

**City Planning Commission**  
**Tuesday, April 28, 2015**

**CPC Deadline: 30 days**  
**CC Deadline: 45 days**  
**Council District: E - Gray**

**PRELIMINARY STAFF REPORT**

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**To:** City Planning Commission  
**Design Review:** 39/15

**Prepared by:** Kelly G. Butler  
**Date:** April 16, 2015

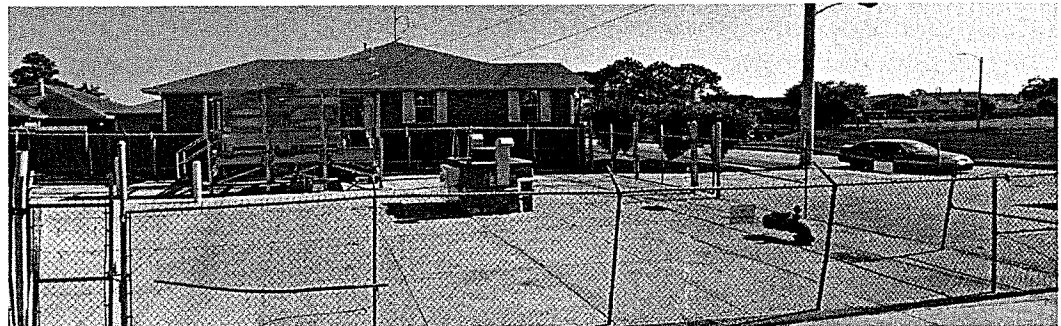
**Applicant:** Sewerage and Water Board of New Orleans (SWBNO)

**Request:** This request is an after the fact appeal of the Eastern New Orleans Renaissance Corridor District **Article 10, Section 10.2.11--*Special Site Design Conditions*** of the Comprehensive Zoning Ordinance to omit a required landscaped area and a request for a waiver of **Article 4, Section 4.3.7 (Table 4.C) - *Height, Area and Yard Requirements***, to permit a fifty (50) foot front yard and a two (2) foot side yard.

**Zoning:** RS-2 Single-Family Residential  
ENORC -- Eastern New Orleans Renaissance Corridor District

**Location:** The petitioned property is located on Square 2, Lot -1, in the Third Municipal District, bounded by Morrison, Berg and Curran Roads and Marywood Court. The municipal address is 11501 Morrison Road. (PD 9)

**Proposal:** The petitioned site is designated Lot -1 and is a regular rectangular shaped corner lot with frontage along Morrison Road at the intersection of Berg Road. The site measures fifty (50) feet in width by one hundred (100) feet in depth with a lot area of approximately five thousand (5,000) square feet. In 2006, the applicant improved the site by constructing a new above-ground electrical panel mounted on a raised platform to replace equipment that was damaged in post-Katrina flooding. According to information submitted by the applicant's representative, the lot has been owned and operated as an underground sewer lift station since the creation of the subdivision. The lot currently contains the underground lift station equipment, the raised platform and electrical panel, an electrical access box and a valve all of which is enclosed with a chain link fence.



The applicant has requested variances for the already incorporated improvements, to permit a substandard fifty (50) foot front yard and a two (2) foot side yard to accommodate the raised platform and electrical panels<sup>1</sup>. The applicant is also appealing landscaping requirements in the Eastern New Orleans Renaissance Corridor District in order to retain existing concrete paving on the site. The waivers are necessitated by the location of subsurface utilities onsite and the need for an expansive vehicular use area.

## I. Why is City Planning Commission action required?

In accordance with **Article 10.2.13--Appeals** of the Comprehensive Zoning Ordinance, any application for a variance of the Eastern New Orleans Renaissance Corridor Overlay District regulations shall be submitted to the City Planning Commission for a recommendation before a final determination by the City Council. **Article 10, Section 10.2.13--Appeals** provides that any other waivers from the regulations of the underlying zoning district shall be reviewed by the City Council after the request is submitted to the City Planning Commission.

## II. Evaluation

The applicant has requested a waiver of **Article 4, Section 4.3.7 (Table 4.C) Height, Area and Yard Requirements** of the Comprehensive Zoning Ordinance. This section requires a minimum ten (10) foot side yard for nonresidential structures. The existing structure is setback two (2) feet from the Marywood Court side yard, necessitating a waiver of eight (8) feet. While the placement of the platform close to the side property line is not ideal, there are existing special conditions and circumstances that warrant location of the raised platform and electrical panel, which was determined by the existing equipment and utilities onsite for which the Sewerage and Water Board must reuse. Therefore, the staff recommends the following waiver.

- The applicant shall be granted a waiver of **Article 4, Section 4.3.7 (Table 4.C) Height, Area and Yard Requirements**, which requires a ten (10) foot side yard, to permit a two (2) foot side yard on the Marywood Court side of the property.

The applicant has also requested a waiver of **Article 10, Section 10.2.11.1—Landscape Buffer** of the Comprehensive Zoning Ordinance. This section requires a twenty (20) foot landscape buffer with trees, shrubs, and ground cover and prohibits parking or pavement other than access ways within the buffer/setback area. The applicant would like to retain the existing paved buffer area to provide parking for service vehicles and to prevent potential damage to underground utilities from root systems. The site is located on the corner where Morrison and Berg Roads intersect. It is bordered by residential use on the remaining two (2) sides. Landscaping is provided in the front yard areas of both adjacent properties. A bus shelter and bench are located adjacent to Morrison Road in the public right-of-way. The staff believes a waiver of the twenty (20) foot

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<sup>1</sup> In 2011, the Sewerage and Water Board applied for waivers for several sites for which a determination was made by the then Director of Safety and Permits that the raised platform and electrical panel are subject to setback requirements for main structures for the zoning district in which the lot is located. See attached email attached to this report.

landscape buffer required in **Article 10, Section 10.2.11.1-Landscape Buffer** of the Comprehensive Zoning Ordinance is appropriate, given the unusual site condition with the extensive presence of underground utilities and the use which requires off street service vehicle access and also given this site has served as a lift station since the subdivision was created.

- The applicant shall be granted a waiver of **Article 10, Section 10.2.11.1 Landscape Buffer**, which requires a landscape buffer of twenty (20) feet, and prohibits pavement within the front yard setback, to permit no landscaping and to allow pavement within the front yard setback.

As mentioned earlier in this report, the site is currently enclosed with chain link fence. **Article 10.2.11.4-Required Screening** requires opaque screening when a vehicular use area abuts any residential district or permitted residential use and also requires all vehicular use areas, including service areas, to be screened with a continuous planting attaining a height between thirty-six (36) inches and fifty-four (54) inches when area is visible from a street of public right-of-way. Since the chain link fence does not meet these regulations, the staff does not believe the existing fencing adequately satisfies these provisions. The staff believes that the existing chain link fencing should be replaced with a metal picket fence along the Morrison and Berg Roads property lines to preserve site visibility and aesthetically improve the lot. Furthermore, the chain link fence along the rear of the property along the Curran Street side should be replaced with an opaque wooden fence of seven (7) feet in height. The staff recommends the following waiver and proviso to address landscaping and fencing along the perimeter of the site.

- The applicant shall be granted a waiver of **Article 10, Section 10.2.11.4-Required Screening**, which requires an opaque six (6) foot opaque screen along vehicular use areas, including access ways and service areas, and a continuous planting between the vehicular use areas and the abutting public right-of-way, to permit a minimum six (6) foot tall metal picket fence along the Morrison Road and Berg Road sides and a seven (7) foot tall opaque wooden fence on the Curran Street residential side property line and landscaping along the fence abutting the Morrison Road and Berg Road rights-of-way, but excluding the entrance gate areas, subject to review and approval of the staff of the City Planning Commission.

### **III. Comments from other agencies, departments and committees**

The project was reviewed by the Design Advisory Committee at its regularly scheduled meeting on April 1, 2015. The applicant explained that this is an existing platform and that they are requesting a waiver of the setback requirement. The representative of the City Planning Commission noted that the site is currently going through the design review appeal process since the applicant has requested a setback waiver.

The representative of the Mayor's Office noted that mitigation is needed since the site is located within a residential district and adjacent to a bus stop. The representative of the City Planning Commission stated that the chain link fence should be removed and replaced with a metal picket fence without barbed wire and that landscaping should be added to the site.

The Committee discussed the request and recommended no objection, subject to the existing chain link fence being replaced with a metal picket fence without barbed wire attached and the inclusion of landscaping within the site where possible.

#### **IV. Summary**

The staff supports the proposed side yard, landscaping and screening waivers that will allow for the reuse of the existing utilities on site. While the placement of the platform close to the side property line is not ideal, there are existing special conditions and circumstances that warrant location of the raised platform and electrical panel, which was determined by the existing equipment and utilities onsite for which the Sewerage and Water Board must reuse. While the proposed waiver of the landscaped area would marginally increase the amount of storm water runoff from the site and therefore increase the pumping load at other Sewerage and Water Board facilities, the staff believes that the tradeoff is warranted in order to provide a low maintenance facility that is easy to access and service.

#### **V. Recommendation**

The staff recommends **APPROVAL** of Design Review 39/15, subject to three (3) waivers.

##### *Waivers*

1. The applicant shall be granted a waiver of **Article 4, Section 4.3.7 (Table 4.C) Height, Area and Yard Requirements**, which requires a ten (10) foot side yard, to permit a two (2) foot side yard on the Marywood Court side of the property.
2. The applicant shall be granted a waiver of **Article 10, Section 10.2.11.1 Landscape Buffer**, which requires a landscape buffer of twenty (20) feet, and prohibits pavement within the front yard setback, to permit no landscaping and to allow pavement within the front yard setback.
3. The applicant shall be granted a waiver of **Article 10, Section 10.2.11.4-Required Screening**, which requires an opaque six (6) foot opaque screen along vehicular use areas, including access ways and service areas, and a continuous planting between the vehicular use areas and the abutting public right-of-way, to permit a minimum six (6) foot tall metal picket fence along the Morrison Road and Berg Road sides and a seven (7) foot tall opaque wooden fence on the Curran Street residential side property line and landscaping along the fence abutting the Morrison Road and Berg Road rights-of-way, excluding the entrance/exit gate areas, subject to review and approval of the staff of the City Planning Commission.

#### **IV. Reason for Recommendation**

1. The proposed waivers will protect underground utilities, create a low maintenance facility, and enhance access for service vehicles for an existing lift station.
2. The location of the lift station warrants the upgrading of the fencing and landscaping to provide a minimal visual buffer from adjacent properties.





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**REQUEST FOR VARIANCE – MUNICIPAL ADDRESS 11501 MORRISON ROAD**

This request for a variance relates to improvements to an existing **underground** sewer lift station for the Sewerage and Water Board of New Orleans. The only improvements are an above-ground electrical panel mounted on a raised platform (see attached photos and plans).

**Property Description and History**

The property in question is listed as municipal address 11501 Morrison Road. It is an unnumbered parcel in the plat of Square Section 5, Groves 11-28. Apparently, the property has existed as such since the creation of the subdivision and has been under City of New Orleans ownership since the creation of the subdivision. The parcel is a corner lot, with depth of 100' on the both sides and widths of 50' on the Morrison Road frontage and 50' on the rear lot line.

The property has been in continuous use as an underground sewer lift station. Until the recent improvements, the only other above-ground improvements were access hatches, bollards, an electrical panel, and several pipes. The property is surrounded on all sides by a chain link fence.

**Reasons for Variance Request**

Prior to Hurricane Katrina, many electrical panels serving underground lift stations throughout the city were raised only slightly above grade. During Katrina, a number of these panels were flooded and had to be replaced. The new base flood elevation which came into effect after the hurricanes of 2005 entails placing new electrical panels on raised platforms in order to meet or exceed the new base flood elevation. Location of the platforms within the site is generally controlled by several design factors including pipe location, underground facility location, and existing electrical conduit runs.

Although the site is in the Eastern New Orleans Renaissance Corridor District and must meet the regulations of that District (*Section 10.2*), it must also meet the regulations of the underlying zoning district, (as per *Section 10.2.3*). *Sections 11.42* and *11.43* of the *City of New Orleans Comprehensive Zoning Ordinance* specifically deal with Utility, Sewerage Lift or Pumping Stations. *Section 11.42* deals with aboveground stations, while *Section 11.43* deals with underground stations. Although this site is and remains an underground lift station, the raised platform is an aboveground structure. It should be considered an accessory structure, similar to a shed or outbuilding. However, *Section 11.43* does not address setbacks for accessory structures for underground stations, only aboveground entrance hatches. As such, *Section 11.42* (particularly *subsections*

4. *Granting the variance requested will not 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.*

Granting of the variance will not confer on the applicant any such special privilege. Again, homeowners in the area may place accessory structure in yard areas closer to the property lines than this accessory structure.

5. *The variance, if granted, will not alter the essential character of the locality.*

The site has served as a utility lift station prior to the development of adjacent and nearby homes in the district. It will continue to function as such a station in the future.

6. *Strict adherence to the regulation for the property would result in a demonstrable hardship upon the owner, as distinguished from mere inconvenience.*

The raised platform with electrical panel has been constructed and is already in operation. To strictly adhere to the setback regulations for aboveground stations (not accessory structures for underground stations) would involve demolition and reconstruction of the electrical platform and the possible interruption of service.

7. *The purpose of the variance is not based exclusively upon a desire to serve the convenience or profit of the property owner or other interested party(s).*

The Sewerage and Water Board is a public agency serving the public interest.

8. *The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The variance will not be detrimental to other properties in the neighborhood or to the public welfare.

9. *The proposed variance will not impair an adequate supply of light and air to adjacent property, or increase substantially the congestion in the public street, or increase the danger of fire, or endanger the public safety.*

At a distance of 2 feet to the nearest side property line, the granting of the variance will not affect the supply of light and air to adjacent property. It also will not increase congestion or danger of fire, nor will it endanger the public safety. The adjacent property owner on the setback side, Mr. Charles Kendrick has expressed to the Sewerage and Water Board his support for the variance with no objection, and we believe intends to appear publicly at the public hearings to state his support for approval of the variance.

**Kelly G. Butler**

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**Subject:** FW: SWBNO Lift Station Variances- accessory structure issue

**From:** Paul A. May [<mailto:pamay@nola.gov>]

**Sent:** Tuesday, August 02, 2011 2:42 PM

**To:** Bruce Richards

**Cc:** GODDARD, Madeline; Derek I. Scheerer; MFN ; Tony Moschella; Michael W. Rutledge; Leila M. Manouchehri

**Subject:** RE: SWBNO Lift Station Variances- accessory structure issue

Bruce, I have reviewed the information you provided and it is my determination that the structures are not accessory structures. Thus the setbacks applicable to main structures are applicable to these structures.

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**From:** Bruce Richards [<mailto:brichards@n-yassociates.com>]

**Sent:** Tuesday, August 02, 2011 10:19 AM

**To:** Paul A. May

**Cc:** GODDARD, Madeline; Derek I. Scheerer; MFN ; Tony Moschella; Michael W. Rutledge; Leila M. Manouchehri

**Subject:** SWBNO Lift Station Variances- accessory structure issue

Mr. May:

I still have not heard back from you as per our phone conversation last Wednesday (July 24th) regarding my e-mail of the July 22nd (see copy below). After our phone call, you said you would get back to me that afternoon with a response. **I have called daily to check on a response and still have received no word.**

I am scheduled to appear before the Design Advisory Committee tomorrow in regards to all four platforms, as well as the BZA on Monday for the Lakewood site platform. The Planning Department is also interested in confirming if the electrical panel platforms are to be considered as accessory structures.

I await your reply. Again, I can be reached at this e-mail address or via phone: 885-0500 (work) or 909-2750 (cell)

-- BRUCE

Bruce J. Richards  
Asst. Vice-President / Director of Planning  
N-Y Associates, Inc.  
2750 Lake Villa Drive  
Metairie, LA 70002  
504-885-0500

----- Original Message -----

**From:** Bruce Richards

**To:** [pamay@nola.gov](mailto:pamay@nola.gov)

**Cc:** MFN ; Derek I. Scheerer

**Sent:** Friday, July 22, 2011 2:06 PM

**Subject:** SWBNO Lift Station Variances

Mr. May:

I have been coordinating with Derek Scheerer and Leila Manouchehri of the City Planning Commission over the last month on four (4) variance applications for some Sewerage and Water Board of New Orleans (SWBNO) Lift Stations, which have already been constructed. As you may know, prior to Hurricane Katrina, many electrical panels serving underground lift stations throughout the city were raised only slightly above grade. During Katrina, a number of these panels were flooded and had to be replaced. The new base flood elevation which came into effect after the hurricanes of 2005 entailed placing new electrical panels on raised platforms in order to meet the new base flood elevation. Location of the platforms within the site is generally controlled by several design factors including pipe location, underground facility location, and electrical conduit runs.

All four lift station sites are on parcels owned by the City of New Orleans. I prepared and completed the variance forms, but the SWBNO actually submitted them. These applications are scheduled to go before the Design Advisory Committee (DAC) at their meeting on Wednesday, August 3rd, and before the Board of Zoning Adjustments (BZA) on their meeting on Monday, August 8th, 2011.

While we are moving forward with the variances, the question has arisen as to whether or not the variances are actually needed. The variances are for raised platforms for electrical panels that serve underground lift stations. *Sections 11.42 and 11.43 of the City of New Orleans Comprehensive Zoning Ordinance* specifically deal with Utility, Sewerage Lift or Pumping Stations. *Section 11.42* deals with aboveground stations, while *Section 11.43* deals with underground stations. Although these sites are and will remain underground lift stations, the raised platforms are above-ground structures. We feel they may be considered an accessory structure, similar to a shed or outbuilding. However, *Section 11.43* does not address setbacks for accessory structures for underground lift stations, only aboveground entrance hatches. As such, we are using *Section 11.42* (particularly *subsections 42.1a & b*, which deal with aboveground structures) as guidance in the absence of established regulations for accessory structures of underground stations.

The issue is that the set-back requirements for above-ground lift stations under 11.42 is much more restrictive than those of accessory structures in the City-- 12 feet from a side property line and 20 feet from a rear yard line. If these platforms are treated as accessory structures, we will need only a minor (one-foot) variance on one of the platforms.

It was suggested by staffers in the Planning Department that you may need to be consulted on this matter. I have tried to reach you by phone to set up an appointment to discuss, but have not had any luck in contacting you.

For your review, I am enclosing site plans and pictures of each of these stations. I'd like to schedule a brief meeting next week to discuss whether the platforms would be considered accessory structures; and if so, what the proper setbacks are for each. If you need any other information (plats, zoning maps, additional photos, etc.) to assist in your review, please let me know and I will forward them to you.

If you have any other questions or clarification feel free to give me a call at one of the two below numbers, or reply e-mail.

Thanks,

-- BRUCE

Bruce J. Richards  
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