

**OLD METAIRIE COMMISSION (OMC) MINUTES
PUBLIC HEARING
February 3, 2022 9:00 a.m.**

In Attendance

Old Metairie Commission Members

	<u>Present</u>	<u>Absent</u>
Thomas McAlister, Chair	√	
David Webber, Vice-Chair		√
Dr. Monica Monica	√	
Peter Waring	√	
Adele Lafaye	√	

Planning Department

Brooke P. Tolbert, Assistant Director
Jay Hébert, Senior Planner
Alex Nassar, Planner II
Carrie MacKay, Planner II
Shakeeb Shariff, Planner II
Cinthya Chacon, Typist Clerk III

Others

Hanlon deVerges, Sr. Asst. Parish Attorney
Rick Hollier, Inspection and Code Enforcement

Mr. McAlister, Chairman, introduced himself, other members of the Commission, and the Parish staff.

The Old Metairie Commission (OMC) conducted the February 3rd, 2022 Public Hearing at the Joseph S. Yenni Building in the Council Chambers, located on the 2nd Floor, 1221 Elmwood Park Blvd., Jefferson, LA 70123. Mr. McAlister proceeded to the agenda and opened the meeting at 9:01 a.m.

OM-39-21 109 Friedrichs Ave., A request to install a fence in the required front yard on Lot Y-1, Square 11, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Metairie Rd., Orpheum Ave., and Fairview Ct., zoned R-1B Suburban Residential District/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5) **(Deferred from 1/6/22)**

Mr. Nassar reported the findings of the case. The Planning Department recommends the following:

Denial for the following reasons:

- The open character of Friedrichs Ave. is supported by the absence of fences in the front yards. Only two properties within 500 linear feet have a fence in the front yard.
- The proposed fence being in the front yard is not consistent with the purpose of the OMNCD which is intended to preserve and maintain the neighborhood character of the district.

Mr. Hebert indicated the Planning Department had received two emails in reference to OM-39-21 who were in support of this case. Mr. Hebert proceeded to read those emails for the record. One email is from Clifford Brown, 38 Pelham Ave., Metairie, LA, 70005 and Ninette Eastman.

Mr. McAlister opened the floor for the applicant/representative to speak.

Mr. Bernard Fromherz, property owner and resident, 109 Friedrichs Ave. Mr. Fromherz went over a couple of the key points that were brought to the attention by the Planning Department. Mr. Fromherz indicated the location being directly next to the commercial portion of Metairie Road does create a unique situation for this property where we could consider that a hardship, and there's also the safety element as well. Mr. Fromherz added there had been some break-ins and car thefts in that area this summer right after they moved in. Mr. Fromherz stated he also believes this might be an enhancement to Friedrichs Ave. Mr. Fromherz gave his own presentation and provided some more examples (photos) of properties in Friedrichs Ave. that also have fences on the front setback.

Mr. McAlister opened the floor for any proponents to speak. There were none.

Mr. McAlister opened the floor for any opponents to speak. There were none.

Mr. McAlister opened the floor for comments from the Commissioners.

Dr. Monica asked the Planning Department if those other fences were post Katrina?

Mr. Nassar indicated he had only looked into the history of the fences that were within 500 feet. 217 Friedrichs Ave. was existing prior to 1972 and 210 Friedrichs Ave. was put up in 1998 as of rear yard fence for 205 Stella St. Mr. Nassar stated there is a front fence at 217 Friedrichs Ave., which was the one that was on the 1972 survey and was not across the entire front, it was only across basically the corner property line. Mr. Nassar also indicated the fence was permitted by Code Enforcement, however, that application never came in front of the Planning Department.

Mr. McAlister stated he could answer her question regarding 217 Friedrichs Ave. Mr. McAlister stated at that time that was the front yard, so that fence that was constructed along Friedrichs Ave. was actually considered a side yard fence, which is permitted without the necessity of coming before the commission.

Mr. Waring stated he was a little concerned about a couple of beautiful oak trees and fence looks like it's running right into them. Mr. Waring stated he would prefer to see any kind of construction kept well away from major oaks. At the same time, he does appreciate the situation with kids and the proximity to a commercial place. Mr. Waring stated the position of the fence on the property line is problematic.

Dr. Monica stated she had a suggestion, since she is also concerned about those oak trees. She told the applicant they could put some sort of shrubbery back there to delineate what they are trying to do with a "fence", she stated not on the property line but in the back. Dr. Monica stated she appreciates his comments, but he knew about this property when he bought. It's a lovely house, it just happens to be in that particular area, which was true when he bought that house so she doesn't believe that she would be able to vote for this fence.

Mr. Waring asked if the existing left side fence come all the way forward to the front property line?

Mr. Fromherz said no, it did not.

Mr. Fromherz addressed their concerns with the trees. Mr. Fromherz stated they did take a lot of care designing around the trees and the tree roots are certainly to be avoided and protected. He stated they are in this area for a reason and certainly appreciate the trees. Mr. Fromherz stated this driveway area is a limestone driveway, the fence post will be spaced such that they don't interrupt any tree roots.

Mr. Waring stated watching the proposed front fence looks like it runs right into that 30 -inch Oak.

Mr. Fromherz stated it doesn't run into it, it does run behind it. Mr. Fromherz stated on the full plan there is a tree protection plan. He stated it was certainly considered.

There was a discussion between Ms. Lafaye and Mr. Waring regarding the 30 -inch Oak.

Mr. Fromherz stated their property line is setback, he said if you look at the fences on the street, 217 Friedrichs Ave. that is 1 ft. from the sidewalk. Mr. Fromherz stated the reason why their fence looks strange is their property line is setback from the sidewalk quite a bit (7 ft. 9 in.). So, the fence is setback quite a bit from the street. It's not imposing on the side walk.

Mr. McAlister stated he is very sympathetic to the issue at hand because of the proximity to both Discount Zone and to the multi-family house next door. Mr. McAlister stated he sort of falls into the camp of Dr. Monica and that is he would think that a resolution that might be workable would be to do a natural hedge type barrier and it could be larger than the boxwood. He stated he could plant ligustrums that would go up 3-4 ft. and create a natural barrier between the property, the right-of-way, and the sidewalk.

There was a discussion regarding some of the fences that were built in the same area and some suggestions were made to the applicant regarding the security issue.

Ms. Lafaye stated she respects Mr. Fromherz unique location and the hardship of being next to a commercial property and certainly the Discount Zone. She also stated she respects that he put in those crushed limestones for his parking. Ms. Lafaye stated she is kind of sympathetic to this as a hardship and his position.

Dr. Monica disagreed and stated it is a problem because it will open floodgates. She stated he does have a unique situation. She stated she does appreciate "buyer beware".

Dr. Monica made a motion of denial. Mr. Waring seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	—
Mr. Webber	—	—
Mr. Waring	<u>√</u>	—
Mrs. Lafaye	—	<u>√</u>
Mr. McAlister	<u>√</u>	—

The ayes have it by a vote of 3 to 1 With 1 absent. Motion of denial approved.

OM-38-21 522 Woodvine Ave., A request to construct a new dwelling, pool, and garage with variances to the area regulations and fence regulations, on Lot 10, Square P, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Metairie Golf Club & Golf Course and Falcon Rd., zoned R-1D Rural Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Ms. MacKay reported the findings of the case. The Planning Department recommends the following:

Denial of the variances to the side yard setbacks and fence regulations for the following reasons:

- The lot meets the minimum width requirements for the R-1D district and no hardship exists justifying the variances to the side setbacks.
- The side setback variances are counter to the OMNCD guideline that is to preserve the open character of the district.
- Additionally, no hardship exists requiring the location of the plaster wall in the required front yard.

Approval of the rear setback variance for the accessory structure for the following reason:

- The depth deficiency of the property creates the need for the variance to the rear lot line.
- The rear property line abuts the neighboring Country Club and not a residential property.

Mr. McAlister opened the floor for the applicant/representative to speak.

Mr. Ben Jones, Architect at Al Jones Architects, representing the Hayes family. Mr. Jones stated that this is a similar situation to the past case, a young couple with young children. Part of the reason behind the gate and wall is to keep the children protected. Mr. Jones stated the owners have a little bit of a problem with the driveway side of the house where the neighbor's garage is pushed beyond the property line. The lot on the other side is a vacant lot owned by the next owner and they utilize it as a garden. Mr. Jones stated what they were trying effectively to do while orienting it as best as they could to the street, was sort of split the baby a little bit, so if they were allowed to shift the house towards that vacant lot that's dedicated as a garden, it would alleviate the need for variance on the driveway side, and actually would be a great benefit because right now it's very tight over there for

a driveway. Mr. Jones stated they would certainly would be open to whatever would be in the best interest of the neighborhood. Mr. Jones stated in regards to the wall, they are certainly open to redesigning and following the guidelines. Mr. Jones stated it's very common to have those types of walls on that street and thought that maybe something that had been allowed in the past and would not be looked at as a major issue. Mr. Jones stated on the driveway side where the gate is that's impeding under the envelope of the tree is in the same way we can easily move that back to get it out from under that tree on the corner. Mr. Jones stated they've tried from the beginning to be very sensitive to the street and neighbors and listened to the other people in the neighborhood. The hope was that by making the neighborhood and the streetscape a priority that some of these things have happened a little bit towards the back of the lot, it's a little bit less of an impediment towards the front where you could actually see it. Mr. Jones stated they didn't know if that could possibly because of the way they had to cock it that they could maybe weave a little bit to get a little bit more of compliance.

Mr. McAlister opened the floor for any proponents to speak. There were none.

Mr. McAlister opened the floor for any opponents to speak. There were none.

Mr. McAlister opened the floor for comments from the Commissioners.

Mr. McAlister stated for the record he had received last night a phone call from a neighbor who is in opposition of the variances that are requested. Mr. McAlister stated this neighbor had requested to not be identified since they do want to maintain good relationships no matter what happens after the house has been constructed and the neighbors move in, but they did want to get on the record with him that they are in opposition of these requested variances. (Neighbors did not specify which variances, they just stated they were opposed).

Dr. Monica stated once again it's not a hardship lot, it's a huge lot with a huge house on it and she stated she just doesn't see that all these variances are warranted. Dr. Monica stated she will say that for this property, for the next property that comes before her. Dr. Monica stated everybody moving into this neighborhood will have small children and security issues because of the nature of the way our world is and she stated she just doesn't see this as a hardship lot. Dr. Monica stated it's a beautiful property, beautiful plans and she believes they just need to stay within compliance.

Mr. Waring stated he had to agree with Dr. Monica. Mr. Waring stated it's a beautiful design for what he can see but it is just doesn't fit on the property, and he thinks there is a variety of ways to handle a lot that is a parallelogram and not of right angles. And from what he can see there's just been a determination to maintain the orthogonal nature of the design and just force it into there. Mr. Waring stated he notes the Planning Department actually weighed in on two aspects, one was the rear yard setback requirements or the accessory structure and they were inclined to approve that, which he can understand why, because there's an element of sense to that, and they do have a neighbor who has a slight incursion on their property but he just does not see a legitimate hardship on this. Mr. Waring stated he does think these rules and requirements were not kept secret, and it's just a shame the design got so far along.

Ms. Lafaye stated she also agreed with that. Ms. Lafaye stated also with this plastered wall being out in front of the house, she doesn't know what the code is, if your drop it back to being in line with

the house, that would make more sense with the neighborhood concept. Ms. Lafaye stated as far as the side yard setback she agrees, they have an empty lot and he can design a house within that lot.

Mr. McAlister stated he concurs with Dr. Monica and Mr. Waring. Mr. McAlister stated not only this lot is not a hardship, but it also became less of a hardship as the property owner settled with the Country Club and added even more square footage to the rear of that lot. Mr. McAlister added this lot was a subject of litigation between the owner and Country Club as far as where the western boundary was located and they settled and added more square footage to the rear of the lot. Mr. Waring stated he understands the accessory structure and he's pretty sure the Country Club could not care less about its location but as far as the main structure goes and the plastered walls, he can't support those either.

There was a discussion between the commissioners, Ms. Tolbert and the property owner regarding the commissioner's comments on the request on this property and the requirements for fencing.

Dr. Monica made a motion to recommend denial of the **variance to the R-1D regulations to allow a 13 ft. 6-inch south side yard setback for the new residence where 15 ft. is required.**

Mr. Waring seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	<u>√</u>	___

The ayes have it by a vote of 4 to 0. With 1 absent. Motion of denial approved.

Dr. Monica made a motion to recommend denial of the **variance to the R-1D regulations to allow a 7 ft. 8 3/8 in. north side yard setback for the new residence where 15 ft. is required.**

Ms. Lafaye seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	<u>√</u>	___

The ayes have it by a vote of 4 to 0. With 1 absent. Motion of denial approved.

Dr. Monica made a motion to recommend denial of the **variance to the R-1D regulations to allow a 23 ft. 4 3/16-inch front yard setback for the new fence where 35 ft. is required.**

Ms. Lafaye seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	<u>√</u>	___

The ayes have it by a vote of 4 to 0. With 1 absent. Motion of denial approved.

Dr. Monica made a motion to recommend denial of the **variance to the R-1D regulations to allow a 5 ft. 5/16-inch side yard setback for the accessory structure where 7.5 ft. is required.**

Mr. Waring seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	___	<u>√</u>
Mrs. Lafaye	___	<u>√</u>
Mr. McAlister	<u>√</u>	___

The motion failed due to a lack of legal majority.

Mr. Waring made a motion to recommend approval of the **variance to the R-1D regulations to allow a 5 ft. 5/16-inch side yard setback for the accessory structure where 7.5 ft. is required.**

Ms. Lafaye seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	___	<u>√</u>

The ayes have it by a vote of 3 to 1. With 1 absent. Motion of approval approved.

Dr. Monica made a motion to recommend denial of the **variance to the R-1D regulations to allow a 5 ft. 1/2-inch rear yard setback for the accessory structure where 7.5 ft. is required.**

Mr. Waring seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	<u>√</u>	___

The ayes have it by a vote of 4 to 0. With 1 absent. Motion of denial approved.

OM-40-21 475 Woodvine Ave., A request to construct a new residence and swimming pool with a variance to the area regulations for the front yard setback, on Lot 3, Square L, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Duplessis St., Iona St., and Geranium St., zoned R-1C Rural Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Shariff reported the findings of the case. The Planning Department recommends the following:

Approval for the following reason:

- The bend in the front lot line creates a unique and challenging situation for developing a lot that is already 31.08 ft. deficient in the required average depth of an R-1C-zoned lot.
- The bend in the front lot line is a special condition that is peculiar to the property and is not applicable to other lands in the same district. Additionally, this bend is not a result of the intentional actions of the applicant.
- The 1.83-ft. front yard variance is minimal, and will be unnoticeable from the street.
- The proposal otherwise meets all requirements, including the façade massing angle.

Mr. Hebert stated the Planning Department received two letters which he read for the record. One letter was from Vinnie Varisco, property owner at 473 Woodvine Ave., (property directly abuts Brandon and April Grandbouche’s property at 475 Woodvine Ave.). Second letter was from Martin O. & Diane Miller at 499 Woodvine Ave., who were also in support of the requested variances.

Mr. McAlister opened the floor for the applicant/representative to speak.

Brandon Grandbouche, property owner at 475 Woodvine Ave. Mr. Grandbouche stated they tried to design the property within all the confines, he read the rules himself multiple times to try and make

sure they fit within the buildable area. Mr. Granbouche stated the survey revealed that there's an intersection of two public rights-of-way and a stop sign that is he guesses is causing this inflection. Mr. Grandbouche stated he wanted to note that previously they had it set at 25 ft. from that point and that's why those letters say 25 ft. but Planning did inform them that the requirement of rear was not 20% but only 20 ft., so to be as accommodating as possible they did shift it back further 3 ft. which is why the requested variances is now only 1.83 ft. Mr. Grandbouche stated they did try and maintain the open character of the neighborhood and follow all the rules and regulations. Mr. Grandbouche stated he believes it is a unique characteristic to the area and specific lot.

Mr. McAlister opened the floor for any proponents to speak.

Martin O. Miller, 499 Woodvine Ave. Mr. Miller stated this is the perfect example of why a variance should be requested. Mr. Miller stated even though he wrote the letter, he wanted to personally come before the commission and voice his personal support to the commissioners.

Mr. McAlister opened the floor for any opponents to speak. There were none.

Mr. McAlister opened the floor for comments from the Commissioners.

Dr. Monica stated this is the perfect example. She stated Mr. Miller has been there many times when there have been variances on other properties that did not meet that sort of unique challenge, and she thinks it's nice to see him come as a proponent for this. Dr. Monica stated this is an absolute good example of why a variance should be granted.

Mr. Waring agreed and stated this is a great example of how to approach the design process to make sure that you understand your limiting constraints and you work within them. Mr. Waring stated he thinks that this setback situation is one he's actually confronted before and he agrees with Dr. Monica. Mr. Waring stated he applauds Mr. Miller for taking time from his schedule to come and support his neighbor. Mr. Waring stated he's glad to strongly approve a variance.

Ms. Lafaye agreed.

Mr. McAlister agreed and stated if any property meets the standard of a unique characteristic, and it is special only to that particular property, this would be the one.

Dr. Monica made a motion to recommend approval. Ms. Lafaye seconded the motion.

Ms. Chacon called the roll on the motion:

	Aye	Nay
Dr. Monica	<u>√</u>	___
Mr. Webber	___	___
Mr. Waring	<u>√</u>	___
Mrs. Lafaye	<u>√</u>	___
Mr. McAlister	<u>√</u>	___

The ayes have it by a vote of 4 to 0. With 1 absent. Motion of approval approved.

Minutes

Dr. Monica made a motion to approve the minutes from December 2nd, 2021. Seconded by Mr. Waring. The minutes were adopted.

Mr. Waring made a motion to approve the minutes from January 6th, 2022. Seconded by Ms. Lafaye. The minutes were adopted.

Administrative Approvals & Follow-up of previous cases.

Mr. Hebert reported no Administrative Approvals.

Mr. Hebert reported no follow-up of previous cases.

Mr. McAlister asked if there were any additional business to come before the commission.

Dr. Monica stated she wanted to construct a letter from the OMC members to the BZA, specifically regarding the fence issue that they are now facing, since the variance was granted. Dr. Monica stated she would like to copy Jennifer Van Vrancken on this. Dr. Monica stated her concern as a commissioner is that they will see nothing but requests for fences due to security, small children, and all the things they've heard before and that they need to have some sort of concern for this because it will definitely decrease the open nature of the neighborhood. Dr. Monica stated as commissioners they sit up there and they grind through this with their stomachs and when nice people come before them and they have to deny them. Dr. Monica stated she wants to know they have some sort of teeth regarding these fences.

There was a small discussion between the commissioners regarding this issue.

Ms. Tolbert stated she does have a meeting with councilwoman Jennifer Van Vrancken and BZA today, so she will pass that along. Ms. Tolbert added they do have an existing study on the books for fences, so they recently modified the variance language.

There was a discussion regarding variances, BZA and their position as OMC commissioners.

Ms. Tolbert informed the Old Metairie commissioners that today's meeting would be Mr. Hebert's last OMC Public Hearing. All the commissioners expressed how grateful they were for Mr. Hebert's hard work and wished him the best of luck.

Mr. Hebert expressed it had been a pleasure working with them.

Dr. Monica made a motion to adjourn. Seconded by Ms. Lafaye. Meeting adjourned at 10:40 am.