

**OLD METAIRIE COMMISSION (OMC) MINUTES
PUBLIC HEARING
May 6, 2021 9:00 a.m.**

In Attendance

Old Metairie Commission Members

	<u>Present</u>	<u>Absent</u>
Clifford Brown, Chair	√	
David Webber, Vice-Chair	√	
Dr. Monica Monica	√	
Thomas McAlister	√	
Cynthia J. Steward	√	

Planning Department

Brooke P. Tolbert, Assistant Director
Jay Hébert, Senior Planner
Nedra McKinney, Typist Clerk III
Carrie MacKay, Planner II
Shakeeb Shariff, Planner II
Shannon Haynes, Planner II
Alex Nassar, Planner II

Others

Bess Renfrow, Parish Attorney
Rick Hollier, Inspection and Code Enforcement

Mr. Brown, Chairman, introduced himself, other members of the Commission, and the Parish staff. In light of the spread of COVID-19 and the on-going State of Emergency in Louisiana, the Jefferson Parish Planning Department held the Old Metairie Commission Public Hearing via teleconference on Thursday, May 6, 2021 at 9:02 A.M. in compliance with La. R.S. 42:17.1.

OM-1-21 37 Pelham St., A request to install a pool and cabana with outdoor kitchen in the required rear yard with an appeal to the Board of Zoning Adjustments (BZA) of the Jefferson Parish Arborist’s denial of a tree removal request for a 26-inch Water Oak, on Lot 46, Square E, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Northline St., zoned R-1C Rural Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the findings of the case.

The Planning Department recommends approval for the following reasons:

- Removal of the 26 in. Water Oak determines if access to the site could be granted via Lot 45B as well as the availability of the currently proposed placement of the pool

cabana. The Planning Department defers to the Parish Arborist on the removal and protection of the trees. If the appeal is denied the applicant will need to resubmit revised plans for review.

- Request meets all other requirements

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

Michael Marsiglia, representative and applicant, stated they are just trying to put a cabana & pool in the back yard. The request to remove the 26' Water Oak is two-fold: 1) Access; the property owner next door at lot 45 has granted them use of the lot for access to the rear of their property, otherwise they wouldn't be able to complete it. The right side of the property does not allow them to bring in the materials and construction equipment. The empty lot next door allows us access. 2) A portion of the cabana does fall within the area of the tree, so they are requesting that tree be removed. Additionally, the 5-foot servitude is not a Parish Servitude, but a Southern Bell Servitude. He has not been able to confirm if the servitude has been relinquished or not, or if it's in use. Mr. Marsiglia referred to Figure 5 the site plan, which shows the rear of the property. It doesn't run parallel to the existing house nor is it parallel to the cabana and the pool, and because it's not parallel, the left side portion where the pool and pool equipment is located unfortunately encroaches just a small portion, but the right side does not encroach simply because the side lines just don't match up. They don't think that this would be substantial impediment to encroach on the servitude for purposes of this.

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

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

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

Dr. Monica asked a question regarding the servitude. If it's granted and there's a problem who is going to be legally responsible? Would it come back to us the commission, or the owners? Ms. Renfrow replied that as a reminder this commission is only a recommending board. The Parish Council makes the final decision, so the board itself would not be held responsible. Additionally, as to whether or not the servitude relinquished, Ms. Renfrow also stated she doesn't see any legal recourse on the part of the servitude owner to come back against the Parish.

Mr. Webber referred to figure 5 on the site plans and asked if the porch behind the house is an enclosed porch? Mr. Marsiglia replied yes, it's an enclosed porch. Mr. Webber also asked if the big white area was concrete or pavers? Mr. Marsiglia stated that it's grass and other landscaping. Mr. Webber stated there's two Oak trees on the East side and asked where is the Live Oak? Mr. Marsiglia stated the Live Oak is in the front and the Water Oak is in the rear. Both of which will remain and be protected.

Mr. Brown indicated that the only issue he had was the pool equipment located in the servitude. Mr. Marsiglia stated it's a small pad that needs to be poured for the pool equipment.

Mr. McAlister asked if the Southern Bell Servitude was abandoned, if there is equipment in there, and if they had contacted Southern Bell and worked out any kind of encroachment agreement?

Mr. Marsiglia stated they have not contacted Southern Bell and he does not know if it abandoned or not.

Mr. Marsiglia mentioned they do have a tree protection plan as of this morning for the lot next door but did not have time to provide it to everyone today.

Dr. Monica made a motion to recommend denial of the removal of the 26-inch Water Oak.
No Second. Motion died.

Mr. McAlister asked on the proposed tree removal is there the usual agreement regarding the replacement of the Water Oak as required if the tree removal is approved. Mr. Hebert stated yes, it's still in effect. Mr. Marsiglia stated they will gladly replace as required. Mr. Hebert stated if that is the case they would have to show that on the site plan.

Mr. Wisnowski stated that as for as the Water Oak goes that they want to remove, the tree is growing on an angle to get away from the canopy of that Bald Cypress on the lot next door. It's also one-sided due to being in conflict with that Bald Cypress. So, for that reason he doesn't have a problem with the removal of the Oak Tree and the removal of the Water Oak won't affect the Bald Cypress.

Dr. Monica ask Mr. Wisnowski why he denied the removal of the 26-inch Water Oak. He stated that the first time he looked at it, he inspected it by himself. The second time he went out there he was with the Lee Standsberry, the Architect and Randy Shrine. At that point in time they discussed what could be done with the trees and what sort of remediation would be required, giving that he approves the removal of the Water Oak and tree protection plan was supposed to be formulated which indicated that the tree could be removed and that remediation would be required for the removal of it.

Dr. Monica asked if they had discussed a location for the tree replacement and Mr. Wisnowski stated no the did not and that it has to be relocated somewhere on the property.

Mr. Hebert asked for a copy of the tree protection plan from Mr. Marsiglia and he replied that he'll e-mail it that morning.

Mr. Webber made a motion of approval on the tree removal for the 26-inch Water Oak. Seconded by Mr. Brown.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	<u> √ </u>	<u> </u>
Dr. Monica	<u> </u>	<u> √ </u>
Mr. Webber	<u> √ </u>	<u> </u>
Mr. McAlister	<u> √ </u>	<u> </u>
Ms. Steward	<u> √ </u>	<u> </u>

The ayes have it by a vote of 4 to 1. Motion approved.

Mr. McAlister made a motion of approval of the construction of the swimming pool and cabana with outdoor kitchen. Seconded by Mr. Webber.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	✓	_____
Dr. Monica	_____	✓
Mr. Webber	✓	_____
Mr. McAlister	✓	_____
Ms. Steward	✓	_____

The ayes have it by a vote of 4 to 1. Motion approved.

OM-5-21 510 Iona St., A request for construction of a new dwelling, pool, and two accessory structures with variances to the area regulations, on Lot 10-A, Square K, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Northline St., Woodvine Ave., and Geranium St., zoned R-1D Rural Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the facts of the case.

The Planning Department recommends denial for the following reason:

- The request is based on preference as opposed to site conditions or hardship.

Mr. Hebert stated the Planning Department received 5 letters of opposition which were from:

- Ms. Ninette Eastman
- Mr. & Mrs. Alfred & Ann Calfry, 529 Woodvine
- Rayne & William Lykes, 604 Hector
- Diane & M.O. Miller, II, 499 Woodvine
- Janet & Scott Wilson, 520 Iona

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

Sean McCarthy & Chris Schuler, pointed out that the current house hasn't been torn down and encroaches on all 4 setback requirements that are in place when this overlay was put in for this small part of Metairie Club Gardens. What they are proposing to build actually makes more green space. On the left side, the current house is setback 11 feet from the property line, and the house they are proposing would be 15 feet from the property line. In the front, the current house is 33.7 feet off of Iona, the house they are proposing would only be 35 feet. Currently the back portion of the right-hand side is 15.4 feet off of the back-property line. They are proposing for that small part 15 feet. However, there is a garage that is existing today that is 5 feet off the back and 5' off the right side of the property. They would be tearing that down so it would be farther off the property line. In addition, on the right side, the current house is within 14.1 feet. They are asking for a variance but not of the whole house. They are asking for a variance behind the carport, invisible from the street of 10' of that small section existing with the current house right now. You have very large lots on the 500 and 600 blocks of Iona. They are one of two lots that are not as big as 500 and 608 Iona, and 620 Iona. Across the street on the 500 block of Iona on the east side, 519 and 521, you have bigger lots that

required smaller setbacks. We get you close to the requirements with this building. It is a little of a hardship because this lot was included in this overlay incorrectly. The people who own this and want to construct it are elderly. They want the majority of living space on the first floor. It's a bit of a hardship to go vertically. The house is less than the 35 feet required height. They are lower than the height limit. They eliminated a driveway and garage on the left rear of the yard, so it does not impact the houses on Woodvine.

Chris Schuler reiterated what Sean said.

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

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

Dr. Monica stated that the applicant/representative knew about the variances and the regulations and it is accumbent upon all of us to build within the rules unless there is a hardship. She understands what was said about first floor bedrooms, but that's not really a hardship and she does not want to set a precedent for this neighborhood.

Mr. McAlister stated he is inclined to deny this because the law requires that if it's non-conforming and it's demolished, whatever replaces it has to conform and this does not. Also, the standard that the BZA is going to look at for purposes of granting a requested variance is whether there are special conditions or circumstances existing which are peculiar to the land, structure, and building involved which aren't applicable to other lands in the same zoning district. This is not the case. This is just a standard rectangular lot that's smaller than some lots in the R1-D, but is bigger than other lots in R1-D.

Mr. Webber asked what part of the building encroaches on the side setback? Mr. Shuler stated it's a depth area with the bedroom/bathroom and not the master bedroom.

Mr. Webber also stated that he doesn't see any hardship.

Dr. Monica made a recommendation of denial on OM-5-21 for the 10 ft. side yard setback variance for the new house instead of the required 15' setback. Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	√ —	—
Dr. Monica	√ —	—
Mr. Webber	√ —	—
Mr. McAlister	√ —	—
Ms. Steward	√ —	—

The ayes have it by a vote of 5 to 0. Motion of denial approved.

Dr. Monica made a recommendation of denial on OM-5-21 for the 15 ft. rear yard setback variance for the new house instead of the required 25' setback. Seconded by Mr. Webber.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	√ _____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 5 to 0. Motion of denial approved.

Dr. Monica made a recommendation of denial on OM-5-21 for the construction of new dwelling, pool and accessory structure based on the variances and requests that they come back before the commission with new plans if the BZA grants the variances. Seconded by Mr. Webber.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	√ _____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 5 to 0. Motion of denial approved.

OM-8-21 500 Iona Street, A request to install a swimming pool on Lot 12-A, Square K, Metairie Club Gardens Subdivision, Jefferson Parish, LA bounded by Northline St., Woodvine Ave., and Geranium St., zoned R-1D/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the facts of the case.

The Planning Department recommends approval for the following reason:

- The proposed swimming pool meets all of the minimum requirements of the R-1D/OMNCD.

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

Ms. Christine Smith, representative, present to answer any questions.

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

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

Mr. Webber stated that the old pool has not yet been demolished and this is a great replacement.

Mr. Brown asked what was happening with the old pool?

Ms. Tolbert stated that as a condition of the subdivision that divided this lot, we required that the new property owner of the lot where the pool is, to apply for a building permit. The applicant has submitted

a building permit to construct a dwelling on that lot so that it's not just a pool on its own and they should be submitting to this commission soon.

Dr. Monica made a recommendation of approval on OM-8-21. Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	√ —	—
Dr. Monica	√ —	—
Mr. Webber	√ —	—
Mr. McAlister	√ —	—
Ms. Steward	√ —	—

The ayes have it by a vote of 5 to 0. Motion of approved.

OM-9-21 450 Woodvine Ave.; A request to demolish an existing dwelling, swimming pool, and flat work, and to construct a single-family dwelling and outside living area, and for tree removal on Lot 3A, Square P, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Metairie Golf Club & Golf Course & Duplessis St., zoned R-1D Rural Residential District/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the facts of the case.

The Planning Department recommends approval of the construction of the single-family dwelling, for the following reason:

- The proposal meets all requirements of the R-1D/OMNCD

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

Mr. Paul Fine, owner, stated that they are pleased to be moving into the neighborhood and have done their best to follow other applicable regulations as stated in the presentation. They have the one tree that is on the property line, it will remain in place and be protected. They received a revised tree protection plan, which was sent to Planning. The one tree being proposed for removal, they will comply with the mitigation program to have the tree removed because it has been in decline and some limbs that have fallen might be in danger. The arborist also suggested that removing that tree might enhance the health of the Live Oak Tree, which are larger and more significant in species and enhance their health giving them a bigger canopy to grow. They are not requesting any variances.

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

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

Dr. Monica j thanked Mr. Fine for his diligence on the tree protection plan and as a new neighbor coming into the area for his respect for the rules set in the building of this lovely home.

Mr. Brown asked if they submitted a revised tree protection plan for the Water Oak. Ms. Tolbert stated that the Planning Department just received that that morning and will be revising the site plans

to indicate on the driveway any area that crosses the root protection will be composed of permeable materials. Mr. Hebert confirmed that the Planning Department did receive the revised tree protection plan, and that the portion of the driveway that extends into the tree’s root zone would have to be made of permeable material.

Mr. Webber asked if the driveway proposed was going to be of hard surface or limestone or what? Mr. Fine confirmed that they sent a revised plan this morning that they will make the driveway permeable material where it crossing the root protection zone, he is not sure what kind of material it will be at this time.

Dr. Monica made a recommendation of approval of OM-9-21. Seconded by Mr. Webber.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	√ _____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 5 to 0. Motion of approved.

OM-11-21 311 Bella Dr.; A request to construct a single-family dwelling, swimming pool, pool house, & carport on Lot 20A, Square B, Metairie Golf View Subdivision, Jefferson Parish, LA, bounded by Frisco Ave., Cuddihy Dr., & Falcon Rd., zoned R-1B Suburban Residential District /OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the facts of the case.

The Planning Department recommends approval of the construction of the single-family dwelling, for the following reason:

- The proposal meets all requirements of the R-1B/OMNCD

Mr. Hebert also stated he received an e-mail from Mimi Schlesinger referencing the owner of the property on Bella needs to clean up the mess they made in the street The mud in the street it doesn’t help with flooding.

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

Mr. Steven Chauvin, Architect/Representative, present to any answer questions.

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

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

Dr. Monica commented to Mr. Wisnowski that the two Live Oaks in the front of the Property were going to be placed in the right of way, but Public Works said they have to be planted on the outside of the right of way, and the applicant said she would coordinate with Public Works and the Parish Arborist regarding appropriate location of the trees, When a Live Oak is removed does it have to be replaced with a Live Oak? Mr. Wisnowski stated that according to the way the ordinance is written it doesn't specifically state that the same species has to replace the species that is removed. The wording states that a "similar" species shall be used for a replacement.

Dr. Monica asked the applicant/architect if they considering replacing it with another Live Oak.

Mr. Webber asked what is the width of the carport structure? Is it designed to accommodate two cars?

Mr. Chauvin replied yes, that's what they're trying to do.

Mr. Webber stated that if it can be done it's an accessory building encroaching on the side setback and would like to see it be a single carport if it's not possible to get two in there. Mr. Webber also stated that the parking does trouble him a little, there's so much park surface in the front and he's trying to understand if it's really going to work as a double width carport or not.

Mr. Chauvin stated that it does work as a double carport, but the property does narrow as it goes towards the rear and the carport is allowed to be three foot from the property line with the post and they are meeting the requirements for an open carport.

Also confirmed it's 18 ft wide in the front and narrows towards the back so it'll be a little narrower than a 2-car garage but because it's open it's not as tight.

Mr. Brown asked if the stairs is going up to a terrace or a covered porch? Mr. Chauvin stated the stairs are going up to a terrace.

Dr. Monica asked why did the Department of Engineering oppose?

It was stated that they were opposing putting the Live Oaks in the right of way.

Mr. McAlister stated that we show the carport is setback 3 feet in accordance with the 3 feet accessory building requirements but we also have a pool house. Is the carport treated as an accessory building or does the carport get its own treatment in the regulations as for as setbacks go?

Mr. Hebert stated the carport does not qualify as an accessory building. Mr. McAlister asked is it permitted to encroach beyond the 7 ft side yard setback because it's a carport? Mr. Hebert stated that is correct and it can encroach setback 3 ft from the side yard.

Ms. Tolbert stated that the coverage of the rear yard and the significant portion of the carport is within the buildable area.

Mr. Webber made a recommendation of approval of OM-11-21. Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	<u> √ </u>	___
Dr. Monica	<u> √ </u>	___
Mr. Webber	<u> √ </u>	___

Mr. McAlister
Ms. Steward

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The ayes have it by a vote of 5 to 0. Motion of approved.

Minutes

Dr. Monica made a motion to adopt the minutes from April 8, 2021. Seconded by Mr. Webber.

Administrative Approvals & Follow-up of previous cases.

There were none.

Ms. Tolbert stated that we are still meeting virtually the state passed a law that states as long as there's a governor declared emergency the in-person meeting requirements of the open meeting laws of the state no longer applies. The governor has been issuing emergency declarations, the last one was issued on April 28, 2021. Because of our notice timelines; we have to mail out letters and send out notice that we're having a meeting, so she would like to transition back to in-person meetings in case there is a day that the governor declared emergency does not come back and we're scrambling to ensure that we're not in conflict with open meeting laws. So, we still have a mask mandate inside of Jefferson Parish Government Buildings, so if it's okay with everyone she would like to begin the in-person meetings on June 3, 2021.

Dr. Monica stated she won't be available for the June 3rd in person meeting.

Dr. Monica made a motion to adjourn. Seconded by Mr. Webber. Meeting adjourned at 10:38.