



Staff Report

File #: LN-124

Zoning Board of Appeals
Meeting Date: May 20, 2021

VARIANCE - NICOLE PULEO

Request:	Variance
P&Z#	21-11000005
Owner:	Nicole Puleo
Project Location:	1300 SE 22 Avenue
Folio Number:	4943 06 16 0670
Land Use Designation:	L-Low 1-5 DU/AC
Zoning District:	RS-2 (Single Family Residence 2)
Agent:	Adam Morgenstern
Project Planner:	Scott Reale

Summary:

Applicant Landowner is requesting Variances from the following provisions:

1. Section 155.3203(C) [Intensity and Dimensional Standards of the RS-2 Zoning District], of the Pompano Beach Zoning Code, in order to allow an addition to a single-family residence to be located 22.96' from a street lot line on a through lot, rather than setback a minimum of 25' as required by code.
2. Section 155.4302(B)(2)(f) [Prohibited Location of Accessory Uses and Structures], of the Pompano Beach Zoning Code, in order to allow a swimming pool to be setback 6'-10" from a street lot line on a through lot, rather than setback a minimum 25' as required by code.

The property is located on the east side of SE 22nd Avenue, between SE 13th Street and SE 13th Court.

ZONING REGULATIONS

155.9401. MEASUREMENT

H. Yard Setback

2. Front Yard Setback

b. Through Lot

On a through lot, the front yard setback shall be measured, and the minimum front yard setback requirement shall be applied, from both of the parallel or nearly parallel street-fronting lot lines.

155.4302. GENERAL

B. General Standards for All Accessory Uses and Structures

2. Prohibited Location of Accessory Uses and Structures

Unless otherwise provided for in Section 155.4403 (Standards for Specific Accessory Uses and Structures), accessory uses and structures shall not be located within the following:

- a. Any platted or recorded easement;
- b. Any required landscape easement or buffer;
- c. An area over any known utility;
- d. An area designated as a fire lane or emergency access route on an approved site plan;
- e. An area designated as a parking area on an approved site plan;
- f. A required yard setback;
- g. In front of the principal structure;
- h. Within 15 feet of a property line abutting a waterway or canal; and
- i. Within 25 feet of the historic dune vegetation line.

PROPERTY INFORMATION

1. The subject property has no open code compliance violation cases and no open or pending building permits.
2. Original permit records could not be found for the subject property; however, staff found a 1981 building permit (PRA No. 81-5912) for an addition to the original dwelling, which verifies the required front yard is measured from SE 13th Street.
3. The applicant seeks to place an addition on the existing dwelling a distance of 22.96' from SE 13th Court as well as a swimming pool setback 6'-10" from SE 13th Court. The locations of both structures would be permitted by right if they were not located on a through lot. A through lot abuts two parallel streets and the required front yard setback (25 ft) is required for both front and rear lot lines. The rear yard (SE 13th Court) is subject to a 25 ft setback because it is a through lot.
4. Every home on this block is a through lot. This property is further constrained because it abuts three rights-of-way. Upon review of the aerial images, it is apparent not all properties comply with the through lot's front yard setback standards. Under the literal interpretation of the code, no principal or accessory uses or structures (other than fences) shall be located within 25 ft of either the SE 13th Street or SE 13th Court lot lines.
5. Before the adoption of the new code circa 2013, through lots were defined *[lot, through - an interior lot having frontage on two parallel or approximately parallel streets.]* However, unlike today's code, staff could not find any specific measurement requirements for through lots. It is suspected that past Zoning staff may have defaulted to the required rear yard setback for through lots. The current zoning provision is much more restrictive and is not open to interpretation.

LAND USE PATTERNS

Subject property (Zoning / Existing Use):

- RS-2 / single-family dwelling

Surrounding Properties (Zoning District / Existing Use):

- North: RS-2 / single-family dwelling
- South: RS-2 / single-family dwelling
- East: RS-2 / single-family dwelling
- West: RD-1 / multi-family dwelling

VARIANCE REVIEW STANDARDS

A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

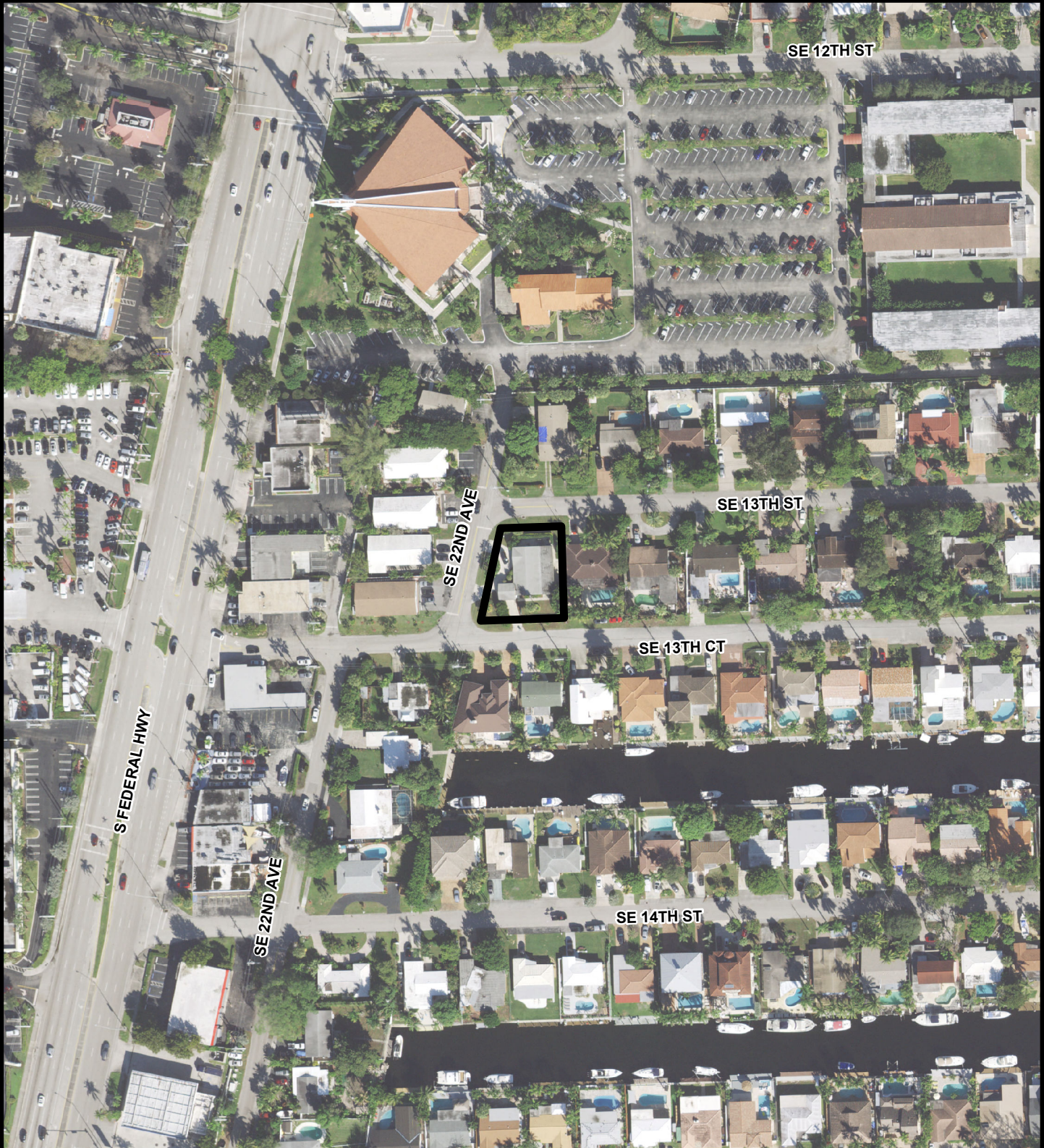
- a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- c) Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- g) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
- h) The Variance is consistent with the comprehensive plan.

Staff Conditions:

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the eight Variance review standards, staff recommends the Board include the following conditions as a part of the Order:

1. Obtain all necessary governmental permits and approvals including building and zoning compliance permits.
2. Substantial compliance to the plans submitted with this application.
3. Maintain an overall minimum 30% pervious area.
4. Protect, relocate, or mitigate for any trees impacted by the building addition and swimming pool.

CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES