

Legislation Details (With Text)

File #:	21-321	Name:	
Type:	Report	Status:	Individual Item Ready
File created:	3/29/2021	In control:	Board of Adjustment
On agenda:	4/22/2021	Final action:	
Title:	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.		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Aerial Map, 2. Application, 3. Site Plan, 4. Photographs, 5. Notification List and Map, 6. Sec. 3.3-2 R-2

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Presenter/Contact

Applicant: Steve & Rachelle Keller
(210) 833-6481 - kellers@rushenterprises.com

SUBJECT:

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.

BACKGROUND / RATIONALE:

Case #: Z-21-004

Applicant: Steve & Rachelle Keller (Keller Living Trust)
29446 FM 3009
New Braunfels, TX 78132
(210) 833-6481 - kellers@rushenterprises.com
[<mailto:kellers@rushenterprises.com>](mailto:kellers@rushenterprises.com)

Staff Contact: Maddison O'Kelley
(830) 221-4056 - [<mokelley@nbtexas.org>](mailto:mokelley@nbtexas.org)

The subject property is located on West Mill Street within the City's Mill Street Historic District and is zoned "R-2" Single and Two-Family District. The property is approximately 85 feet wide at West Mill Street and is 117 feet in depth. There is an existing single-family home on the property that was constructed in 1855 and a detached shed.

The applicant intends to construct an addition onto the existing structure that is approximately 960 square feet in area. In addition to being in the City's Historic District, the property is also designated

as a state historical landmark by the Texas Historical Commission (THC). The applicant provided a previous site plan to the THC requesting the proposed addition to be built within the required building setbacks, but the state denied it. The applicant states the THC is requiring the addition be constructed at the rear of the home. The addition is now proposed to be approximately 12 feet, 6 inches from the rear property line. Therefore, the applicant is requesting a variance from the City's setback requirement to allow the proposed addition to encroach up to 7.5 feet into the required 20-foot rear building setback.

Section 2.2-3(a) of the Zoning Ordinance states the ZBA may authorize a variance from the zoning regulations only upon finding all of 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.)

Per Section 2.2-3 of the Zoning Ordinance, a variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

GENERAL INFORMATION:

Size:

9,945 square feet in area
117 feet in depth
85 feet in width

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - R-2 / Single Family Dwellings
South - Across W. Mill Street, R-2 / Church
East - R-2 / Single Family Dwelling
West - R-2/ Single family Dwelling

Notification

Public hearing notices were sent to 17 owners of property within 200 feet. Staff has received no responses

Attachments:

1. Aerial Map
2. Application
3. Site Plan
4. Photographs
5. Notification List and Map
6. Sec. 3.3-2 "R-2" Single Family and Two-Family District