they proposed 38.5’. There was a 15’ minimum street side setback and with the shifting of the house over 5’ toward Wilkinson Street they were proposing for the master suite and garage to have a 10.3’ setback which was a 2.3’ encroachment. The main house was a 4.9’ encroachment into the Wilkinson Street side yard setback. The CLURO provided an administrative provision to work around live oak tree with a reduction up to 30% of setback. It was not applied here administratively, but the request would allow a reduction of 4.5’ if there were no other encroachments.

Mr. Rhinehart said the significance now was the encroachment was gone except for a small square footage which was a significant improvement.

Mr. Adams asked what was the hardship. Ms. Scott stated there were three live oak trees on the property. Mr. Adams said it could be solved with a smaller house and should be considered as an exception.

Matt Voelkel, Studio V, 735 East Boston Street, said the historic footprint of the rear house was originally to be removed, but they worked around it. They had requested an extra week after the work session to make sure they were following the rules and understood the impact of the residence and to the site. The intent was to show the full respect to Mandeville and its resources by working around the three magnificent live oak trees. They worked closely with the staff and with Dr. Guidry over the previous three weeks. In that timeline, they had found photos of the original house location, pool and hot tub. The plans shifted the house forward 5’ to the right and 8’ forward as requested, redesigned the rear yard, pool, decking walkway, driveway and removed anything from under the live oak trees even beyond the requested amount of the 18%. One other thing, Mr. Clark had requested what it would look like on Google Earth so they plotted it. The survey showed the tree and the canopy was not within the 27 square feet from Google Earth. He stated with the lot being 90’ width and 300’ depth there had been a discussion about the size of the house. He explained that the 7,500 square foot house included 1,500 square foot of porches, 12’ deep by the width of the house and a 12’ wrapped porch on the rear was relating to the trees, the lakefront and the earth. The house was designed for the front section of the house to create a classic Louisiana center hall house with large front porch which was about 2,600 square foot of house. There was a link to the rear of the house being 1,350 square feet. The roofline was the children’s bedrooms and playroom.

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Ms. Bush stated a letter was received from Gregory Reardon for the record and would be part of the file.

Leonard Rohrbough, 2525 Lakeshore Drive, said although the owner had attempted to mitigate some of the questions, the left hand side showed an intrusion of pavers under the tree. He wanted everyone to understand that most contractors install pavers so there would be no complaints of them being uneven using a limestone paste that was like concrete. The roots needed water and oxygen. He was glad that was removed since it was one of his major concerns. Moving the house forward was helpful to the middle tree. The only other thing that could be done would be to remove 1,500 square feet of house to protect the trees. In the long run, we will wait to see how the live oak trees survive.

Rebecca Rohrbough, 2525 Lakeshore Drive, said she saw the house was away from the trees and she was glad to see it. She was concerned for the large live oak tree that could have the surrounding area under construction causing tree stress. She had observed the live oak trees in this neighborhood for the last 35 years and she pointed out 1 ½ block away was the Maestri property. She said driving down Wilkinson Street on the north face of the property where there were no structures she saw one of the most beautiful live oak trees. Due to the monsoons for weeks, the shallow rooted oak tree upended and fell over. That was nature and it could happen. Ms. Rohrbough's immediate neighbor had a 200 year old live oak tree in the side yard and the dug up a small pool to install a larger pool. The live oak tree dropped a 20" diameter size branch. It was the beginning of the end for that tree. Recently on her property, the oldest live oak tree that was estimated to be 260 years old dropped an 18" limb 42' long. They had protected the tree to 40' of the dripline. The arborist explained that the live oak tree roots covered the entire front yard. In the rear yard, they had a large tree with its roots extended to the swimming pool and snaked around it ripping up the plumbing of the deck of the pool. Roots grow all over and were a part of nature. The fourth live oak tree on this property was in the southwest corner of the original house. The tree was shown in the drawings dating back to the 1860s and went over in a hurricane. The tree fell east onto the house during Hurricane Katrina. The tree broke the gable of the roof, punched through the attic and through the house to the ground. The homeowner fought with his insurance companies and he was told the tree damage was caused by the water which resulted in two years in court. Trees were more vulnerable than not encroaching onto the 82% of the dripline. They were vulnerable to nature and flooding so any encroachment was a danger to the trees. There were better choices that could be made.

A technical issue of the Historic Preservation District Commission approval of the sizable house was based on the mitigation of the setbacks. They were not requesting to move the setbacks. She contended that invalidated the Certificate of Appropriateness.

Mr. Adams asked who supervised the tree protection barrier. Ms. Scott stated it was the staff arborist and Dr. Guidry. Ms. Scott said any time during construction there was a list of criteria to attach to the permit.

Gerard Braud, 2621 Lakeshore Drive, said it was an odd shaped tree from previous construction. He did not seem to be harmful and he had no objection.

Jonathan Walther, contractor, said the fencing was installed with wiring at the approval by the City arborists. When the project began, the entire property would be installed with a chain-link fence to protect the trees with only two accesses. He had been building in Mandeville for over 20 years. He had worked around the live oak trees and he was not the contractor that would destroy the trees. The arborists visited the site on a regular basis.

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Ms. Bush asked for the basis of the Certificate of Appropriateness. Ms. Scott said there were no conditions. The commission looked at the setback and was glad that the house was not located at the 25' minimum required front setback. The 5-8' was not a substantive enough of a change to go back to the commission.

Mr. Lahasky said the commission was not experts on trees, but they used the information from experts. The applicant had made significant efforts to move the house in a manner to protect the trees, made edits to the plan and will follow them. Mr. Lahasky moved to approve the case as an exception, seconded by Ms. Bush. The motion passed 6-1 with Mr. Clark voting against the motion.

The next case discussed was V19-08-30 5000 N. Claiborne LLC and 5030 N. Claiborne LLC requests an exception to Section 7.5.1.3, R-1 Site Development Regulations and Section 8.1.1.4(4), Setback Encroachment Mechanical Equipment, a portion of square 5, 1635 Lakeshore Drive, zoned R-1

Ms. Scott presented that the applicant owned the property at 1635 Lakeshore Drive, which was zoned R-1 Single Family Residential. The property measures 61' x 190' which required a minimum 10' side yard setback. The existing setbacks are as follows:

West side: 10.2 and 10.6' (compliant)

East Side: 7.6' at the front of the residence and 6.2' at the rear of the structure. (legally non-conforming)

The applicant began construction on a new kitchen addition to the east side of the house, without a building permit and a stop work order was issued. The applicant was requesting a variance. The new addition measured 6' x 17' (102 square feet) and encroached 9.3' into the 10' minimum required side yard setback. The survey prepared by John Bonneau indicated the addition was 8.4 inches from the property line.

A schematic submitted by the applicant showed the area of the new air condition platform that had previously been in the location of the addition. The platform was moved to the same area that was approved with the rear addition permit. However, the platform was not constructed. Since the time of that approval, the regulations had changed which did not allow mechanical equipment in the side yard. There was a variance request to allow the existing mechanical to be located in the side yard setback. The new kitchen addition encompassed the area of the previous mechanical equipment location.

As discussed at the work session, the air condition platform previously was located on a stand and the legs of the platform were over the live oak tree which had been there for many years. As discussed at the work session, with the platform and legs being removed, the addition was cantilevered so the ground encroachment was gone. There was a new platform in the rear of the structure.

The variances requested were for the encroachment of the new kitchen addition being 9.3' into the 10' side yard setback, relocation of the air condition platform to remain in the side yard setback and allow the encroachment of the new kitchen addition within 82% of the dripline of the live oak tree. There was no new information from the work session.

Christie Tourney, representative of the Wolfe's, said they were present because of Hurricane Barry and emergency repairs on a pre-existing non-conforming structure. When Hurricane Barry came through there was water intrusion. When Mr. Wolfe began to make repairs, he noticed the rot into the structure was extensive so he made changes at that time

that were already envisioned and discussed. Mr. Wolfe purchased the property in 2015. When he purchased the property there was already a permit issued in 2012 with a John Bonneau survey dated 2012 and a plan by Lynn Mitchell. All of these items showed a proposed addition and the air condition units to be moved. Mr. Wolfe had always envisioned cleaning up what was going on with the structure. A post would have gone into the ground into the root system of the live oak tree and the air conditioning unit was an eyesore from the street view and to the neighbor. This was not an addition; this structure was already existing and there was no change to how far the structure went out and mechanical units were now behind the existing "bump out" that was already there and was no longer visible from the street. The Historic Preservation District Commission approved the request contingent upon this exception being granted. The Historic District mentioned that seeing it in 3D and pictures can show that the mechanical units were now longer an eyesore and assisted the live oak tree. There was correspondence with Ziegler Tree Service, a professional arborist, stating not only did the mechanical unit and the removal of the pier from root system is betterment to the chances of this live oak tree surviving. Initially a variance application was submitted showing there was a hardship with a 100 year old house that was already non-conforming. All that happened was the pier was removed from the root system and the air condition units were moved. There was written correspondence from both adjacent neighbors stating they are unanimously in favor of this project. There was one neighbor that was concerned about the lot line and the setback. Their position was to clarify this was not an addition. This was already pre-existing and Mr. Wolfe enclosed the pre-existing platform and moved the mechanical equipment. When she looked at the CLURO under Section 4.2, she felt it was existing, emergency repairs were done and nothing happened for any further encroachment. She asked the commission to grant the exception.

Scott Wolfe, applicant, 1635 Lakeshore Drive, said it was an addition. He apologized putting the commission in this position and that he was in this position. He explained these were emergency Hurricane Barry repairs. He thought it was already an existing encroachment. This was a 150 year old house that was the old Pontchartrain Yacht Club located 6' off the property line. He inherited the air condition platforms and the existing pantry. The kitchen was originally on the first floor that was lost in Hurricane Katrina. There was now a small kitchen on the second floor.

Mr. Sheen received a building permit to construct an addition to the rear of the house which was supposed to be a kitchen, but it was not the kitchen or a pantry. There was approval to build a platform to move the air condition units to the rear. There was another larger platform than the bump out so the existing encroachment was the same.

He also operated the property at 137 Girod Street which received 7-8" of water. His resources were on that property with 50 tenants of shared office space. There was water infiltration and damage on the kitchen east wall. He had his contractor put up a tarp on the house and took care of the other properties. He spent a week at 137 Girod Street doing remediation and getting the tenants back to the property. This all incurred in a two week period. His home received 12-18" of water under the house since Lakeshore Dive flooded. They had removed all equipment from under house to an off-site location and had to bring it back. They cleaned the property from the water. From July 22nd to 27th they were putting the home back and from July 24-25th they paid attention to the water leak. In removing the weather boards, they saw the rot and removed the air condition condensers from the platform to open the east wall. The plan indicated an increase of 50-60 square feet. Since they would increase the bump out they moved the equipment to the rear of the house. He discussed this with Myron Sheen and Peggy Baldwin. Mr. Sheen was in favor of moving the air condition equipment because it was adjacent to his newly renovated home of a glass enclosed kitchen. When the compressors kicked on, it vibrated his glass.

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When they peeled back the platform 3' and knowing the live oak tree was stressed, they cantilevered a support and removed the staircase from root system. The encroachment was smaller by 3'. On July 29th he heard from the administration concerning the building addition because it appeared larger from the street because it was vertical. He emailed Ms. Scott and requested a meeting. He explained the emergency situation and the build out. The administration determined there was a variance or exception required. He removed the condensers and the poles from the canopy of the tree. Dr. Myron Sheen was the only person it would hurt. Dr. Sheen had renovated his home and was approved for his own bump out over the driveway. He came before the board to add to the home and was approved to construct 24" from the property line to the east. Peggy Baldwin also wrote a support letter. Both people were out of town and had expressed their support with Dr. Sheen having appeared at the work session.

The request was presented to the Historic Preservation District Coming, being approved with a 6-1 vote in favor of the project. The commission had commented that they liked the appearance of the elevation plan and addition. They liked moving the air condition equipment to the rear with an improved streetscape. They shortened the encroachment north to south. They had rescued the canopy and root system of the live oak tree.

Ziegler Tree Company was in favor of the improvements since it would help the live oak tree. These were unusual properties and non-conforming because of their age. Setbacks were invented for fire safety to allow fire trucks to get between the properties. The fire trucks could not get between the properties being 2-6' from the property lines with a live oak tree in the center. The administration had the Fire Department review the request, who stated there was no objection. The neighbors they had spoken to with the exception of Mr. Rohrbough were in favor of the project.

Mr. Sones clarified that the addition butted up to the property line. Mr. Wolfe said the house was at an angle to the property line and was 7" off the property line and the rear platform was trimmed to 2" from the property line. Mr. Clark said the applicant's counsel made the case that the variances were already in place with the property. If that was true, why the commission would be hearing the request. Ms. Scott said as she understood Mr. Wolfe's argument that the variances were granted for Dr. Sheen was to the floodplain regulation because the existing house did not meet the required bfe. To construct the addition prior to the adoption of Historic District, the City wrote a letter to the National Park Commission confirming that the house was eligible to be placed on the national registry. Mr. Clark said the council had stated there were variances in place. Ms. Scott said there was no variance granted to the side yard setback. Mr. Clark said the undertaking of the applicant's counsel was mistaken. Mr. Adams said the request was for an exception. At his request, Ms. Scott read the criteria for an exception.

Mr. Clark said this was a neighborhood of three houses. Ms. Tournay said her understanding of the CLURO was to promote the welfare and aesthetics of the community and that was what this did. There may not have been a variance because it was not required at that time, but it was absolutely unequivocal there were architectural drawings showing the add-on with mechanical equipment on the side of the property. Ms. Scott said the regulations changes.

Dr. Skelly Kreller, 280 Dona Drive, said there were several references using Ziegler Tree Company and he asked what was the City Arborist's opinion. Ms. Scott said there was no City evaluation because there was no additional impact to the tree. Dr. Kreller said in the picture, it appeared to be an emaciated live oak tree with no branches because it was surrounded by houses. He did not see the canopy of the live oak tree. His problem was as residents with new

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construction and additions; it was not in the best interest of the live oak trees. He had no doubt they were impinging on the oak trees. He agreed with Ms. Rohrbough's presentation that the roots were not being considered. In this case, the bump out looked like it was next to the oak tree itself. He asked how close was the addition to the tree. Mr. Wolfe said the encroachment was 3' further away, and the support system was removed from the root system. Mr. Wolfe said they had removed the three air condition units which was good for the tree without the exhaust system. Mr. Ziegler had said this when reviewing the tree. The administration felt the City Arborist's report was not necessary with no impact. They had improved the health of the tree and wanted it to be healthy. Dr. Kreller said the bump out looked closer in the photo. People seem to be encroaching more and more on the live oak trees which had been in the area for hundreds of years. Every time a variance was granted, he believed the case should be reviewed on the side of the live oak trees rather than the residents building large houses or big additions. Mr. Clark said the tree may have needed the variance with it growing up and impinging on the house.

Lisa Lazier, 1623 Lakeshore Drive, said she had two 100 year old oak trees. She knew this oak tree was a large setback from the front property line.

Cameron, 210 Pear Street, said removing the original air condition unit platform benefited the tree by removing the poles for the root system and was not a negative impact.

Leonard Rohrbough, 2525 Lakeshore Drive, said he was shown some improvement where the expansion was cut back. At the last meeting, it was stated the construction was performed without a building permit. There seems to be a pattern since this was the same applicant that removed a door from a duplex on Girod Street that was specifically stated that both doors must remain. This was a pattern of disregard to the building permit issue. When will the city say no. Ms. Bush said it was a good point, but that was an enforcement issue. Ms. Scott said administratively the City would begin issuing citations. Mr. Rohrbough said this was a variance request for a side yard setback and he did not know why anyone thought since there was a deck it was buildable area by inheritance. A deck had different rules and could not just be incorporated into the living area with it being inches from the property line.

Scott Lazier, 1623 Lakeshore Drive, said he was happy to see the work done because for the last three years it was an eyesore with damage on the lakefront. He was happy to see the support system, and how he took the foundation away from the tree. The cantilever directed the weight away from the live oak tree, and he had taken care for the tree. They valued the trees. The air condition condensers were falling apart and it was unattractive. He was in full support of their project and it was beautifying his property. Bayou Castine was located to the rear so there were no neighbors obstructing views. As a contract, he was impressed with the cantilever system taking weight away for the tree system.

Lynn Mitchell, 240 Girod Street, said he was not the architect for the addition. He did the original restoration for Dr. Sheen and his adjacent new house. He had spoken with Mr. Wolfe, and he could not come up with a better solution. The original kitchen was on the first floor and removed by Hurricane Katrina. The location of the kitchen was worked out between the flood insurance company and Dr. Sheen. There were restrictions on the location. Dr. Sheen did not cook so the kitchen was not a great need for him. For most people, it was a necessity to have a larger kitchen. With his need, it worked out well with the neighbors so he requested to grant the exception.

Chad Davis, 137 Girod Street tenant, said he operated a 25 person real estate company out of the building and he could attest to the sense of urgency for his businesses. During Hurricane Barry, the building flooded Saturday afternoon, and Sunday there was a clean-up

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crew of 10-12 people. On Monday they were back in business. His wife and he were committed to Old Mandeville. Being in real estate, he noticed the aesthetics, and he thought the bump out was part of the house footprint. It sounded like this improved the situation by removing the support beams and cantilevering the addition.

Mr. Adams said there were comments by the Historic Preservation District Commission and the neighbors, and it met the exception process. The staff should move forward with enforcement. Mr. Clark said he was told it was already approved with the Sheen purchase. This was permission and forgiveness.

Mr. Fairley moved to approve the exception, seconded by Mr. Clark and was unanimously approved.

The next case discussed was V19-10-34 Philip and Crystal Younger request a variance to Section 9.2.5.2, Vegetative Protection Zones, a portion of lots 12, 13, 17 and 18, square 25B, 229 Carroll Street, zoned R-1/B-3

Ms. Scott presented the applicant purchased a portion of lots 12, 13, 17, and 18 in SQ 25B, located at 229 Carroll St. This property had a split zoning and was zoned R-1, Single Family Residential on the front portion and B-3, Old Mandeville Business District in the rear. The single family dwelling was demolished with approval of a Certificate of Appropriateness from the Historic Preservation District Commission. Additionally, the property contained a 72" live Oak located on the front, north side of the property.

Currently, there was no existing driveway on the property and the site plan proposed a new pervious limestone driveway with concrete curbing to be located along the south side of the property, providing driveway access to the property. The aggregate driveway would encroach into more than 82% of the drip line of the tree live oaks. A variance was being requested for this encroachment.

At the work session, it was discussed there were concerns by the adjacent property owner. Dr. Guidry stated the tree was in good help and must be protected during construction. There was a condition as part of the permit for the demolition and Ms. Scott requested they carry it forward on the variance. The neighbor was complimentary about the demolition work.

Mr. Adams asked what would happen with the B-3 zoning to the rear. Ms. Scott said that would be a question for the applicant.

Crystal Younger, applicant, said she had no plans for the rear property. Originally the house was to be located in rear and the business in the front. Mr. Adams said there must be access to the property. Ms. Scott said there was no existing access on the south side, but there would be a new driveway. Previously it was accessed by a shared driveway on the north side of the property using the neighbor's property.

Mr. Lahasky said the City Arborist had reviewed the site and stated the limestone would not have an adverse effect. Ms. Scott said the notes stated it would be at grade and anchored to the ground to keep limestone in place. Mr. Clark asked why have curbing. Ms. Younger said as long as the limestone stayed in place she did not need curbing. Mr. Clark said if the roots were impacted, it would be best to use limestone. Ms. Younger said her husband preferred limestone rather than pea gravel. Ms. Scott said a note stated the limestone should be size #57 or a comparable product. The Church had allowed the applicant to use a maintenance drive

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during construction so the vehicles would not access this driveway as included in the conditions.

Mr. Fairley said limestone would pack down over a period of time. Ms. Scott said one of the things looked at when there was no tree involved that the contractor used dirt to create a base. In this case, the dirt would be prohibited.

Jay Seastrunk, 1815 Lakeshore Drive, said #57 was a mix of gravel sizes, and there was a plastic grading system for fine gravel retaining the gravel in place as an option. Mr. Adams said if approved, the staff could determine the least intrusive material for use. Mr. Lahasky asked Mr. Seastrunk if the system was only on one side. He said it was little squares stitched together and the rocks were dumped to prevent it from moving around. The weight of car would displace it. It would be permeable.

Mr. Rhinehart moved to approve the variance, seconded by Mr. Sones. Mr. Fairley moved for a friendly amendment to include the of size of the gravel and remove the curbing, seconded by Ms. Bush. Mr. Lahasky asked how would the limestone be kept in place and not be displaced. Mr. Clark said it would move on its own. There was no ingress so it was finesse around the live oak tree as opposed to moving around the area. The neighbors did not have a driveway; his driveway was gravel and worked fine infiltrating water. Mr. Fairley suggested using treated timber to keep it in place. The amendment for gravel without curbing was unanimously approved. The motion to include all of Dr. Guidry's conditions was unanimously approved.

The last case discussed was V19-10-35 Kake LLC requests a variance to Article 9, Parking and Landscaping, more specifically to Section 9.2.5.5(4) Buffer Zone Requirements and Section 9.1.2, Construction Design Standards for Parking and Loading, a portion of square 56, 841 Lamarque Street, zoned B-1

Ms. Scott presented the applicant is proposing to construct a new 1,100 sf building with the proposed land use as an office and the remainder of the building to use for ice cream production for his business, Just Chillin'. The office space consisted of ~240 sf and the ice cream area includes ~ 600 of which ~170 sf was a freezer.

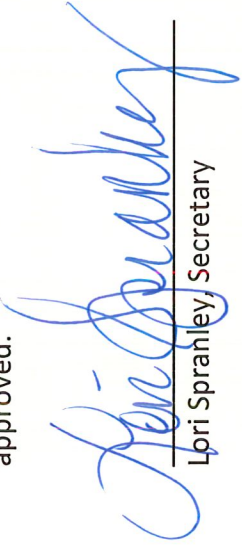
This was a 56' frontage lot and the parking design standards could not be accomplished adjacent to the R-1 zoning district with 20' buffer requirement. At the work session, the commission requested to establish a parking bank and driveway. There was a need for only 1-2 spaces so there was an amended site plan showing the banked spaces with one regular space and one handicap space to the front. The variance was to encroach into the front buffer, but the remainder of the driveway and spaces would not be constructed. The space would be 12' wide which was larger than the standard size and would allow the car swing back with a smaller encroachment into the buffer.

Mr. Rhinehart said the applicant presented a plan as requested. He asked if the banked spaces were to be constructed with an encroachment would the applicant come back before the commission. The CLURO allowed bank with required approval to construct the spaces.

Ms. Bush moved to approve the variance, seconded by Mr. Fairley and was unanimously approved.

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Mr. Fairley moved to adjourn the meeting, seconded by Ms. Bush and was unanimously approved.


Lori Sprahley, Secretary


Nixon Adams, Chairman
Zoning Commission

**Planning Commission
Work Session
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The meeting was called to order by Chairwoman Rebecca Bush and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Michael Blache, Rebecca Bush, and Jeff Lahasky

Absent: None

Also Present: Louisette Scott, Director, Planning Department; and Cara Bartholomew, Planner

Ms. Bush announced that any additional information determined to be needed by the Commission in order to make a decision regarding a case shall be required to be submitted to the Planning Department by the end of business on the Friday following the meeting at which the additional information was requested or the case will automatically be tabled at the next meeting.

The first case discussed was P19-10-08 Recommendation to the City Council regarding Ordinance 19-26 MANDEVILLE REVOKING THE DEDICATION OF THAT PORTION OF MONROE STREET BETWEEN LAMARQUE AND FOY STREETS IN ACCORDANCE WITH THE LEGAL DESCRIPTION AND SURVEY PREPARED BY JOHN G. CUMMINGS AND ASSOCIATES DATED JULY 2, 2019; DECLARING THAT PORTION OF STREET AS SURPLUS AND NO LONGER NEEDED FOR CITY USE; DISPOSING THAT PORTION OF STREET AT PRIVATE SALE; AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR OTHER MATERS IN CONNECTION THEREWITH

Ms. Scott presented the applicant purchased the house at 437 Lamarque Street on March 29, 2019, which was located in Square 15, lot 8 and zoned R-1 single family residential. The property dimensions are 63.95' frontage on Lamarque Street with a depth of 202.50', as shown on the survey prepared by John G. Cummings and Associates dated July 2, 2019.

This corner lot was located at the intersection of Lamarque and Monroe Streets on the southeast side. Monroe Street was dedicated but unimproved with a Right of Way (R.O.W.) measuring 53.3' in width. It continued east toward the unimproved dedicated Foy Street Right of Way and Little Bayou Castine.

The applicant was requesting that Monroe Street be revoked from Lamarque Street eastward, a distance of 202.5', (equal to depth of applicant's lot). The house was at the property line and was listed as historic. The intent was to renovate the house and construct an addition. In discussions with Public Works there was a large drainage outfall and a portion was culverted and then opened to the back. They requested Randall Brown & Associates provide a survey of drainage in the right of way, and can then identify the area that was needed to service it. There was a live oak tree toward the back of the right of way. The staff requested the applicant for a conceptual site plan and they submitted a site plan for an idea of the site spacing. The garage would be about 24' from the property line.

Mr. Adams said that portion of Monroe Street would never be opened, and asked if the City Council should rezone it to Open space. Mayor Villere said it was a wet area. Mr. Fairley said at one time this was a state highway. Mr. Clark asked when the City acquired Girod Street, did the state retain part of the property. Ms. Scott said she would find out the answer. She thought the state highway was from East Causeway Approach to Girod Street and it was Mandeville streets past Girod Street.

Ms. Scott said the findings would be if there was any public purpose needed. Mr. Clark said in the world of rising water and flooding, all land like that was important. Ms. Scott said

the staff would have a survey outlining the drainage servitude, but the recommendation would be approval or denial of the revocation of the right of way.

Jackie Gutierrez, 503 Lamarque Street, asked if the drainage ditch would remain with the City and the answer was yes. Mayor Villere said provisions would be made for it to be accessible from that side of the road.

The next case discussed was P19-10-09 John and Kathryn Cressend request a waiver to the conditions regarding note #5 and 15 that there is no structure of any kind, including fences, within the 15' tree protection area and drainage on lots 3 through 20, of the approved subdivision plat of the Beau West Subdivision, Phase 1, prepared by Kelly J. McHugh and Associates, Inc. revised through May 17, 2000, zoned R-1

Ms. Scott presented that the applicants were requesting a waiver of the Beau West Subdivision, Phase 1, Restrictive Covenants No. 5 and No. 15. Covenant 5 which stated: *"Construction of any nature, including fences, is prohibited in public streets, city drainage or utility servitudes, rights of way or easements". Covenant 15 states, "There is to be no structure of any kind, including fences, within the 15' tree protection area on Lots 3 through 20". The drainage easement and tree protection area are co-located 15' from the rear property line.*

In March 2019, the applicants applied for and were granted a variance to encroach into the rear yard setback in order to build an outdoor kitchen. The Zoning Commission granted a variance of 15' from the 30' rear yard requirement for an area of 409 square feet. The Commission granted the variance based on the following findings:

1. A permit had been issued for a compliant accessory structure that is only 6" from the house but is allowed as an accessory structure within the rear yard setback.
2. This lot is adjacent to Parcel B Green Space, which is zoned Open Space. The property addition is approximately 30' from the southern property line that is shared with this Open Space.
3. The property adjacent to the rear, in the Beau Rivage Subdivision, is separated by a large drainage ditch, creating no adverse impact.

Statement from the applicant:

Requesting a 3' variance from the 15' setback in the rear of my yard for the installation of a pool. With the present layout, the walkway between my house and the water's edge would only be 5' wide which concerns me due to the kids playing etc. and it being way too narrow and tight. If we were able to move the pool 3' further out, it would make it the proper area and sufficient room. We would then still be 12' from the property line. I know my next door neighbor requested the same variance and it was granted. Thank you for your consideration.

The adjacent property was granted a variance under P14-08-06:

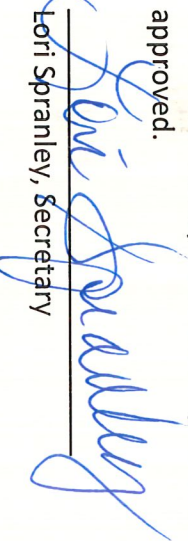
Ricky and Rene Liberto requested the waiver to allow a 5' encroachment into the 15' tree protection area for the construction of their swimming pool. The waiver was granted on August 26, 2014 with the condition of trees to be planted with the number and species to be determined by the Landscape Inspector

The applicant had not submitted a tree survey for the area of encroachment. Replanting may be required if any trees are affected by the pool and/or its construction. Public Works did not object to the 3' encroachment into the drainage easement.

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Jack Cressend, 723 Libby Lane, said the pool area had no trees. They would plant trees when the pool was completed. There were trees planted in the adjacent lot after the pool was constructed. The location caught them by surprise when the pool was laid out. It did not make sense to be so close to the house. Mr. Adams said the trees were a buffer.

Mr. Fairley moved to adjourn the meeting, seconded by Ms. Bush and was unanimously approved.



Lori Spranley, Secretary

Rebecca Bush, Chairwoman
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The meeting was called to order by Chairwoman Nixon Adams and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Michael Blache, Rebecca Bush, and Jeff Lahasky

Absent: None

Also Present: Louise Scott, Director, Planning Department; and Cara Bartholomew, Planner

The first case discussed was V19-10-36 Anita Serpas Steadman requests an exception to Section 7.5.1.3, R-1 Site Development Regulations, lot 64B, 1456 Montgomery Street, zoned R-1

Ms. Scott presented the applicant had submitted a request for an Administrative resubdivision for a parcel of ground in Square 64 into two lots (lot 64A and Lot 64B). The parcel was located on the southeast corner of the Jackson Avenue and Montgomery Street and was zoned R-1 single family residential. The Lot 64A was improved with an existing residence measuring 120' x 136.53' (16,383.60 square feet) and proposed lot 64B was currently vacant and measured 100' x 120.44' (12,044 square feet). The applicant currently resided in the home located on lot 64A (777 Jackson Avenue) with the intent to construct a new residence on lot 64B (1456 Montgomery Street).

The applicant submitted proposed plans for (proposed) Lot 64B.

The Plot Plan drawn by Pinnacle Home Designs, LLC and dated 8/1/19 indicated encroachments into the front yard setback by the proposed garage, encroachment into the rear yard setback by the primary structure and encroachment into the side yard setback with the garage and possibly the primary structure (not dimensioned) as follows:

	Dimensions	Area	
Garage	4'9" x 22'6"	107 s/f front	additional 1.2' x 27' 32.4 s/f side
Dining Room	3' x 13'6"	41 s/f rear	
Master Bedroom	5' x 16'7"	83 s/f rear	
<u>TOTAL AREA</u>		231 s/f	+ 32.4 s/f = <u>263.4 s/f</u>

The garage was located in the front of the house, and encroached ~5' into the front yard setback. The garage was side loaded, and appeared to be loaded from interior, not side yard, so driveway will be through the front yard. Due to the location of the attached garage in the front, the remaining part of the principle structure was setback back ~45' from property line. The rear portion of the house encroached into the rear yard setback in the location of the dining room (3'x13.5') and the master bedroom (5'x16.7').

Mr. Clark asked if an architect designed the plan and did not understand the regulations. Ms. Scott said it was a design company that created the plan. There was room with some reconfiguration to meet the setbacks. Front loaded garages were prohibited in the historic district, but this property was not in the historic district. The location was preferable to the side yard or the rear. If moved, the garage could fit to the rear. Mr. Adams said this was a vacant lot and would be considered as an exception.

Chris Steadman, 777 Jackson Avenue, said the plan was picked after nine months of looking. They found a designer and made modifications to the plan. The City requirements had been provided. After five months of revisions the designer said the house did not fit within the setbacks. He had overlooked it. He said if they had to start over, it would be considerable time and expense. On the south side was an existing fence so the neighbors would not know the

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difference in the setback difference. There was an existing fence on Montgomery Street that would be removed to expose the front of the house.

Mr. Adams asked if the architect was local. Mr. Steadman said he was local and had stated it was an oversight and this was the first time this had happened. Mr. Adams said financial consideration was not a consideration for a variance. But, he thought this could be considered as an exception. Mr. Steadman said the option would change the garage, roof design and the look of the house. Altering the front design would change the look of the house which was what the applicant was trying to preserve.

The next case discussed was V19-10-37 William and Amy Steele request an exception to Section 7.5.3.3, R-2 Two Family Residential District Site Development Regulations, square 99, lot 99B, zoned R-2

Ms. Scott presented the applicant recently purchased Lot 99B, Sq. 99 with the intent to construct a duplex. The property was zoned R-2, Two Family Residential district and was located on the south side of Montgomery St between Dupre and Rapatel Streets. Lot 99B was subdivided in July, 1985 as part of a resubdivision of a parcel of ground into 3 lots. Lot 99B measured 80.3' on Montgomery St with a depth of 116' on west and 108' on east side and contains 9,000 square feet. The R-2 site development criteria required a minimum lot area of 9,000 square feet and minimum lot area per unit of 5,000 sf. A duplex was a permitted use by right in the R-2, Two-Family zoning district but the allowable density was 5,000 square feet per unit. The lot only contained 9,000 square feet, so 10,000 square feet was required for a duplex. Without the additional square footage, only a single family unit was allowed.

The applicants were requesting an exception to the minimum lot area per unit requirement of 5,000 square feet to allow the construction of a duplex instead of a single family dwelling. The application for the exception included a draft copy of drainage and grading prepared by Kelly McHugh & Associates. There was an orange highlight indicating the proposed footprint of the structure. Based on this footprint, a site plan had been requested. Determination of the location of driveways and parking along with other requirements of the CLURO spaces had not been reviewed for compliance.

An elevation and site plan was submitted prior to the meeting. The site plan showed a single car garage and parking on each side of the front of the property which was not allowed. The site plan was not in compliance and the staff would meet with the applicants. The request was for minimum lot area for a duplex.

The applicant has stated their request as follows:
My husband and I are both newlywed 25 years old and earlier this year we were more than ready to begin the adventure of building our first home together. When we found the land in Mandeville (704 Montgomery Street) it was easy to fall in love. The land was in flood zone X, it is on the Mandeville Trace, it is zoned R-2 for a duplex and it's within the Mandeville City limits. Everything was falling into place, we had just recently found out we were expecting our first child due December 8th and the land was all that we had dreamed about. The seller of the land, the real estate agent, and the closing attorney were all aware and in agreement that our land was being sold to us with the intentions to build a duplex, as it was zoned R-2. We paid \$80,000 cash for the property. Although the land was at the top of our budget, we closed on June 20th with our growing family in mind. We immediately dove into house plans, choice sheets, and bank loan applications. We applied for an "underbrush permit" to begin our land development and to our surprise we were denied.

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Although our land was to us under the premise we could build a duplex and although our real estate agent had called City Hall to confirm a duplex could be built and although we paid for the land at multi-family pricing, were denied our permit because the plans that were submitted was a duplex. We were told that under a subsection of the law each side of the duplex had to sit on its own 5,000 square feet. Being that our land total 9,020 square feet instead of 10,000 square feet we were just short although our planning of the duplex already fit within the setbacks of the land without the additional square feet there was nothing we could do without the required permits being 980 square feet short.

At this point, I was six months pregnant and instead of stressing and panicking, we decided to go talk to the gentleman who sold us our land. He is an older gentleman who lives next door to the property he sold us with an 80' x 110' lot in-between our properties that he is not interested in selling. So there would be a buffer between his house and anyone else's. We're thinking we could offer to buy the additional 980 square feet from his buffer lot and he would still have a sellable 70' x 110' buffer lot as he knew our intentions were always to build a duplex. With no fear or panic about our life savings dumped into our little piece of earth yet, we went to talk to the gentlemen. He stressed to us over and over that we were wrong and we can build a duplex on the land, basically insinuated we were liars. He said and I quote "\$50,000 from the additional square footage or piss off" and then slammed the door in our face. WOW. Where do we go from here? After researching, here we are filing our variance.

I hope that this letter finds you well and that you find it reasonable to grant this variance for our growing family. After this rollercoaster ride, we are anxiously awaiting to see what our next step will need to be. We appreciate any guidance and consideration and also for the opportunity to be heard. We pray that you find favor in allowing us to proceed with building our growing families' first home on the land within the required setbacks on the 9,020 square feet. Thank you for the consideration.

*Amy Steele
William Steele*

Ms. Scott said the resubdivision plat approved each lot as 9,000 square feet. Regardless of what the adjacent property owner said, lot 99C had 8,784 square feet and was a non-conforming lot so he could not sell any additional property. Should the variance be granted, the submitted site plan was not compliant.

Mr. Clark said poor advice or information was given. Ms. Scott said information could get complicated and it was zoned correctly for a duplex. Not knowing the details of the property until it was submitted, the questions asked were answered. At the time of purchase there should have been more research.

Mr. Clark said as a young couple it could be built as a modest home. The issue was the duplex. Ms. Scott said there were four single family residences on the north side, a duplex to the west, and on the corner was a single family residence. All of the property was zoned R-2, but were developed as single family. Mr. Clark said the problem was building a duplex.

Mr. Lahasky said if the property was zoned R-2, 9 out of 10 people would assume a duplex could be built and the buyer did not get an architect until they bought the lot. Ms. Bush said it would not show up on the title. Mr. Lahasky asked if this was a residential agent and they do not do the research.

William and Amy Steel, applicants, said they purchased the property under the assumption of a duplex because they travel for work and when they were home they lived with

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the brother in law. The goal was to build quality product renting one side to help pay for the expenses and a home from their travels. It was unfortunate that the real estate agent said the zoning was R-2, but he did not understand there were subsections not to meet a duplex. There were other duplexes that were smaller and they were probably built before the subsection. They would not have paid the price if they could not build a duplex.

The resubdivision was recorded in 1985. Lot 99A was constructed as a duplex. Ms. Steele said their proposed duplex fit within the setbacks. Ms. Scott said it was regarding the site development criteria. Front loaded parking and parking in the front yard was not allowed to be in keeping with the residential character of the neighborhood. Mr. Steele said they would redesign the site plan for compliance. They tried to obtain the 980 square feet, but were not able to purchase it. Ms. Steele said everyone on the opposite side of street was 50' frontage. The square footage of the duplex was 1,500 square feet per side being 3 bedroom and 2.5 baths. Their profession was storm restoration being away six months and home six months.

Mr. Lahasky said the issue of square footage was a density issue. Mr. Clark said it was upsetting to get bad advice. Mr. Lahasky asked if the regulations had changed. Ms. Scott said the ideas of the R-2 district were a mixture of both singles and doubles. She would research the case.

Mr. Lahasky said he would rather see 10,000 square feet for a duplex and a smaller structure aesthetically, but he would be open to a conversation.

Mayor Villere suggested the size of the structure was where it might not meet the setbacks. Mr. Steele said he would shrink the building to meet the setbacks. Ms. Scott said the plan must also meet the parking. Mr. Rhinehart said the blending of the single residences and duplex developments this would change the blend.

Mr. Clark asked what was the City obligation in allowing the resubdivision created as R-2 zoning since it was undevelopable for a duplex. Ms. Scott said with the purpose of the district; the resubdivision applicant may have wanted smaller lots. She clarified there were lots on the north of Montgomery Street measuring 30' frontage and many had two lots in separate ownership. In the R-2 zoning district, the minimum frontage was 75' and it broken up in ownership. This area was part of the Trace.

Mr. Lahasky said the issues were aesthetics of the neighborhood and density. He suggested the design and size had to shrink and the number of bedrooms would be one unit being 2 bedroom/2 bath and one unit being 3 bedroom/2 bath. Mr. Steele said why would the number of bedrooms matter. Mr. Lahasky said the concern was too much density. With less people living on the site there would be less people and cars on the site and on the street as a compromise. Mr. Clark suggested building a single family home. Mr. Steele said they overpaid \$40,000 for the lot thinking they could get revenue from the property. Mr. Clark said the commission could not consider financial hardships.


Carl Cubie, 751 Montgomery Street, said he was concerned about a duplex density with four cars. It was a narrow street and the more people living in the area would have more people parking on the street. On each side of street cars could not pass through the middle with deep ditches on each side. The four cars of the occupants were not allowing space for visitors. The State of Louisiana prohibited parking across from someone's driveway. It would be difficult for the neighbors to have any visitors.

Mr. Steele said they would do whatever was needed to keep the cars off the street. He did not want his car in the street.

Mr. Fairley moved to adjourn the meeting, seconded by Ms. Bush and was unanimously approved.




Lori Spranley, Secretary


Nixon Adams, Chairman
Zoning Commission



