

## Legislation Text

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File #: 21-322, Version: 1

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Presenter/Contact

*Applicant: Santiago Quiroz*

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**SUBJECT:**

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.

**BACKGROUND / RATIONALE:**

**Case #:** Z-21-005

**Applicant:** Santiago Quiroz  
133 E. Nacogdoches  
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**Staff Contact:** Maddison O'Kelley  
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The subject property is an interior lot that is approximately 5,366 square feet in area and is zoned "C-3" Commercial District. The property is approximately 65 feet wide at East Nacogdoches Street and is 74 feet in depth. The lot area is approximately 1,234 square feet less than the minimum required lot size for an interior lot and the lot depth is approximately 26 feet less than the minimum required depth in the "C-3" district.

There is an existing single-family home on the property that was constructed in 1951. The front porch on the existing home is setback approximately 20 feet from the front property line along East Nacogdoches Street which is authorized under the zoning ordinance under Sec. 144-5.21-3(c) Yard and setback exceptions, which allows for front porches that are less than 120 square feet in area to encroach up to 6 feet into the front setback.

The applicant is proposing to construct two additions onto the rear and along the front façade of the home adjacent to the porch. The applicant is requesting a variance to allow the proposed additions to encroach approximately 10 feet into the required 20-foot rear setback and 5 feet into the required 25-foot front setback respectively. The applicant cites the variance as necessary due to the lot's configuration.

Due to the age of the neighborhood, setbacks vary and most do not meet current ordinance

requirements

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 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.)

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:**

5,366 square feet

74 feet in depth  
65 feet in width at front; 61 feet in width at rear

**Variance Request Due to Notice of Violation:**

No

**Surrounding Zoning and Land Use:**

North - C-3 / Single Family Dwellings and Vacant  
South - Across E. Nacogdoches Street, C-3 / Commercial  
East - C-3 / Single Family Dwellings  
West - C-3/ Single family Dwellings

**Notification**

Public hearing notices were sent to 12 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. 3.3-9 "C-3" Commercial District