

**OLD METAIRIE COMMISSION (OMC) MINUTES
PUBLIC HEARING
June 3, 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
Shakeeb Shariff, Planner II
Shannon Haynes, 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.

The Old Metairie Commission (OMC) conducted the June 3, 2021 public hearing at the Joseph S. Yenni Building in the Council Chambers, 2nd floor, 1221 Elmwood Park Blvd., Jefferson, LA 70123. Mr. Brown proceeded to the agenda and opened the meeting at 9:01 a.m.

OM-12-21 501 Woodvine Ave.; A request to construct a new residence and accessory structure with a variance to the R-1D side-yard setback requirement for mechanical equipment, and to modify an existing swimming pool, on Lot 13-A, Sq. K, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Geranium St., Iona St., and Northline St.; zoned R-1D Rural Residential District/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Shariff reported the findings of the case.

The Planning Department recommends the following:

- Approval of the residence and accessory structures.
- Denial of the variance to locate mechanical equipment in the required side yard as ample space exists within the site to relocate the equipment to an allowed area.

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

Doug Kohnke, JW Drennan, 8518 Oak St, is present to answer any questions.

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.

Mr. Webber asked for clarity about the mechanical equipment located on top of the accessory building, is this where it was proposed to be originally or is this a change?

Mr. Shariff stated it's not being changed there is mechanical equipment proposed to be in 3 different locations; on top of the Pavilion, behind the pergola, and in the required side yard.

Mr. Webber wanted to know what all these things were.

Mr. Greg Hackenberg, 3422 Annunciation St, New Orleans, Architect on this project, stated the accessory structure included 2 mechanical units, a wine room mechanical unit as well as a generator. That leaves 3 other zones in the house and those units are currently shown in the side yard setback. In addition, there's pool equipment behind the Pavilion.

Ms. Steward asked if they had looked at this site before as a resubdivision. Planning staff answered yes.

Mr. Brown asked regarding the Pavilion if the mechanical equipment was on the roof.

It was stated yes, it's on the roof. There is a parapet on the roof and visibility is limited with a 2-story garage next door.

Ms. Steward asked if the reason the equipment was in the side yard was out of convenience. It was stated it's in the side yard because they only have 134 ft. of depth in the lot rather than 150 ft. which would be required so they're running out of back yard and trying to keep as much usable space as they can.

Mr. Webber interjected and suggested that if you move the air conditioners from the side yard to the back yard. It looks like it is a back yard in front of the Pavilion, which would be south of the Pavilion where there is space, he's not seeing windows or anything there blocking that and it's in the backyard, but they need to meet the requirement.

Mr. Kohnke stated they have considered that but they are trying to maximize what space they have and they have a landscape plan that utilizes that area.

Mr. Webber made a motion to recommend **denial** of the 10.5 ft. side yard setback variance for the mechanical equipment. Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	<u> </u>	<u> √ </u>
Mr. Webber	<u> √ </u>	<u> </u>
Mr. McAlister	<u> √ </u>	<u> </u>

Ms. Steward √

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

Mr. Webber made a motion of approval of construction of the single-family residence and accessory structures, and modifications to the existing swimming pool by. Seconded by Mr. McAlister

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown	<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 0. With 1 absent. Motion approved.

OM-14-21 301 Cuddihy Drive, A request to install a generator with a variance to the R-1B side yard setback requirements, on Lot 18, Square A, Metairie Golf View Subdivision, Jefferson Parish, LA, bounded by Frisco Avenue and Woodvine Avenue, zoned R-1B Suburban Residential District/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Ms. Haynes reported the facts of the case.

***Please note the recommendation is as follows but was not verbally stated.**

The Planning Department recommends denial for the following reason:

- The proposal does not comply with the side yard setback requirements for the R-1B zoning district.
- Ample space exists within the site to relocate the equipment to a permitted area.

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

Mr. Quentin Walker, Resident, 301 Cuddihy Dr, presented additional information which was a signed letter from his neighbor who has his generator on the other side of the common fence on the second floor and stated that his preference is for this property’s generator to be placed there as well. The letter states that this would not affect the enjoyment of his property.

Mr. Hebert stated that The Planning Department has received that letter and it reads as follows:

I, W. Conner Ellis, Jr. own and reside at 303 Cuddihy Dr. My property is located along the property lines where the setback variances are located. Please be advised that the proposed location for the generator installation at 301 Cuddihy Dr. application number 21-415869, docket number OM-14-21 is acceptable and will not adversely affect the enjoyment of my property. Furthermore, my generator is in a similar area which I chose specifically because it is removed from the living space of my home. I suggest you approve this application.

W. Conner Ellis, Jr

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. McAlister stated he personally does not have any issues with this. This is an irregular shaped lot. Asked if the proximity of the generator to the house meets the building code.

Mr. Hollier stated that as long as they are at least 5 ft from any opening it'll be in good shape and most generators now come in containers that are fire rated.

Mr. McAlister made a recommendation of approval on 5.4 ft. side yard setback variance for the mechanical equipment. Seconded by Mr. Webber.

Ms. McKinney called the roll on the motion:

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

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

OM-17-21 223 Vincent Ave., A request to amend the approved site plan to include a new accessory structure and changes to the primary structure including an extension to the covered terrace and carport with a variance to the area regulations, on Lot 111A, Vincent Subdivision, Jefferson Parish, LA, bounded by Duplessis St., Stella St., and Geranium St., zoned R-1B Suburban 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:

- If there was not connection and access between the principal structure and accessory structure it would meet all setback requirements. No site condition necessitates the connection.
- The other changes to the principal structure are determined to be minor.

Mr. Hebert stated the Planning Department received one letter of opposition from Dr. Monica Monica, and one letter of support from Mr. William Nelson. Both letters were read for public record.

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

Mr. Stephen Chauvin, Architect/Representative, 111 Bernadine St. in Metairie introduced himself and stated he was confused and needed some clarity. He's heard from the Planning Department and from an objector that serves on the commission that they need a variance and he would like clarification that shows where in the code that they need a variance for what they were proposing. What's happening here is that Code is not being cited but the previous rulings by the commission are being cited. Also stated as an architect he has no information on how to design by things that were decided on in the past by code with no understanding of the relationship of what those decisions were made on. When you're asking for a variance then you look back on the rulings that were made to see if it's consistent. Would like Code Enforcement to tell him which rule he is breaking.

The only thing they are saying is we can't have a door. We have 140 square feet of interior space. The coverage is greater because it's consistent with the architecture, and we're even covering some pool equipment. So, we're not increasing the living space by any more than 150 square feet. What we have is a separation between the accessory building and a primary residence and we are allowed under section 40-743 that an accessory building may be attached to a dwelling provided that the connection or attachment shall be not less than 6 feet in width. The connection or attachment shall be made by a common wall, an extension of the main roof designed as an integral part of the building or other substantial attachments or connections. Mr. Chauvin indicated that they are not breaking the rule by the attachment and doesn't believe they are breaking the rule by having a door out to an exterior space and that space being covered to walk into a detached accessory building in the sense that he could be all the way up against the building and then he would say that would be a direct access. But this is an in-direct access that's granted in every accessory building or house. I have to have direct access. And I'm allowed a covered access and the building is detached as for as incidental to the primary structure but it's for their convenience. It's not only for the convenience of having to walk 30 feet or so around the building in the rain. It's also a convenience to be able to get out of the building because the addition on the back of our house where we are renovating, which is a bedroom, is another 25 feet to the rear which is a dead end. So, it's a matter safety to be able to step out. He can't design as an architect, by decisions that were made that he was told to find out the details. And to find out the details, he was told that he would have to file a records request and wants to know from an architect's stance, how to I design something from a records request when it's something that doesn't need a variance.

Mr. Hebert stated that the Planning Department has provided its findings based on the review of those plans and decided that it's a variance. This is not an accessory structure from the Planning Department's perspective but part of a livable area due to the fact that there is a door there. The set-backs in which they have to comply with are based on the set-backs established for the district, not for an accessory structure. Eliminate the door and this then becomes an accessory structure.

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. Brown stated just because the door is there the Parish finds this not to be an accessory structure. Mr. Hebert replied that it's an extension of the primary building not an accessory structure.

McAlister stated that looking at the floor plan the new accessory structure is connected to the main structure through a breezeway. Mr. Chauvin stated it's covered and asked if he removed the cover on the breezeway is the door allowed? If there is no roof attachment between the door of one building and a door of another building is the door allowed? Ms. Tolbert replied the Planning Department would have to review the plans showing that because what we have before us is the exterior covered corridor with a door. We did have a previous case in 2018 that proposed something similar in which we recommended denial of; it required a variance.

Mr. McAlister stated let's assume that Mr. Chauvin is correct and that this was to be interpreted as an accessory structure and it's not part of the extension of the main building by virtue of the fact that it's connected by breezeway; could they come back later on and seal up that area. Does it require that they would to come back before the commission because it's going to be less than 25%? It's not going to meet the threshold if it comes before the commission so would this have to go before

code enforcement and would this be permissible because this is a big issue where people use accessory buildings de-facto to expand their building footprint beyond what's permissible by the intent of the zoning.

Ms. Renfrow stated that assuming if that was the case that the Planning Department would consider that to be a major development and would send it back before this commission prior to the permit being pulled.

Mr. Chauvin stated they have no intent to close up either of those sides. It is legal to put the roof there. The building is detached as an accessory building. They have no intent to close this up. They would sign an affidavit to that if necessary. They would record it against the title. They would amend the breezeway. But in order to have access, they can't have access directly through the building so that's why they separated it, and they do have unusual circumstances there. They're pulled 11 feet from the side property line not 7 feet from the property line, but that's covering some pool equipment which they are not going to expand into. Mr. Chauvin further states that what they are asking for meets the code and he can only design by the code.

Mr. Brown asked what was in the accessory building? Mr. Chauvin replied the only thing in the accessory building is some exercise equipment. They thought about putting it on the second floor but the entire suite is on the first floor.

Mr. Brown stated this lot is extremely deep and they are maxing out the lot. The issue for the commission is if we let everyone build a breezeway and cabana, and attach it to the back of the house, then everybody is going to want to build their houses like this.

Mr. Chauvin states the code does not support what the Planning Department is ruling and this is why there is a code.

A discussion took place between some of the commissioners and others present regarding the previous case in 2018 (OM-16-18) that was similar to this one, and interior door.

Mr. McAlister stated that he is going to defer to Planning and the Parish Attorney's office and that he needs a variance and he is not inclined to grant because the lot does not meet the criteria to warrant a variance for this.

Mr. Brown stated is it legally allowed to connect walls and if this is in the code.

Ms. Renfrow replied its part of the building code as long as it does not have walls, it's not an extension; the breezeway does not have walls.

Ms. Renfrow stated there's no way to legislate every single occurrence that can possibly occur, so to Mr. Chauvin's comment the Planning Director and the Director of Code Enforcement are sometimes called upon to make interpretations of the code, which is what has occurred in this case the Planning Department has interpreted that due to the location of the door, the covered breezeway, and the use as proposed accessory structure, it is an extension of the living space, so it's considered to be a principle structure and has to abide by the setbacks. That is the interpretation and it is well within her purview to make such an interpretation not discounting Mr. Chauvin's concerns or statements because they are valid.

A brief discussion took place between the commission and others present regarding if these issues were ever addressed before now. Mr. Chauvin stated he had spoken to the Planning Director Ms. Cassagne who said the same thing that was stated here during this meeting.

A discussion took place between Mr. Brown and Mr. Chauvin regarding the pool equipment and the variances.

Dr. Webber made a recommendation of denial of the **5 ft. rear yard setback variance for the accessory** on OM-17-21. With 1 Absent. Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

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

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

Dr. Webber made a recommendation of approval of **OM-17-21 for the changes to the main structure**. Seconded by Ms. Steward.

Ms. McKinney called the roll on the motion:

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

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

Minutes

Mr. McAlister made a motion to adopt the minutes from May 6, 2021. Seconded by Mr. Webber.

Administrative Approvals & Follow-up of previous cases.

There were none.

Ms. Tolbert recognized Ms. Steward's last day serving on this commission.

Mr. McAlister made a motion to adjourn. Seconded by Mr. Webber. Meeting adjourned at 10:07.