

**ZONING BOARD OF ADJUSTMENT
Regular Meeting Minutes
April 22, 2021**

MEMBERS PRESENT

Chair John Coker
Vice Chair Brandon Mund
Cynthia Foster
Bonnie Leitch
Steve Quidley

STAFF PRESENT

Chris Looney, Planning & Development Services Director
Frank Onion, First Assistant City Attorney
Maddison O'Kelley, Assistant Planner
Sam Hunter, Planning Technician

MEMBERS ABSENT

None.

Chair Coker called the meeting to order at 6:00 p.m. Roll was called, and a quorum declared.

3. APPROVAL OF MINUTES

Motion by Vice Chair Mund, seconded by Member Leitch, to approve the minutes of the Zoning Board of Adjustment Regular Meeting of March 25, 2021. The motion carried (5-0-0).

4. STAFF REPORT

(A) Z-21-004 Hold a public hearing and consider a request for a variance to Section 3.3-2(b)(1)(v) to allow a proposed addition to encroach up to 7.5 feet into the required 20-foot rear setback in the “R-2” Single and Two-Family District, addressed at 554 W. Mill Street. (Applicant: Steve & Rachelle Keller (Keller Living Trust); Case Manager: Maddison O'Kelley)

Ms. O'Kelley presented the staff report and stated the ZBA may authorize a variance from the zoning regulations only upon finding the following facts:

- 1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant states the Texas Historical Commission has designated the property as a historical landmark and denied previous plans to expand the home within the allowed buildable area. Staff acknowledges the state historic status of the property is a special circumstance that affects the buildable area of the lot due to the THC's discretion on construction.) **and**
- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the variance is necessary to preserve the right to improve the home to bring it up to modern living standards. The applicant further states the Texas Historical Commission would not allow the applicant to expand the home within the setbacks and therefore the addition is only authorized at the rear of the home within the rear building setback. Staff acknowledges the existing home is approximately 1,114 square feet in area. Staff notes the substantial property right to use the property for residential is not removed due to the rear setback requirement.) **and**
- 3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states the variance should not be detrimental to public health, safety or welfare. The applicant further states the property has been an “eye sore” for years as the existing structure has been vacant and had been broken into. The applicant then states that, once the home is renovated, the addition will allow the house to be occupied and improve public safety.) **and**
- 4) Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant believes the variance should not prevent orderly use of other land within the area because the entire property is currently fenced and separated from neighboring properties. The applicant states all neighboring properties will continue to enjoy the use of their properties following

- construction of the addition. There does not appear to be a negative effect preventing orderly use of other land within the area by granting the variance, however, all neighboring properties will still be required to comply with zoning ordinance standards for any new construction.) **and**
- 5) **That an undue hardship exists;** (The applicant states the hardship is that the home was built in 1855 on a larger parcel of land that was subsequently subdivided. The applicant further states the Texas Historical Commission (THC) exercises discretion on all alterations on the property and efforts to have plans approved by the THC that indicated the proposed additions would be built within the required building setbacks were denied. Staff has not identified a physical hardship due to the nature of the land itself that is not shared by other residential property in the neighborhood but notes the state requirements limiting the building envelope.) **and**
- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** (The applicant states granting of the variance will be in harmony with the spirit and purpose of the zoning ordinance in that the city has an interest in preserving historical homes in the area. The applicant states the granting the variance will allow the home to be restored and kept in the family of one of the New Braunfels founding fathers.)

Chair Coker asked if there were any questions for staff.

Discussion followed on the State Historic Commission recommendation and clarification of the request.

Chair Coker requested the applicant address the Board.

Steve Keller, 554 Mill St, provided clarification on the request and interactions with the State Historic Commission.

Chair Coker asked if there were any questions for the applicant.

Vice Chair Mund asked if there was a hardship on the land.

Discussion followed on the lot size, proposed floor plan, and the historic nature of the house.

Chair Coker opened the public hearing and asked if anyone wished to speak in favor.

No one spoke.

Chair Coker opened the public hearing and asked if anyone wished to speak in opposition.

William Rodgers, 16 La Mesa Dr, stated opposition to the request for any additions to the home.

There being no further comment, Chair Coker closed the public hearing.

Chair Coker called for a motion or discussion from the Board.

Motion by Member Leitch, seconded by Quidley, to approve the proposed request for a variance to Section 3.3-2(b)(1)(v) to allow a proposed addition to encroach up to 7.5 feet into the required 20-foot rear setback in the "R-2" Single and Two-Family District, addressed at 554 W. Mill Street. Motion carried (5-0-0).

(B) Z-21-005 Hold a public hearing and consider a request for a variance to Section 3.3-9(b)(2)(ii) and Section 3.3-9(b)(2)(iii) to: 1) allow a proposed addition to encroach up to 5 feet into the required 25-foot front setback and 2) allow a proposed addition to encroach up to 10 feet into the required 20-foot rear setback in the "C-3" Commercial District, addressed at 133 E. Nacogdoches Street. (Applicant: Santiago Quiroz; Case Manager: Maddison O'Kelley)

Ms. O'Kelley presented the staff report and stated the ZBA may authorize a variance from the zoning regulations only upon finding the following facts:

- 1) **That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant cites the lot's configuration as a special circumstance affecting the land itself because the buildable area for the addition is limited. Staff notes the lot is approximately 1,234 square feet less than the required minimum lot size and 26 feet less than the minimum required lot depth for single-family dwellings within the "C-3" zoning district. Staff acknowledges the lot depth limits the area an addition can be constructed at the front and rear of the house.) **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the variance is necessary to allow for the construction of the addition and to make necessary repairs on the existing structure. Staff notes the substantial property right to use the property for residential is not removed due to the front and rear setback requirements.) **and**
- 3) **That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states the variance should not be detrimental to public health, safety or welfare. The applicant further states there is not another residence at the rear of the property.) **and**
- 4) **Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant believes the variance should not prevent orderly use of other land within the area. There does not appear to be a negative effect preventing orderly use of other land within the area by granting the variance, however, all neighboring properties will still be required to comply with zoning ordinance standards for any new construction.) **and**
- 5) **That an undue hardship exists;** (The applicant states granting the variance will allow the construction of an addition that provides easier access within the home for his father. A variance may not be authorized by the ZBA to relieve a personal hardship; however, staff acknowledges the buildable area of the lot is restricted due to its configuration as a hardship of the land itself.) **and**
- 6) **That the granting of a variance will be in harmony with the spirit and purpose of these regulations.** (The applicant states granting of the variance will be in harmony with the spirit and purpose of the zoning ordinance and the proposed addition will comply with all other applicable code requirements.)

Chair Coker asked if there were any questions for staff.

Discussion followed on the property labeled as 4 on the notification map.

Chair Coker requested the applicant address the Board.

Jimmy Quiroz, 133 E Nacogdoches, provided further clarification on the request.

Chair Coker asked if there were any questions for the applicant.

Discussion followed on potential plans and the hardship on the land.

Chair Coker opened the public hearing and asked if anyone wished to speak in favor.

No one spoke.

Chair Coker opened the public hearing and asked if anyone wished to speak in opposition.

No one spoke.

There being no further comment, Chair Coker closed the public hearing.

Chair Coker called for a motion or discussion from the Board.

Discussion followed on the potential motion and consideration of each variance separately.

Motion by Member Leitch, seconded by Member Quidley, to approve the proposed request for a variance to Section 3.3-9(b)(2)(ii) and Section 3.3-9(b)(2)(iii) to: 1) allow a proposed addition to encroach up to 5 feet into the required 25-foot front setback and 2) allow a proposed addition to encroach up to 10 feet into the required 20-foot rear setback in the "C-3" Commercial District, addressed at 133 E. Nacogdoches Street. Motion carried (5-0-0).

5. INDIVIDUAL ITEMS FOR CONSIDERATION

A) Discuss and consider resuming in-person/virtual hybrid Zoning Board of Adjustment meetings

Ms. O'Kelley stated in-person/virtual hybrid Zoning Board of Adjustment meetings are now a possibility, and this may be discussed by the Board.

Discussion followed on how hybrid meetings may be implemented.

Vice Chair Mund, seconded by Member Leitch, to switch to in-person/virtual hybrid Zoning Board of Adjustment meetings by the next regular Zoning Board of Adjustments meeting.

6. ADJOURNMENT

Chair Coker adjourned the meeting at 6:43 pm.

Chair

Date

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