

The meeting was called to order at 6:00pm by Zoning Chairman Brian Rhinehart

The secretary called the roll.

Commissioners Present: Claire Durio, Andrea Fulton, Karen Gautreaux, Mike Pierce, Scott Quillin, and Brian Rhinehart

Absent: Nicholas Cressy

Also Present: Cara Bartholomew, Director Planning Department; Rad Dickson, Planner; Elizabeth Sconzert, City Attorney; Tina Myers, Secretary

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

New Business

**V23-10-36** – John Cerniglia requests a variance to CLURO Section 5.2.3.2. Drainage Overlay District and Fill Sub-Area A, Old Town of Mandeville, Square 8 Lots 15 & 16, R-1 Single Family Residential District, 233 Marigny Avenue

Ms. Bartholomew said that Clif Siverd from Public Works was here if the Commission had any questions.

Ms. Durio asked if fill was added to the site, outside the perimeter of the structure. Mr. Siverd asked if she was referring to outside of the buildable area, Ms. Durio nodded yes. Mr. Siverd said he would have to check, he did not believe there had been a final drainage inspection yet but given the heights of the slab and the existing elevations you would not have much fill and it would be allowable because you can taper down within six feet of the slab itself to get down to natural grade.

Ms. Durio asked if when the final drainage inspection is performed, and there was excess fill placed, it would be taken into account. Mr. Siverd said it would.

Ms. Bartholomew said that Mr. Cerniglia submitted the as-built as exhibit three, but it was not received by the permit office yet but it does not look like there was any change of grade. It says that 6.4 is top of concrete.

Ms. Durio said that is under the slab, she is talking about the remainder of the property as well.

John Cerniglia, 1221 Napoleon Avenue: As discussed at the last meeting, they had added zero additional fill to the lot, and actually went down from six inches to a foot in most areas. They graded down. If you take the front setback which is 30', the pool is only 20'x27', you can fit six pools across the front of the property. That is six times the amount of fill that could have been there. He is also lower going to the rear as well. They could have gone higher.

Ms. Durio asked how they could have gone higher. Mr. Cerniglia said the existing grades that were shot before construction were higher than what is there now. He added that this was a previously developed lot so there was already fill on site. They took a deficit out.

Mr. Siverd asked if the as-built was signed and stamped by an engineer. Mr. Cerniglia said it was. Mr. Siverd asked if it was the same engineer that did the original drainage plan, Mr. Cerniglia said he was the original architect that designed the drainage plan.

Mr. Pierce said that Mr. Cerniglia was claiming to have graded down, and asked if there were any pictures of the lot under construction, because he recalls that the whole lot was

clayed in. Mr. Cerniglia said that they did not clay the whole lot in. Mr. Pierce said there was a lot of red clay there. Mr. Cerniglia said it is a big slab, and when you muck out and put clay in there will be some excess that was removed from the lot.

Ms. Durio said that Mr. Cerniglia said it was mucked out and clay was put down? Mr. Cerniglia said it was for the foundation.

Mr. Pierce asked if it was a deep dig under the foundation. Mr. Cerniglia asked if this was talking specifically about the pool, Mr. Pierce said no, just the lot in general. Mr. Cerniglia said they dug down about a foot to a foot and a half for the foundation.

Mr. Pierce asked if that was concrete or geo foam. Mr. Cerniglia said the geo foam was strictly under the pool.

Mr. Cerniglia said that everyone had all the documents showing how it was to be built. Everything was submitted and approved. He wants to work with the City and is asking that the Commission work with him. This is a hardship as he is just building what was submitted.

The drainage plan submitted is a 2-D drawing, so it only has the outside. Everyone had access to the engineered drawings.

Mr. Quillin asked if the engineer or architect who designed the home is local? Mr. Cerniglia said he does a lot of buildings, it is Southeast Engineers based in Baton Rouge. Mr. Quillin said it is incumbent upon the engineers to understand the regulations of the locations that they are dealing with. Mr. Cerniglia said that when dealing with a structural element it was not an issue when the engineer designed it, and he was just going by what was designed.

Mr. Quillin said he was speaking about the pool itself, whether it was geo foam or other fill it is incumbent upon the engineer to deal with any of the permitting issues. Mr. Cerniglia said that no issues arose. Mr. Quillin said it was possible they did not ask the questions.

Mr. Cerniglia said they were just looking for an avenue to move forward. The as-built shows a deficit on the amount of dirt they could bring in. It is a massive amount more than what they are talking about here. They are only discussing about 1 – 2 feet of fill to get to BFE. Mr. Quillin said he disagrees. He asked how tall the walls were back where the pool was. Mr. Cerniglia said underneath is ten feet, the structure is raised to 10' so he would add another 16 – 20 inches with concrete.

Mr. Quillin said what they were dealing with was approximately 12' by the size of the area enclosed by the pool and structural fill that can no longer hold water is the big issue. The whole reason there is a breezeway under the house is to allow the flow of water. When that cube takes up a certain amount of volume, it is not a square footage issue.

Mr. Cerniglia said they were not discussing anything above the BFE. Mr. Quillin said they were discussing the pool. Mr. Cerniglia said the pool will be filled with water anyway. He said that he cannot put fill within the BFE. They are discussing the small bit of fill within the area. There is a huge savings in fill when looking at the dirt removed that could have been on the lot.

Mr. Quillin said he disagrees, it is a different point.

Mr. Pierce said that Mr. Cerniglia talked about avenues to get this done. Mr. Pierce said he is not a fan of the geo foam or asking for a variance after it was built, but he does not want him to tear down the house. Are there any other avenues? Because if it was already permitted to build.

Ms. Bartholomew said it was not permitted to build. There was a permit applied for a house

which is what the reviewers looked at. It was discovered that the exterior was part of the pool so there was a stop work to figure out what was going on. Mr. Pierce said that the pool never had a permit, Ms. Bartholmew said the pool never had a permit.

Ms. Durio said the hard part is a couple of things. She does think that it is incumbent upon the applicant and engineer to know that a separate pool permit is required, and to file it so that the proper people get the plans, that is their job. If you send plans with geo foam to people who are not looking at that, that will not accomplish the goal. There was not a pool permit for them to look at. On the other hand, she does not understand how they consider a hardship in this situation where it has been built.

Ms. Durio said that people come ask for variances of twelve inches for a pool edge. This is a significant amount of material, more than she has ever seen for anything in the last two years. She does not know how they are supposed to factor in that it has been built and if that is even a hardship.

Mr. Cerniglia said that is the hardship itself. If this had been brought to light before it got to this point it could have been redesigned to meet the specs. Now that it is built the hardship exists because he cannot tear the house down. The second part of that is the pool is within the physical structure of the house. The walls are part of the foundation of the structure. When the engineer sent in the plans to be looked at, it was looked at in that manner.

Ms. Durio said that there is a breezeway underneath the pool, so she understands that it is attached, but she does not know how that is a structural part of the house. Mr. Cerniglia said it is. Ms. Durio does not see how the structures are tied together, she sees that they are connected by the breezeways. Mr. Cerniglia said the house is sitting on top of the geo foam which is under the concrete.

Mr. Pierce said that the house is sitting on the geo foam. Mr. Cerniglia said that the whole thing is together. Mr. Pierce said that before when he asked, Mr. Cerniglia said that the geo foam was only underneath the pool. Mr. Cerniglia said it surrounds and creates the pool, it is not in the foundation of the house.

Ms. Durio asked if the geo foam was under anything besides the pool. Mr. Cerniglia said no.

Mr. Cerniglia said he is not trying to make this difficult for the City. He just built the house the way he was told to build it.

Ms. Durio asked if the engineer ever said why he did not submit a separate pool permit? Mr. Cerniglia said he did not discuss that with him. Mr. Cerniglia said that he did not think a pool permit was needed since it was part of the house. He had a permit to build the house and that is the house. Ms. Durio said she understood, but like Mr. Quillin mentioned it is their duty to know that a separate permit is needed. Mr. Cerniglia said he understands but to not place that burden on him as he is not an engineer.

Mr. Quillin said that Mr. Cerniglia is a contractor though, he is licensed. Mr. Cerniglia said that he cannot design a house, his job is to oversee subcontractors and coordinate everything.

Mr. Quillin asked who pulled the permit for the house. Mr. Cerniglia said he submitted for the permit.

Mr. Cerniglia said that Ms. Bartholomew made a valid point that this is a unusual build, and that the City has not seen before. He understands that, he is just asking for the Commission to work with him as tearing down the portion of the house would bankrupt him. He does not feel like he did this intentionally or with malice.

Ms. Bartholomew wanted to echo that sentiment. Mr. Rhinehart said it was established that

his was done in good faith. Ms. Bartholomew said that it was a complicated set of plans, the City just saw that this was not what the Building Official or Public Works thought was to be constructed a stop work order was issued to figure out if this was a fill issue or FEMA issue.

Ms. Gautreaux asked if this situation pointed out a need for a cross check to prevent future things like this and asked if there had been any lessons learned about process. Ms. Bartholmew said absolutely.

Ms. Fulton asked if there were any precedent concerns if this is approved? Ms. Bartholmew said no, every case that comes before the Commission is different.

Ms. Durio said that she did not know if the Commission would see any more suspended pools and geo foam, the Commission does already see elevated pools and fill.

Ms. Gautreaux moved to approve the case as submitted. Ms. Fulton seconded, and the motion passed 4-2 with Commissioners Pierce and Quillin voting against.

With all new business finished for the Public Hearing portion of the zoning commission meeting Mr. Rhinehart moved to the Planning Commission to commence the work session. Ms. Bartholomew said that R23-11-02 had a corresponding case V23-11-40, and the applicant was not able to make it to the meeting, so she suggested moving it to the end.

Ms. Durio said that they could modify the agenda to move the Planning portion to the end of the meeting and take up the item together. Mr. Quillin said he would make that motion, Mr. Rhinehart seconded, and all were in favor.



Alex Weiner, Secretary



Brian Rhinehart, Chairman  
Zoning Commission

Brian Rhinehart commenced the Work Session portion of the Zoning Commission Meeting.

Notification of Filing Case Addendum - 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.

New Business

**SUP23-11-05** – Richelle Bannon requests Special Use Approval to allow Animal Sales and Services (Limited) per the Table of Permitted Uses, CLURO Section 7.8, Old Town of Mandeville, Square 47 Lot 12A, TC Town Center District, 2020 Woodrow Street

Ms. Durio asked if this was in the same building as Pyre, just in the back? Ms. Bartholomew said that is correct.

Ms. Durio said she wanted to know more about a DIY dog spa. Ms. Bartholomew said that the applicant stated that it is where dog owners would go in and do their own washing and grooming so there were no kennels associated. Ms. Durio asked if it would be bathtub rooms, Ms. Bartholomew said she would imagine.

Richelle Bannon, 2020 Woodrow: It is a DIY dog wash and luxury spa. Four of the office rooms would be converted to spa rooms with all the supplies needed. Each room would be sanitized after use.

Ms. Durio asked if there as any office space included or just the wash areas. Ms. Bannon said that there is one storage office there.

Mr. Quillin said that there would be no kenneling or anything of the sort so his questions would just be hygiene concerns for the neighbors. Ms. Bannon said that all dogs would be on a leash at all times while present. It would be like going to a groomer but just washing the dog yourself.

Ms. Durio said that there is an existing restroom that shows an outdoor entrance and wondered what that was for. Ms. Bannon said right now it is storage.

**V23-11-37** – Jim and Marisol Tucker request a variance to CLURO Section 5.2.3.2. Drainage Overlay District and Fill Sub-Area A, Old Town of Mandeville, Square 8 Lot 14, R-1 Single Family Residential District, 245 Marigny Avenue

Mr. Rhinehart said that it was mentioned that this was an undeveloped lot, and asked if it had a slab on it. Ms. Bartholomew said it was an undeveloped lot, they were asking to raise the height of the slab.

Jim Tucker, 405 Gainesway: He said that building next door to Mr. Cerniglia it was his understanding that their finished floor was at 7' but he thought that tonight Mr. Cerniglia said it was at 6.8'. Ms. Bartholomew said that what she has shows the proposed finished floor was at 6.68. The as-built that he had was not submitted to the permit office yet.

Mr. Tucker said they used to live at 1717 Lakeshore and flooded five times in five years. This parcel felt like it was a bowl with a six-foot ground level and only six inches for the slab. Their thought was to raise it to the seven-foot level. If that is too high, they are willing to go to the 6.8' level to be in line with the street and Mr. Cerniglia. They will also widen the ditch along Jefferson to take additional capacity.

Ms. Fulton said she wondered about the property to the south that was lower. Mr. Tucker said that Mr. Cerniglia's property is to the south. Ms. Bartholomew said the street is to the

north. Ms. Fulton said that it says the property to the south has a finished top of slab at 6.65'. Ms. Bartholomew said that is from the proposed elevation, an as-built has not been received yet to confirm the height.

Mr. Tucker said he thought the Cerniglia finished floor elevation was at 7'. He added that they know the street is at 6.8' and if Mr. Cerniglia is at 6.8' they would be willing to go to the same height.

Mr. Quillin appreciates what is being asked. The only concerns he has is as you elevate, driveways would also have to be elevated to get to the slab. He wants Mr. Tucker to stay dry, but to also keep it as low as possible. On the drawings submitted the street elevations show 6.7' – 6.4'. He asked Ms. Bartholomew if the as-built from Mr. Cerniglia would be received. Ms. Bartholomew said she imagines it would be received by the next meeting.

Mr. Quillin said his preference would be to keep it around the crown of the street and the neighbor. Mr. Tucker said that is fine with him. He put 7' as that was his understanding of where Mr. Cerniglia was.

Ms. Durio said they can consider making it equal to whatever that finished floor is if the as-built has not been received yet.

**V23-11-38** – Scott Ballard requests a variance to CLURO Section 10.8.2.6. Land Uses located in B-1, B-2, B-4, O/R, PM-1, PM-2, M-1, and M-2 Districts, Hwy 22 Gateway, Section 54 Lot B, B-2 Highway Business District, 4520 Hwy 22

Ms. Durio asked if it was located 12' from the property line instead of 15'. Ms. Bartholomew said that was the non-conforming location, so it was not new. Ms. Durio asked if the non-conforming location was on Hwy 22 or W Causeway. Ms. Bartholomew said it was on W Causeway, the Hwy 22 sign is compliant.

Ms. Durio asked if they needed the non-conforming location as well as the second monument sign. Ms. Bartholomew said they need the second monument sign altogether which would include the location.

Mr. Rhinehart asked if they needed the height as well. Ms. Bartholomew said that height was compliant.

Mr. Quillin said that there is a substantial right-of-way between W Causeway and the property line. It is not blocking the road by any means.

**V23-11-39** – Michael McIntosh requests a variance to CLURO Section 8.1.1.4. Allowed Setbacks Encroachments, Old Town of Mandeville, Square 82 Lot 19-A, R-1 Single Family Residential District, 1225 Montgomery Street

Mr. Rhinehart asked if this was a new build. Ms. Bartholomew said she believes so.

Ms. Durio said it would still be closer to the neighbor than if it was along the back. She does not understand why not put it in the back. The rear setback is much deeper than the side yard, even with the driveway.

Michael McIntosh, 1225 Montgomery: Moving it to the back would move it closer to a neighbor that is behind the neighbor to the east.

Ms. Durio asked if it was the flag lot neighbor, with the driveway. Mr. McIntosh said that is correct. Ms. Durio said it would be further away from the immediate neighbor.

Ms. Durio asked if there was a reason it was placed in the side yard in the first place. Mr. McIntosh said he was the owner and the builder and was not aware of any restrictions on

appliances in the setback. He found out when he went to get occupancy. Ms. Durio asked if they were shown on the plans? Mr. McIntosh said they were not shown on the plans, and it was not pointed out during the review.

Mr. Rhinehart said it looked like there was existing mechanical equipment in the setback. Mr. Pierce said that is what the applicant is requesting the variance for.

Mr. Pierce wanted to confirm that the original plans did not have any mechanical equipment on the plans. Mr. McIntosh said that is correct.

Ms. Durio asked if the mechanical equipment was required to be shown on the plans. Ms. Bartholomew said she is not sure if it is required, but the department does now. Ms. Durio said the generator may not, but she would think that the main unit would be required.

Mr. Rhinehart said that new construction was recently completed and asked if the applicant is requesting to relocate the unit. Ms. Durio said they are requesting a variance after the fact.

Ms. Bartholomew said she does not see them on the site plan.

Mr. Quillin asked if the size of the decks that the equipment was on was known. Mr. McIntosh said he does not know exactly. Mr. Quillin said that looking at the pictures, the deck for the larger AC condenser and the generator look to have a couple of additional feet to the side yard. He understands that there is room to work on the equipment, but he is looking at options for something that is not supposed to be there anyway.

Ms. Durio asked if there were any plans to screen it? Mr. McIntosh said that they planted the hedge in the front and would like to construct a lattice around the outside.

Ms. Fulton said that it shows AC decks on the drawing, but asked if that was really the decks, or is it the equipment itself. It does not look deep enough to be the decks. Mr. McIntosh said that is just the equipment.

Mr. Quillin requested the size and height of the decks for the next meeting.

Mr. Pierce asked if there had been any comment from the neighbor. Mr. Rhinehart asked if the applicant had talked to the neighbors at all.

Ms. McIntosh said the people around them are fine with the placement. Mr. Rhinehart confirmed that there was no pushback from the neighbors, Ms. McIntosh said there was not.

Ms. Durio thinks the driveway helps. She does not know if the lattice would make it more or less visible.

Ms. Fulton asked if there was any reason that it was not placed in the back. Mr. McIntosh said along the east side and corner of the house is the master bedroom, so it would have to have been outside the window. Ms. Bartholomew added that typically generators have to be a certain amount of feet away from windows.

Ms. Durio asked if it could be up against the house. Ms. Bartholomew said it has to be 36 inches depending on if there is a window.

Mr. Quillin said to add on to his request, to get the placement of the generator on the deck.

Ms. Durio said the house is on the setback line, so the generator is on the four-foot deck, and something for the garage is on the two-foot deck? Mr. McIntosh said that is how far the equipment is from the house, the deck extends further.

Ms. Durio said if the generator is on where it says four feet then unless it is only one foot deep it is not three feet from the house.

Mr. Quillin said in order to do this we need more specific dimensions of everything so if this is approved it can be written correctly. Ms. Durio added that if the generator is three feet from the house then it would be more than four feet over the setback.

Ms. Fulton asked if the location of the windows in the back could be provided so they could assess if that is an option. Ms. McIntosh said they can take pictures and send them in.

Mr. Rhinehart said they were looking for size, height, placement, and pictures of the side and rear.

**V23-11-40** – Jason and Ashley Collier request a variance to CLURO Section 7.5.10.3. B-3 Site Development Regulations and to resubdivide Lot D1-B into Lots D1-B-1 & D1-B-2, Old Town of Mandeville, Square 34 Lot D1-B, B-3 Old Mandeville Business District, 426 Lafitte Street

Ms. Durio asked why it was 60'x120' and not 90'x120'. Ms. Bartholomew said that was the requirement for the B-3 District.

Mr. Rhinehart wanted to confirm that this was resubdivided in 2020, Ms. Bartholomew said it was. Mr. Rhinehart said that he remembered this coming before the Commission, and the flag lot was the hook that he remembered and wanted to ask if this was denied a resubdivision previously. Ms. Gautreaux felt like it was withdrawn. Ms. Bartholomew said she would go back and look, she was unsure if it even got to the point of becoming a case file.

Mr. Rhinehart said that hearing it was resubdivided in 2020 threw him. Ms. Bartholomew said it was done administratively so it would not come before the Commission.

Ms. Durio asked if they got a permit to build the second house on the second lot as one lot. Ms. Bartholomew said they did.

Ms. Durio said they are both adequate size, the issue is the driveway as the frontage.

Ms. Durio asked how many flag lots the City has? Ms. Bartholomew said she could not say, she could think of a handful off the top of her head. She said that the purpose is to have structures on the streetscape. In this situation there are two structures that are already there.

Ms. Gautreaux asked if the only thing they are doing that is new is the new lot D1-B-2. Ms. Bartholomew said that is correct. It is all one parcel now, and they are carving this piece out.

Ms. Durio said it sounds like they came to subdivide it before they built, and then went and built and are now subdividing it.

Ms. Bartholomew said where the house to the south, they made it its own lot, and then created a larger lot.

Ms. Durio asked where the driveway was going before something was built back there. Ms. Bartholomew said there used to be some sheds.

Ms. Gautreaux said that they bought the whole property and then sold D1-A, which was administratively done.

Ms. Durio asked if this was another after the fact request. Ms. Bartholomew said it was



legally done.

Mr. Quillin said on the previous survey that the house on Lafitte Street was said to be removed, but the house is still there. Ms. Bartholomew said that it was discussed, and Ida took place in 2021 so there were a lot of different conversations happening.

Mr. Rhinehart asked for the next meeting to see what the end result would look like. Ms. Bartholomew said she would color code.

Ms. Durio said it was unusually situated.

Ms. Durio asked if there had been any opposition received, Ms. Bartholomew said there had not been any.

### **Public Comment**

Ms. Bartholomew reminded the Commission to complete their ethics and sexual harassment training which is due at the end of the year. Mr. Quillin added to also complete the continuing education hours as well. Ms. Bartholomew also added that Waggoner & Ball would be here on December 12<sup>th</sup> at 5:00pm before the regular meeting to do a presentation on the Parks and Recreation Master Plan

Ms. Gautreaux moved to adopt the minutes from the October 3 and October 24 meetings, Mr. Quillin seconded, and the motion passed unanimously.

Mr. Quillin moved to accept the 2024 meeting schedule as posted, Ms. Durio seconded, and the motion passed unanimously.

Mr. Quillin motioned to adjourn the meeting, Mr. Rhinehart seconded, and all were in favor. The meeting was adjourned at 7:19pm.

  
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Alex Weiner, Secretary

  
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Brian Rhinehart, Chairman  
Zoning Commission

New Business

**R23-11-02** – Jason and Ashley Collier request a variance to CLURO Section 7.5.10.3. B-3 Site Development Regulations and to resubdivide Lot D1-B into Lots D1-B-1 & D1-B-2, Old Town of Mandeville, Square 34 Lot D1-B, B-3 Old Mandeville Business District, 426 Lafitte Street

This case was heard along with V23-11-40



Alex Weiner, Secretary



Claire Durio, Chairwoman  
Planning Commission