

**Planning Commission
Public Hearing
March 26, 2019**

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

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

Absent: Jeff Lahasky and Bill Sones


Also Present: Louissette Scott, Director, Planning Department; Cara Bartholomew, Planner; Council Member Laure' Sica, Parks and Parkways Chairman Scott Discon and Mayor Donald Villere

Ms. Scott announced the special Short Term Rental meeting would be held on April 2nd at 6:30 p.m.

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



Lori Spranley, Secretary



Rebecca Bush, Chairwoman
Planning Commission

**Zoning Commission
Public Hearing
March 26, 2019**

The meeting was called to order by Chairman Michael Blache and the secretary called the roll.

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

Absent: Jeff Lahasky and Bill Sones

Also Present: Louisette Scott, Director, Planning Department; Cara Bartholomew, Planner; Council Member Laure' Sica, Parks and Parkways Chairman Scott Discon and Mayor Donald Villere

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

The first case discussed was V19-03-09 Larry and Sally Schnadelbach requests a variance to Section 8.1.1.4(4), Allowed Setback Encroachment, Mechanical Equipment, lot 15A, Old Mandeville Woods, 1830 Old Mandeville Lane, zoned R-1

Ms. Scott presented that the applicants owned the property at 1830 Old Mandeville Lane and desired to install a whole house generator. When the home was constructed in 2008, the minimum side yard setback requirements were 15' total combined side yard with a 5' minimum. Currently the CLURO required a minimum side yard setbacks based on lot frontage and with a 90' frontage for this property the minimum side yard setback was 15' on each side. The existing side yard setbacks on this property are 11.1' on each side.

The applicant was proposing to place the generator within the side yard within 2' of the property line. The generator location was typical of the neighborhood that was almost fully developed.

Mr. Adams moved to approve the side yard variance since the house was previously constructed, the neighborhood was almost fully developed with other generators under the previous regulations, and it would be hard to connect the generator outside of the side yard, seconded by Mr. Fairley and was unanimously approved.

The second case discussed was V19-03-10 Marguerite Lucas requests a variance to Section 7.5.1.3, R-1 Site Development Regulations, square 35, 526 Adair Street, zoned R-1

Ms. Scott presented that the applicant owned the property located at 526 Adair Street. The property was zoned R-1, Single Family Residential. The lot measured 100' x 175' with a proposal to construct an addition to the rear of the house, measuring 24' x 20' as depicted on the site plan submitted with the application. The site plan indicated the existing house was located 7' from the north property line (9' encroachment) and the proposed addition follows the existing line of the house and is also 7' from the property line. The applicant was requesting a variance to allow the encroachment of 9' in the required 16' side yard setback to be in line with the existing house.

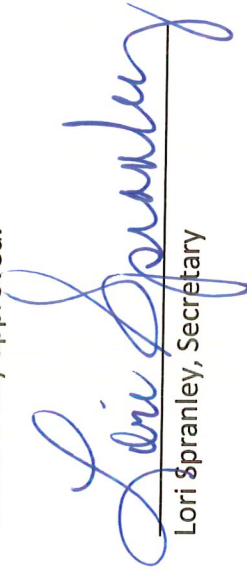
The existing house was listed on the City's Historic Resources Survey as Contributing and was constructed between 1910-1920. At their February 21, 2019 meeting, the Historic District Preservation Commission approved a Certificate Of Appropriateness for the proposed addition and offered a favorable recommendation to the Zoning Commission supporting the requested variance, citing that the proposed new construction following the existing line of the historic home will maintain the historic character of the house.


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Mr. Blache said there had been similar requests in the past for historic structures. Mr. Clark said the Historic District Preservation Commission had stated the addition was in keeping with the architectural character of the neighborhood.

Ms. Bush moved to approve the encroachment of the addition into the side yard setback, seconded by Mr. Adams and was unanimously approved.

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


Lori Spranley, Secretary


Michael Blache, Chairman
Zoning Commission

**Zoning Commission
Work Session
March 26, 2019**

The meeting was called to order by Chairman Michael Blache and the secretary called the roll.

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

Absent: Jeff Lahasky and Bill Sones

Also Present: Louisette Scott, Director, Planning Department; Cara Bartholomew, Planner; Council Member Laure' Sica, Parks and Parkways Chairman Scott Discon and Mayor Donald Villere

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

The first case discussed was V19-04-11 Kenny and Michelle Otilio requests a variance to Section 9.2.5.7, Live Oak Protection Requirements, lot 4A, square 34, 425 Carroll Street, zoned B-3

Ms. Scott presented that the applicant recently purchased lot 4-A, Sq. 34 and was in the process of developing plans for the construction of a single family residential dwelling. The property was zoned B-3, Old Mandeville Business District. There was an 11" dbh live oak tree located within the buildable area of the lot. The Live Oak tree was located approximately 73' from the front of the property and 21' from the northern side property line. This lot was part of a resubdivision approved in 2017 and at that time the live oak was not identified on the resubdivision plat. The plan was an estimated location of the live oak tree as the property was being surveyed and it would not be ready until the end of the week.

Prior to purchasing the lot, the applicant inquired about the existing live oak. At that time, the applicant submitted an application for a variance (August 2018) to remove the live oak. However, they decided to relocate the live oak tree to a different area on the site in lieu of removing the tree. Since the tree was not to be removed, the variance request was withdrawn.

The applicant searched for a company that would be able to relocate the tree and contracted with Ducote Tree Farms. Ducote Tree Farm was registered with the City as a contractor and a permit was issued on January 4, 2019 for the relocation of the live oak tree. With the continued rain, Ducote Tree Farms had stated that they were not able to access the property to relocate the live oak tree as they were worried their equipment will become stuck on the west site.

On March 8, 2019, the applicant officially submitted a variance application to remove the 11" DBH live oak tree.

The variance request is to CLURO Section 9.2.5.7 (2).

9.2.5.7 Live Oak Protection Requirements

In all zoning districts, including the R-1, R-1X and R-2 districts, all live oak trees 6" dbh shall be protected as follows:

1. A tree removal permit shall be obtained from the Building Inspector prior to cutting, clearing or removing any live oak tree.

2. The applicant wishing to remove a live oak tree must state in writing that such activity will enhance the health, safety and welfare of the public, or otherwise benefit the public interest and the applicant must offer evidence to that effect. The Building Inspector is empowered to issue or deny the permit based on the application and the evidence. Prior to the issuance of a tree removal permit the applicant must submit a plan or written statement offering evidence of compliance with the tree replacement provisions of this Article.

Generally, the City will not issue a permit until the tree was dead or a hazard. The City Landscape Inspector inspected the tree and offered the following comments:
This Live Oak was found to be a healthy live oak in good condition. The architecture of the tree is not “specimen” as the canopy of the tree extends mainly to the north in response to a large red maple to the immediate south that is shading out this tree. Nevertheless, the overall health of this tree is great and if left undisturbed would live for many more years.

The location of the tree on such a small lot makes development harder but still possible. In this instance the house plans could potentially be flipped and shifted back to work around the live oak. According to the survey from the resubdivision plat this would also help the house get out of the 5’ contour. Since this lot is zoned B-3, old Mandeville Business District, the driveway must be pervious material/porous concrete and as such would have little impact of the health of the tree. The most important thing to work around this tree would be to stay as far away from the trunk as possible. But in practice Live Oak trees of larger sizes have survived construction up to 8 feet from the trunk of the trees with great success when done properly and supervision by an arborist.

This live oak was still small enough to be moved and if properly cared for after the relocation the tree can survive. Moving large trees was not readily done in this area but it is done all over the country with great success and great success at much larger DBH than this tree. Mats or boards could be laid down to form a temporary road to allow Ducote Tree Farm to access the tree and the trees new location on the site. That should allow the tree to still be moved on site without getting the equipment stuck in the wet soil.

The tree was healthy and in good shape and could be moved. The commission requested to obtain a copy of Dr. Guidry’s letter referenced in the applicant’s application.

The applicant submitted the following letter dated March 7, 2019 with the application:

Dear Sir/Madam,

This letter is written to respectfully request approval for a zoning variance granting permission to have a young live oak tree removed from a property owned by my wife and I prior to beginning construction on a new home. The property description is Lot 4-A Square 34 with a physical address of 435 Carroll St. Mandeville, LA. In June 2018, we contacted realtor Cynthia Wilson to inquire about the particular property listed. She in turn provided us with the official survey of the property and surrounding properties that share common boundaries. Noted on the official survey for each lot are notations indicating specific native hardwood trees (Exhibit 1). As you can see there is no indication of a live oak at the location as it stands for Lot 4-A. The tree was only discovered when we actually walked the property with the realtor. Knowing that it may be a protected species we in good faith went to the City of Mandeville and informed them of the tree in question and inquired as to how to proceed to have it removed. We were informed that we would need to submit a variance request to the City of Mandeville Planning and Zoning Commission and wait for approval. We then informed the realtor that we did not want to move forward with the purchase of the property until we had official approval from the City of Mandeville.

Initially, we submitted a formal request to the city of Mandeville asking for permission to have the tree removed. Understanding the importance of “saving” certain native plant specimens we decided the community would be better served if the tree could be relocated to another part of the property instead of simply being removed. Following a prolonged search we identified a company (Ducote Tree Farm) with both the experience and equipment required to relocate the tree and submitted a second request asking for permission to have the tree relocated to a more conducive part of the property.

On August 16, 2018 we received a letter from the City of Mandeville Planning and Zoning Commission signed by Louisette L. Scott granting permission to relocate the tree but, that it would require a landscape permit subject to the approval of the City of Mandeville Landscape Inspector. Having the official approval from the City of Mandeville to relocate the tree we moved forward with the purchase of the property and closed on said property in October 2018.

Unfortunately, the weather has not cooperated. Since finalizing the purchase of the property the area has received a significant amount of rain beginning in November making it impossible to have the equipment needed to relocate the tree brought onto the property without causing collateral damage. Kurt Ducote (Ducote Tree Farm) informed us that his equipment is too heavy and it would be several months before the ground would be dry enough to complete the job. In an effort to move forward we again began the search for a company that perhaps had equipment that was not as heavy and could successfully relocate the tree rather sooner than later. While conducting our search we were referred to Dr. Malcolm Guidry, a renowned and respected Arborist who graciously agreed to go out to the property to examine the tree and perhaps offer any suggestions or recommendations as to best go about relocating the tree. Following his assessment, it was his professional opinion that the tree had “poor architecture” and would more than likely not survive being relocated.

We have considered constructing the home around the tree but, this option is not practical as it would not allow for a side load garage that can be accessed and would leave us without a backyard area for our pets to enjoy. In addition, it is our understanding that this will most likely ensure the tree would not survive. Because we have already designed the house, paid for the plans and hired a contractor we are now faced the dilemma of getting it done in a timely manner. With the information we have received from Dr. Guidry and his opinion that the tree would more than likely not survive relocation we would like consideration given to a proposal that would benefit both parties.

Proposal:

- We are given approval for variance and granted permission to have the tree properly removed and do so in a timely manner.
- Immediately following construction of the home we have 2 large and healthy live oak trees planted on the lot at our expense, in locations that the City of Mandeville Planning and Zoning Commission agree reflects the overall aesthetics of the area and, is best suited to ensure their chance of survival.

Given the information provided by Dr. Guidry we believe this is a reasonable request and solution to our dilemma. Please understand that while we are looking forward to building our new house and becoming part of the community it is our intention to do what we believe is best for the area as it will be our home for the remainder of our lives. Thanking you in advance for your time and consideration with this matter.

Sincerely,
Mr. and Mrs. Kenny Otililio

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Mr. Adams said Dr. Guidry had stated the tree probably would not survive the move. Ms. Scott said the staff had not seen any report. Mr. Adams said there were other options and it was not a bad looking tree. Pelican Park had purchased 30 container grown trees of this size and all but one had survived. If there was a chance the tree would die, he would rather see the replanting. Ms. Scott said there would be a required replanting and there was some science that the smaller trees would survive.

Ms. Bush requested a copy of Dr. Guidry's report. Ms. Scott said this tree had some growth to the north which might be his opinion. Ms. Bush said it might be just waiting out the time for the ground to dry. Ms. Scott said there were options of using mats. Mr. Adams said the request was to remove the tree. Ms. Scott said there was an open permit to relocate the tree, but the variance request was for removal.

Mr. Blache said it was a viable tree, and it was not a subject lightly considered. It was not a specimen tree. Mr. Adams said it did not look much different than a container grown tree. Ms. Scott said the lot measured 74.5' x 166' and the tree was located to the north side of the property. Because the property was zoned B-3 and the adjacent property to the south was zoned R-1X, there was a 20' setback requirement with the driveway located in that setback. In the B-3 district, the front setback was a minimum 10' and a maximum 15'. With the 5' contour, the applicant had located the house further away from the front setback to stay away from the contour.

Mr. Blache asked about reconfiguring of the house. Ms. Scott said the applicant had designed the house with the tree relocation and had now made a decision to request the tree removal. Mr. Blache said they had acted in good faith.

Mr. Clark said varying the house position to the south would lessen the setback and the request would become a side yard setback variance. Ms. Scott said one of the issues was that the applicant was required to have a side loaded entry for the garage. If the driveway was reversed to the north, the garage would interface with the tree.

Kenny Otillio, applicant, said when they first saw the lot others would have cut the tree and moved on. He came to the City in good faith. When they were granted permission to relocate the tree, they purchased the lot and paid for the house plans. Since then it had rained for 3-4 months. Dr. Guidry had said the tree was poor architecture and suggested requesting the removal and replanting. They had considered moving the house toward the rear, but there would be no rear yard for the animals. The side load garage could not allow relocating the house to the north. In his research, no one should build within 15' of a young live oak tree. If there was a chance of the tree dying, they would rather replant several live oak trees.

Ms. Bush asked how long Ducote Tree would need to wait for dry ground. Mr. Otillio said he was only told the ground needed to be dry. He had asked the neighboring contractor about the land who stated the property was very wet. His thought were why move the tree with the ground conditions and take a chance of it dying unless Dr. Guidry said it would survive. Ms. Bush said if the option was to survive, why not move it. Mr. Otillio asked why not plant two beautiful trees. If Dr. Guidry had not said the tree would not survive, he would not be before the board with this request.

Karen Gautreaux, 425 Lafitte Street, said it was a sad hardship. The live oak tree protection requirements stated it would enhance the healthy, safety and welfare of the public. An individual hardship did not meet the standards. She said granting the variance would be a bad precedent with a slippery slope with the applicant stating that the plans did not fit so they

would request a variance. She felt the request did not fit the grounds of the live oak protection regulation.

Peter Weaver, 138 Marigny Avenue, echoed the sentiments. He was a free market person and the sanctity of private property, but he also respected the rule of law was in place for a reason. He acknowledged that Mandeville was not the best in maintaining and enforcing the existing rules. He felt the City must do a better job of that. There was a basis for exceptions, but there was a protection of the live oak trees. All due respect to the owner, he felt it was a precedent setting issue and was concerned with it moving forward. He would prefer to wait and relocate the tree.

Scott Discon, 142 Carroll Street, said this was a sticky situation. It was sad that the whole block prior to the last two years had been covered in wildlife and trees. The City had allowed the resubdivision into four properties. He drove by the lot today, and asked why the City would allow the building of two large houses next to an old historic home. The pond was allowed to be removed with a loss of wildlife. Then the trees were removed. The only thing left was the live oak tree. He suggested allowing sand and gravel to be placed to allow access for the tree to be moved. As an alternative, create a different plan to accommodate the tree.

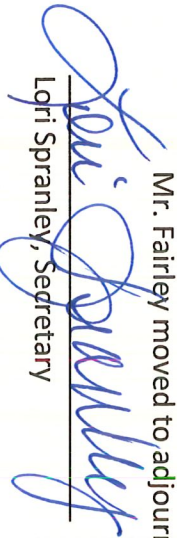
Carolyn Montief, 321 Coffee Street, said she had been part of the Advisory Committee of Erosion. The issue that always came up was poor drainage. The more trees removed, the more flooding would happen. The front of the lot was lower than the 5' contour and moving a tree to that location would not survive with the wet land. This was not in the best interest of the public to move the tree, and the applicant should redesign the house.

Rebecca Rohrbough, 2525 Lakeshore Drive, said she could not see the tree being removed. She thought the tree could survive relocation. She would like to see other opinions. She had four live oak trees and three were just registered with the Live Oak Society. One of her trees was 2' from the garage and had been the same size when the garage was built. The owners wisely decided not to cut the tree and built around it. It was now a magnificent tree, but it was hurting the garage foundation. It was a source of great satisfaction with the tree registration. The owners had a difficult situation and had been going through this for months and wanted to start construction. She asked the commission to consider relocation and plant another sizable tree to offset the potential of the tree not surviving. In 50 years their kids may feel the same way they felt about their trees.


Ms. Bush asked if relocation required replanting. Ms. Scott said the permit was for the relocation, but if the tree died then they would have to replant six trees. There were no requirements for replanting for relocation.

Mr. Adams said the Planning Department was created in 1984 and the first action was the creation of the live oak tree protection ordinance. He did not know the cost to move the tree, but the applicant could purchase as good looking a tree. It might be a good suggestion to relocate the tree and replant another. Ms. Bush said that was in place at this time. Ms. Scott said removal was the request. Mr. Clark said as a preamble of the Comprehensive Plan was extending a community treasure in the natural systems. He lived here many years and shuttered to think about the gallons of water removed from the ground with a large live oak tree removal.

Mr. Fairley moved to adjourn, seconded by Mr. Blache and was unanimously approved.



Lori Spranley, Secretary



Michael Blache, Chairman
Zoning Commission