

CITY OF NEW ROADS
211 West Main Street
New Roads, Louisiana 70760

AGENDA

Special Meeting of Tuesday, October 12 2021
5:30 p.m.

1. Call to Order
2. Prayer (K. Kellerman)
3. Pledge of Allegiance (T. Smith)
4. Public comments on agenda items
5. Brad Guerin of Dough & Joe – Fence between his business and Ma Mama's Restaurant
6. Adjournment

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July 2, 2021
(Via E-Mail jw_jewell@hotmail.com and USPS)

Mr. John Wayne Jewell
Counsel for City of New Roads, LA
143 East Main St., Suite 3
New Roads, LA 70760

Re: New Roads Historic Districts Commission's
May 26, 2021 Meeting Re JJE Enterprises, LLC
Fence Construction

Mr. John Wayne:

Per your request at our June 25, 2021 meeting in your office also attended by Mr. Paul Seawell, I am writing to request that a final and official conclusion of the New Roads Historic District Commission's ("NRHDC") meeting be declared and put into writing so that, if necessary, the proper appeal procedural framework can be established per the guidelines set forth in New Roads Ordinance 5-50.5, et seq.

Based on the audio recording of the NRHDC meeting provided to me by the Mayor's office, it sounds as though the fence construction is approved, contingent on JJE Enterprises, LLC ("JJE") removing the end section or enough footage of the fence so that Dough & Joe, LLC ("D&J") can use its own driveway without creating a safety hazard being caused by the fence's current extension all the way to the sidewalk. As of this date, JJE has not removed an end portion of the fence, and no official declaration of the NRHDC has been put in writing, leaving the matter open. On the day we met, I also requested any written ruling from the Mayor's office, and have not received anything as of today. From what I can hear on the last few minutes of the somewhat distorted audio, it sounds like the NRHDC members agreed to defer the matter as approved based on JJE's verbal agreement to cut back the fence enough to provide D&J an unobstructed view of any oncoming pedestrian, bicycle, and vehicular traffic.

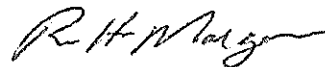
As I expressed at our meeting last week, this NRHDC meeting was called only after D&J asked the contractor to stop construction of the fence, and then, D&J was not even notified that the meeting was taking place until 30 minutes before it began. As you know, Mr. Paul Seawell (effectively an uninterested party from the DPW) was the one who alerted D&J that the meeting was taking place. No one from the NRHDC contacted D&J.

In short, there currently exists a safety hazard authorized by the NRHDC. D&J cannot pull into its driveway without turning in at 45 degrees, and then backing up against traffic to square up to 90 degrees. Upon backing out of its driveway, it cannot see any oncoming traffic until its vehicle is over the sidewalk and onto the street. To be safe, a vehicle backing out of the D&J driveway needs to see any traffic turning onto Ritchey Street from Main Street. It is my understanding from the meeting audio that the NRHDC deferred authorization of the fence as constructed with (1) no date or deadline for JJE to remove a portion of the fence to allow D&J an unobstructed view of oncoming traffic; (2) no official written ruling with a date from which D&J can timely appeal, if necessary; (3) no signed or dated Certificate of Appropriateness; and (4) possibly no majority of the NRHDC agreeing to the fence as constructed since it appears at least one member at the meeting was against approval without removing the last section of the fence.

Finally, and from my own perspective, it appears there is an outright lack of site planning and otherwise aesthetic consideration by the NRHDC, given that the 8 foot fence is now blocking a good portion of a nice coffee shop from New Roads' own Main Street view. It would be nice to have a member or two on the NRHDC that are also interested in the economic development and success of its own business community, for additional tax revenue or simply beautification purposes. I realize this last point may not be one for the NRHDC, or legal responsibility of the City, but in the interest of New Roads historical district as a whole, I would ask that the NRHDC read its own definitions of "Rhythm" and "Scale" under Section 5-51 of the Ordinance, and then go stand on the corner of Ritchey and Main Street, and ask themselves if a fence of this size and extension is really necessary to mark the property line and designate parking rights as set forth in JJE's purpose of its application.

At our meeting you expressed an interest in finding out if JJE has counsel, and discussing these issues with said counsel in an effort and to hopefully rectify the situation without going to court over it. Thank you for that and for your time at our meeting. I look forward to working with you and the city of New Roads to resolve this as early as possible.

Sincerely,



Richard H. Morgan,
Counsel for Dough & Joe, LLC

NEW ROADS CITY COUNCIL MEETING
OCTOBER 5, 2021
DOUGH & JOE REQUEST TO REVIEW AND DENY
MA MAMA'S FENCE CONSTRUCTION APPLICATION

Dough & Joe's has requested that the New Roads City Council review JJE Enterprises, LLC d/b/a (and referred to hereafter as) Ma Mama's Restaurant's fence construction in the New Roads Historical District.

Ma Mama's constructed its fence on the property line that divides its parking area from that of Dough & Joe's driveway. The fence prevents Dough & Joe from accessing its driveway, and if it could access it, would block Dough & Joe's vision of any oncoming traffic when pulling out onto Richey Street.

Ma Mama's did not follow the proper procedure for building the fence. The fence was 90% complete before Ma Mama's filed its Historic District Plan Review Application and any New Roads Historical District Commission (NRHDC) meeting took place. **(See Attached Application, Pages 4-7)**. Dough & Joe stopped the building contractor from finishing the last portion of the fence because no building application had been applied for. In response, on or about May 20, 2021, Ma Mama's filed its building application with the NRHDC and 6 days later its meeting to review the application took place.

Secondly, per the New Roads' city attorney, a re-hearing or follow up meeting of the NRHDC requested by Dough & Joe could not take place due to various reasons. Nonetheless, it appears that the three members at the meeting decided that the fence could be approved subject to Ma Mama's cutting back the fence at the end. Despite that contingency, Ma Mama's finished building the fence to what now exists, as proposed in its application, and without any "Certificate of Appropriateness" or permit being granted. The fence is not in compliance with what the NRHDC had intended, or the contingencies of approval it made to Mr. Ewing at the meeting. During the last 2 minutes of that meeting, one NRHDC member expressly says his understanding is that Mr. Ewing will back up the fence if Dough & Joe's cannot access its own property.

Third, New Roads Ordinance Section 15-33 clearly states there is a 3 foot maximum height of the fence where accessways (driveways) intersect with streets. **(See attached ordinance Section 15-33 at Page 3)**. The lowest point of the subject fence is over 4 feet. **(See multiple photographs attached showing tape measured markers beginning at page 8)**. In connection with that ordinance, the pictures show orange cones placed at measurements at 25 feet adjacent to the street and 15 feet adjacent to the driveway.

The attached photos also show that the fence goes all the way to the sidewalk which prevents Dough & Joe from using its driveway in two ways:

- (1) it cannot enter its driveway from Richey Street without illegally backing up against traffic to square up and drive straight in; and
- (2) it cannot see any oncoming pedestrian and vehicular traffic when pulling out of its driveway.

For over 4 months now, Dough & Joe cannot use its driveway. At the NRHDC meeting, Mr. Ewing said he absolutely would not want to block Dough & Joe's view and endanger the public. No changes have been made to the fence as of today.

Finally, the Pointe Coupee and New Roads' Municipal Codes are fraught with references to following the laws of the State of Louisiana, and many parts of the Codes reference State laws as resources from which its own ordinances are based. That said, it is requested that this City Council note and consider the Louisiana Civil Code Article 667, which reads:

Art. 667. Limitations on use of property

Although a proprietor may do with his estate whatever he pleases, still he cannot make any work on it, which may deprive his neighbor of the liberty of enjoying his own, or which may be the cause of any damage to him. However, if the work he makes on his estate deprives his neighbor of enjoyment or causes damage to him, he is answerable for damages only upon a showing that he knew or, in the exercise of reasonable care, should have known that his works would cause damage, that the damage could have been prevented by the exercise of reasonable care, and that he failed to exercise such reasonable care.

In this case, Dough & Joe is prevented from using its driveway (over 50 feet of parking space) because it cannot get in or get out without endangering the public, and even if it could, its car doors could not open. In the interest of resolving this peacefully, however, Dough & Joe is not asking Ma Mama's to remove the entire fence - just the section closest to the street. That way, Ma Mama's will still have the property line and parking boundary defined (as stated in its permit application), and no one could park over the boundary line without leaving half the vehicle in the street.

In conclusion, we ask that this City Council:

1. Enforce the city's own ordinances by denying Ma Mama's permit application (or enforcing the NRHDC's "approved with conditions" decision) and require it to remove the last section of fence (or the necessary length required to allow Dough & Joe to pull into its driveway);
2. Reduce the remaining required footage from 8 feet to 3 feet in height;
3. Impose against Ma Mama's the \$150 minimum penalty for each day since the fence's construction;
4. File within the City Council's record all 18 pages of this summary brief prepared by Dough & Joe's counsel; and
5. Put in writing its final decision on these requests.

Sec. 15-33. - Visibility at street and accessway intersections.

Visibility of and between pedestrians, bicyclists, and motorists shall be assured at street intersections and when entering and exiting individual sites or parking facilities.

- (a) *Sight triangle at street intersections.* Within the area formed by the centerline of the intersecting streets and a line connecting points on such center lines at a distance of 80 feet from their intersection, there shall be no obstruction to vision between the height of three feet and a height of seven feet above the average grade of each street at the center line thereof. The requirements of this section shall not be deemed to prohibit the preservation of any tree or the construction of retaining walls that may be required for tree preservation unless said retaining wall is more than three feet in height.

(b) *Sight triangle at street and accessway intersections.* Where an accessway intersects a street, there shall remain clear of obstruction to vision between the height of three feet and seven feet above the centerline grade of the street a sight triangle measuring 25 feet on the side adjacent to the street and 15 feet on the side adjacent to the accessway.

(Ord. No. 2-9-1995, § 13, 9-5-95)