

Legislation Details (With Text)

File #:	22-513	Name:	
Type:	Report	Status:	Individual Item Ready
File created:	5/9/2022	In control:	Board of Adjustment
On agenda:	5/26/2022	Final action:	
Title:	ZB22-0009 Hold a public hearing and consider a request for two variances to Section 3.3-2(b)(1)(iii): 1) to allow an addition to an existing front porch to encroach approximately 9 feet and 2 inches into the required 25-foot front setback and 2) to allow an addition to an existing carport to encroach approximately 7 feet and 11 inches into the required 25-foot front setback in the "SND-1" Special Neighborhood District, addressed at 631 S. Santa Clara Avenue.		

Sponsors:**Indexes:****Code sections:**

Attachments: 1. Application, 2. Aerial Map, 3. Site Plan and Elevation, 4. Photographs of Subject Property, 5. Notification Map, List, and Responses, 6. Sec. 3.8-4 SND-1

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

Presenter/Contact
Applicant: Paul Dean
(256) 347-6552 - paulnbtx@gmail.com

SUBJECT:

ZB22-0009 Hold a public hearing and consider a request for two variances to Section 3.3-2(b)(1)(iii): 1) to allow an addition to an existing front porch to encroach approximately 9 feet and 2 inches into the required 25-foot front setback and 2) to allow an addition to an existing carport to encroach approximately 7 feet and 11 inches into the required 25-foot front setback in the "SND-1" Special Neighborhood District, addressed at 631 S. Santa Clara Avenue.

BACKGROUND / RATIONALE:

Case #: ZB22-0009

Applicant: Paul Dean
932 Rosemary Drive
New Braunfels, TX 78130
(256) 347-6552 - paulnbtx@gmail.com

Staff Contact: Maddison O'Kelley
(830) 221-4056 - mkelley@nbtexas.org

The subject property is located on S. Santa Clara Avenue, north of S. Business 35. The property is an interior lot in "SND-1" Special Neighborhood district, approximately 7,500 square feet in area with

a lot depth of 150 feet and a lot width of 50 feet. The buildable area of the lot, within the required setbacks, is approximately 3,990 square feet. There is an existing single-family residence that was constructed in 1949 with an attached carport on the property.

Section 3.8-4(ii)(2) of the zoning ordinance states main structures in the “SND-1” district must be set back 25 feet from the front property line. The house currently encroaches into the 25-foot front setback at two points: the front porch is currently encroaching 8 feet and 3 ½ inches into the front setback and the attached carport is currently encroaching 4 feet and 9 inches into the front setback. Therefore, the house is considered non-conforming.

The applicant is proposing to construct additions to the front porch and carport, each would increase the existing encroachments into the 25-foot front building setback. The proposed addition to the front porch would increase the existing encroachment by 1 foot and would result in an overall encroachment of 9 feet and 2 inches into the front setback. The addition is approximately 34 square feet in area and would be set back 15 feet and 10 inches from the front property line if the variance is approved. The total area of the entire porch would be approximately 86 square feet. The Zoning Ordinance does allow canopies or open porches in residential districts having a roof area not exceeding 120 square feet to project a maximum of 6 feet into the required front or side yard. The proposed porch will be 3 feet and 2 inches more than authorized in this section of the code.

The applicant’s proposed extension to the existing carport is 3 feet and 2 inches, which would create an overall encroachment of 7 feet and 11 inches into the 25-foot front building setback. If approved, the carport would be set back 17 feet and 1 inch from the property line. The area of the addition to the carport would be 31 square feet resulting in a total area of 204 square feet.

The applicant is also proposing to construct additions to the rear of the house; however, those additions do not require a variance because they are proposed within the required building setbacks. Additions to structures with legally nonconforming encroachments are authorized under the Zoning Ordinance as long as the proposed additions conform to the requirements of the current zoning district the property is located in.

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 fact that the house predates its current zoning as a special circumstance of the land. The applicant further states that, in order to improve the home, the additions to the porch and carport are necessary. Staff acknowledges the age of the house predates the zoning of the property. However, staff does not acknowledge that the ability to improve the home to a modern standard of living is restricted due to the front building setback. The lot has an adequate, unobstructed buildable area and there is availability to expand the footprint of the home into the buildable area at the rear of the structure. This is further supported by the applicant’s site plan which indicates additions are proposed at the rear of the home without a variance being necessary to construct the rear additions. Additionally, there is not a provision in the zoning ordinance which requires carports or front porches on residential property and therefore the strict application of the setback requirement is not applicable to the proposed additions. Staff has not identified a special circumstance that affects the land itself.) **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 enhance the property and neighborhood. Staff notes the substantial property right to use the property for a residential dwelling is not removed due to the front setback requirement for main structures.) **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 will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. Staff acknowledges the impact to the surrounding area is likely minimal.) **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 states the variance should not prevent orderly use of other land within the area. Staff notes all neighboring properties are still required to comply with the setback requirements for any new construction.) **and**
- 5) **That an undue hardship exists;** (The applicant states there is not a hardship that affects the land itself. Staff acknowledges the lot is approximately 10 feet less than the minimum lot width of 60 feet required in the district and the age of the main structure predates the property's zoning. Staff has not identified an undue hardship of the land itself that affects the buildable area of the lot.) **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 City's regulations. Staff notes the intent for the front building setback requirement is to maintain a visual setback from the street and ensure adequate visibility for drivers. Staff acknowledges there are provisions within the zoning ordinance which allow for front porches to encroach into the front setback up to a certain depth and area threshold. Staff also acknowledges the ZBA's recent recommendations to re-evaluate the currently adopted setback requirements for carports.)

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:

Lot area: 7,500 square feet

Lot depth: 150 feet

Lot width: 50 feet

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - SND-1 / Single Family Dwelling

South - SND-1 / Single Family Dwelling

East - SND-1 / Single Family Dwelling

West - Across S. Santa Clara Avenue, SND-1 / Single Family Dwelling

Notification

Public hearing notices were sent to 21 owners of property within 200 feet. Staff has received one response in favor (property #10) and none in objection.