

Board of Zoning Adjustments

Staff Report

Monthly Meeting

Monday, February 13, 2012

Docket Number: 049-12

Prepared by: Derek I. Scheerer

Applicant or Agent:	Rosenblat Properties, LLC	
Property Location:	4007 Prytania Street	Zip: 70115
Bounding Streets:	Prytania, Marengo, Pitt, & Constantinople Sts.	
Square Number:	371	Lot: D
Zoning District:	RM-2 Multi-Family Residential	ZBM: B-15
Historic District:	N/A	Planning District: 2
Existing Use:	Multi-Family Residence	
Proposed Use:	Multi-Family Residence	

Request Citation: This request is for variances from the provisions of Article 15, Section 15.2.3, Article 15, Section 15.2.5(b), and Article 15, Section 15.6.6 of the Comprehensive Zoning Ordinance.

Request:

This request is to permit parking in the required corner lot side yard area, waive the design standards for off-street parking spaces, and to permit excessive paving of the required corner lot side yard area **(AFTER THE FACT)**.

Requested Waivers:

Section 15.2.3 – Parking Front Yards (Spaces in Front Yard and Corner Lot Side Yard)¹

Permitted: 0 Spaces Proposed: 10 Spaces Waiver: 10 Spaces

Section 15.2.5(b) – Design Standards (Large Car Off-Street Parking Space – Depth)

Required: 18’ Proposed: 13’10” Waiver: 4’2”

Section 15.2.5(b) – Design Standards (Large Car Off-Street Parking Space – Area)

Required: 153 sq. ft. Proposed: 117.58 sq. ft. Waiver: 35.42 sq. ft.

Section 15.6.6 – Limitation on Pavement of Required Yard Areas (Corner Lot Side Yard)

Permitted: 40% Proposed: 100% Waiver: 60%

Project Description

The subject site is located at the northwest corner of Prytania and Constantinople Streets in an RM-2 Multi-Family Residential District. The site measures seventy-four (74) feet in width by

1

“Yard, Front. A yard extending across the front of a lot between the side lot lines, and being the required minimum horizontal distance between the street and/or building line and the buildable area. On corner lots, the front yard shall be provided facing the street upon which the lot has its lesser dimension.”

one hundred (100) feet in depth with a total lot area of seven thousand four hundred (7400) square feet. The site contains a two-story multi-family structure located twelve (12) feet four (4) inches from the front property line, thirteen (13) feet ten (6) inches from the Marengo Street side property line, two (2) feet five (5) inches from the rear property line, and thirteen (13) feet ten (10) inch from the Constantinople Street corner lot side property line. The multi-family structure contains fifteen (15) apartments. Historically, the site has not provided any off-street parking for the apartments.

At some point after Hurricane Katrina the applicant impermissibly paved the majority of the required front and corner lot side yard areas of the site and supplied fifteen (15) off-street parking spaces that did not meet the minimum depth and area requirements for a large car off-street parking space. The spaces encroached onto the public sidewalk and vehicles parked in the spaces extend onto City property and blocked the adjacent right-of-way. The applicant appeared before the Board in December 2010 seeking variances for the paving, location and size of the off-street parking after the fact. The Board denied the request with prejudice.

Since that time, the applicant has removed five (5) of the six (6) off-street parking spaces and the concrete associated with four (4) of the spaces from the required front yard area. The applicant has reconstructed the vertical curb along Prytania Street and has replanted the front yard area. However, the applicant has left one (1) off-street parking space in the required front yard area accessed from Constance Street, and has also left the nine (9) off-street parking spaces in the corner lot side yard area, in addition to the pavement associated with these spaces. The applicant has also constructed a dumpster enclosure in the corner lot side yard that encroaches into the public right-of-way. The applicant is requesting waivers to retain the off-street parking spaces and the pavement **after the fact**.

According to City records, in March 2009 the City became aware of the construction of the parking spaces at the site, and informed the applicant of the violations. According to aerial imagery provided by Google Earth it appears that the violations possibly existed since at least November 2006, and definitively since October 2007, as shown below. The applicant was notified of the violations, taken to adjudication by the Department of Safety and Permits and was found guilty of the violations in March 2010.² On September 15, 2010, the applicant appeared before the Planning Advisory Committee to lease the public right-of-way surrounding the site in order to create off-street parking stalls of a permissible depth.³ The applicant was denied the lease of servitude. The applicant has not reapplied to lease the public right-of-way along Constantinople Street (the corner lot side yard area).

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Had the Planning Advisory Board granted the applicant the lease of servitude, the applicant would have still had to obtain waiver for the location of the parking spaces and the percentage of paved area in the front and corner lot side yards.

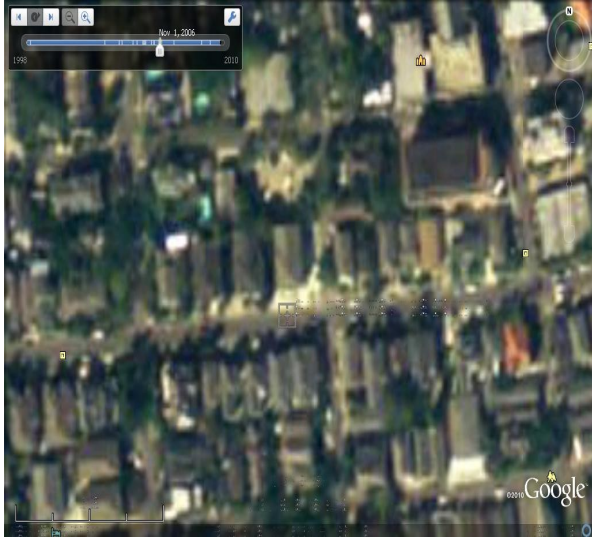


Figure (November 1, 2006)



Figure (October 11, 2007)



Figure (August 24, 2009)

The Comprehensive Zoning Ordinance does not permit off-street parking in the required front yard area. The applicant proposes one (1) space, which requires a waiver of one (1) space. The Comprehensive Zoning Ordinance does not permit off-street parking in the required corner lot side yard area. The applicant proposes nine (9) spaces in the required corner lot side yard area, which requires a waiver of nine (9) spaces. The Ordinance also requires that off-street parking stalls for large size vehicles measure a minimum of eight (8) feet six (6) inches in width by eighteen (18) feet in depth, with a minimum area of one hundred fifty-three (153) square feet.⁴ The applicant proposes to provide a parking stall that measure eight (8) feet six (6) inches in width by thirteen (13) feet ten (10) inches in depth with an area of one hundred seventeen point fifty-eight (117.58) square feet, and nine (9) spaces that measure eight (8) feet six (6) inches in

4

Small car minimum parking stall standards require a stall to be seven (7) feet six (6) inches in width by sixteen (16) feet in depth with an area of one hundred thirty (130) square feet.

width by fifteen (15) feet seven (7) inches in depth, which requires a waiver of four (4) feet two (2) inches of depth, and thirty-five point forty-two (35.42) square feet of area for the smallest space. The Ordinance permits the applicant to pave up to forty percent (40%) of the corner lot side yard area. The applicant has paved one hundred percent (100%) of the area, which requires a waiver of sixty percent (60%).

Surrounding Development

The petitioned site is located in the Touro neighborhood near the major streets of St. Charles and Napoleon Avenues. The site is located in an RM-2 Multi-Family Residential District that extends east and west the site along Prytania Street from Napoleon Avenue to Peniston Street. The development pattern surrounding the site consists of a variety of residential uses including single-, two-, and multi-family. Many of the multi-family development sites in the immediate area, including across the street from the site do not supply off-street parking. The staff was unable to find an example of other multi-family sites in the immediate search area that provide off-street parking in a required yard area that does not meet the minimum parking stall length standards similar to the applicant’s proposal.⁵ In this area, since 1972, the Board has granted three (3) waiver requests for parking in the required front yard area, denied one (1) request, while one (1) request was withdrawn. Since 1984 only one (1) request for front yard parking and excessive paving has been approved in this area, and it was for a drop off zone for a day care center.

Five Block Pattern (not including the applicant’s previous application)

Address	Docket #	Zoning District	Front/	Front/	Decision				
			Corner Lot Parking	Corner Lot Paving		Req.	Prop.	Waiver	
3915 Perrier	320-08	RD-2	Not Allowed	1	1	40%	97%	57%	Approved
1217 Marengo	38-03	RD-2	Not Allowed	1	1	40%	198 sq. ft.	126 sq. ft.	Withdrawn
1217 Marengo	10-03	RD-2	Not Allowed	1	1				Denied w/o Prejudice
3809-11 Carondelet	88-84	RD-2	Not Allowed	N/A	N/A				Approved
1423 Milan	155-71	MS	Not Allowed	N/A	N/A				Approved

In an extended search area, which includes the immediate area, the Board has seen twenty (20) different requests since 1971 that are similar to the applicant’s front yard/ corner lot side yard off-street parking request.⁶ (The applicant’s previous request was not included.) Of these

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The immediate search and analysis area consists of a five (5) block by five (5) block grid of the neighboring city squares with the subject square in the center. Municipal addresses 3800-4299 Coliseum St., Perrier St., Prytania St., Pitt St., St. Charles Ave., and Carondelet St., and municipal addresses 1200-1699 Peniston St., Gen. Taylor St., Constantinople St., Marengo St., Milan St. and Gen. Pershing St.

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twenty (20) requests, four (4) included excessive paving of a front yard area and one (1) included a reduction in the length of the parking stall standards. The petitioned sites were located in a range of zoning districts that included MS Medical Services, B-2 Neighborhood Business, RM and RM-2 Multiple-Family, RD-2 Two-Family, and RD-3 Two-Family. Six (6) requests were in the MS District, two (2) in the B-2 District, one (1) in the RM District, one (1) in the RM-2 District, nine (9) in the RD-2 District, and one (1) in the RD-3 District.

The six (6) requests made in the MS District occurred between 1971 and 1979, and all but one (1) were approved. The two (2) requests in the RM districts occurred between 1972 and 1977 and both were approved. The two (2) requests in the B-2 District occurred between 1978 and 1987 and both were approved. The nine (9) requests in the RD-2 District occurred between 1980 and 2008. Four (4) of these requests were approved, four (4) were denied and one (1) was withdrawn. All the requests that included excessive paving were denied, except for the child care center that was previously mentioned, and the one (1) request that included a reduction in the off-street parking stall standard length was denied. The one (1) request in the RD-3 District occurred in 2010 and was granted modified approval, which denied the front yard parking request in lieu of a waiver for supplying off-street parking.

Impact and Analysis

According to the Comprehensive Zoning Ordinance, the Board of Zoning Adjustments must consider the following criteria in order to determine what impact the requested variance would have on adjacent properties if it were approved. The procedure affords an applicant relief from the strict requirements of the zoning law when unnecessary hardship or practical difficulty exists.

1. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved which are not applicable to other lands, structures, or buildings in the same zoning district?

No. The subject site has historically not provided off-street parking, parking in the required front or corner lot side yard area, or excessive paving of the required corner lot side yard area. The site is developed similarly to the multi-family structure across the street from the site and others in the surrounding city squares. Any special condition has been created by the applicant who conducted work within his property and within city property without permits through installing off-street parking in the required front and corner lot side yard area. In addition, should this application be approved as requested, any vehicle parked in the subject parking area that overhangs the site and encroaches into the public right-of-way, as shown below, are subject to ticketing, booting, and towing without the securing of a lease of servitude for the sidewalk.

The staff's extended search and analysis area consists of a nine (9) block by nine (9) block grid of the neighboring city squares with the subject square in the center. The area included all properties from the 1000-1899 blocks of Foucher St., Antoine St., Amelia St., Peniston St., Gen. Taylor St., Napoleon Ave., and Jena St. It also included all properties from the 3600-4499 blocks of Camp St., Chestnut St., Perrier St., Prytania St., Pitt St., St. Charles Ave., Carondelet St., and Baronne St.





2. Will the literal interpretation of the provisions of the ordinance deprive the applicant of rights commonly enjoyed by other properties in the same district?

No. The literal interpretation of the provisions of the ordinance will not deprive the applicant of rights commonly enjoyed by properties in the area. In the immediate area there are few examples of properties which appear to have greater than forty percent (40%) of their required corner lot side yard areas paved. Very few properties have off-street parking in the required front and corner lot side yard areas and no requests have been approved for the reduction of the off-street parking stall standards. Since 1989, only one (1) request for front yard parking and/ or excessive paving of the front yard area has been granted in the extended search area.⁷ All requests for the reduction of an off-street parking stall length and stall area have been denied.⁸ Of the properties identified in the application packet, which include sites up to twenty-two (22) blocks from the subject site, which have excessive paving and off-street parking located within the required front and/or corner lot side yard area, several of these properties have the non-conforming condition(s) grandfathered to their site, several provide the parking within the boundaries of their site, while another leases the public right-of-way in order to provide parking.

3. Do any special conditions and circumstances result from the actions of the applicant or any other person who may have (or had) an interest in the property?

Yes. The applicant has excessively paved the required corner lot side yard area, provided off-street parking that does not meet the minimum standards for a parking stall and is applying to the Board after the fact.

4. Will the granting of the variance confer on the applicant any special privilege which is denied by this ordinance to other lands, structures, or buildings in the same district or similarly situated?

Yes. The off-street parking stall standards found in Article 15, Section 15.2.5 were established in order to provide sufficient space designed for a variety of vehicles that may use such a space. The standard is uniformly applied to all off-street parking spaces in every district in the City. The granting of the variance will confer a privilege upon the applicant not found anywhere else in the City, and may set precedent for future requests. It will result in cars that encroach onto City property and block public sidewalks. Also, the granting of the variance for excessive corner lot side yard paving will grant a special privilege upon the applicant that very few properties in the area appear to have.

5. Will the variance(s), if granted, alter the essential character of the locality?

7

BZA Docket 320-08, 3915 Perrier Street.

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BZA Docket 242-10, 4007 Prytania Street and BZA Docket 87-09, 4845 Camp Street.

Yes. The applicant's proposal does not match the character of the immediate area as few properties have excessive paving of the front and corner lot side yard areas. No properties in the immediate area supply off-street parking stalls that fail to meet the minimum requirements and have vehicles protrude onto City property and block the sidewalk. Other multi-family sites of similar construction and location within their site do not provide off-street parking.

6. Will strict adherence to the property regulations result in a demonstrable hardship upon the owner, as distinguished from mere inconvenience?

No. Strict adherence to the property regulations will not result in a demonstrable hardship upon the owner. Historically the property has never supplied off-street parking or excessive paving in the required corner lot side yard area. Any hardship has been created by the applicant through his unpermitted work.

7. Is the purpose of the variance based exclusively upon a desire to serve the convenience or profit of the property owner, or other interested party(s)?

Yes. The applicant is applying for variances after the fact rather than removing the pavement and complying with the Comprehensive Zoning Ordinance.

8. Will the variance be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located?

Yes. The applicant's actions have taken City property from public use as vehicles parked in the illegal spaces hang over into the public right-of-way. This action can create a dangerous situation and impediment for pedestrians, as well as potential action by the City against the owners of the vehicles that block the public side walk. The actions of the applicant have detracted from improvements in the area.

9. Will the variance impair the adequate supply of light and air to adjacent property, substantially increase traffic congestion in the public street, increase the danger of fire, or endanger the public safety?

Yes. If granted the variances will continue to force pedestrians walking on the public sidewalk to move into or near to the street on uneven/slanted pavement in order to maneuver around vehicles parked on the site.

Staff Recommendation

Based on this report, the staff believes the request does not satisfy the nine criteria as they pertain to the requested variances. Therefore, the staff recommends **DENIAL WITH PREJUDICE** of the requested variances.