



## Staff Report

---

**File #:** LN-628

---

### ZONING BOARD OF APPEALS

Meeting Date: JULY 18, 2024

### VARIANCE - MIGUEL CASTRO

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	PZ24-11000006
<b>Owner:</b>	Miguel Castro
<b>Project Location:</b>	4701 NE 17 Avenue
<b>Folio Number:</b>	484213040440
<b>Land Use Designation:</b>	L (Low 1-5 DU/AC)
<b>Zoning District:</b>	RS-3 (Single-Family Residence 3)
<b>Agent:</b>	Miguel Castro
<b>Project Planner:</b>	Scott Reale

### Summary:

The Applicant Landowner is requesting a Variance from Section 155.3204(C) [Intensity and Dimensional Standards of the RS-3 Zoning District], of the Pompano Beach Zoning Code, in order to allow a portion of an after-the-fact addition to a single-family residence to encroach 3.15 ft into the required interior side yard, rather than setback a minimum of 7 ft from the interior side lot line as required by code.

The property is located on a corner lot in the Pompano Beach Highlands subdivision, north of NE 47<sup>th</sup> Street and west of NE 17<sup>th</sup> Avenue.

### ZONING REGULATIONS

§155.3204. SINGLE-FAMILY RESIDENCE 3 (RS-3)

...

C. Intensity and Dimensional Standards

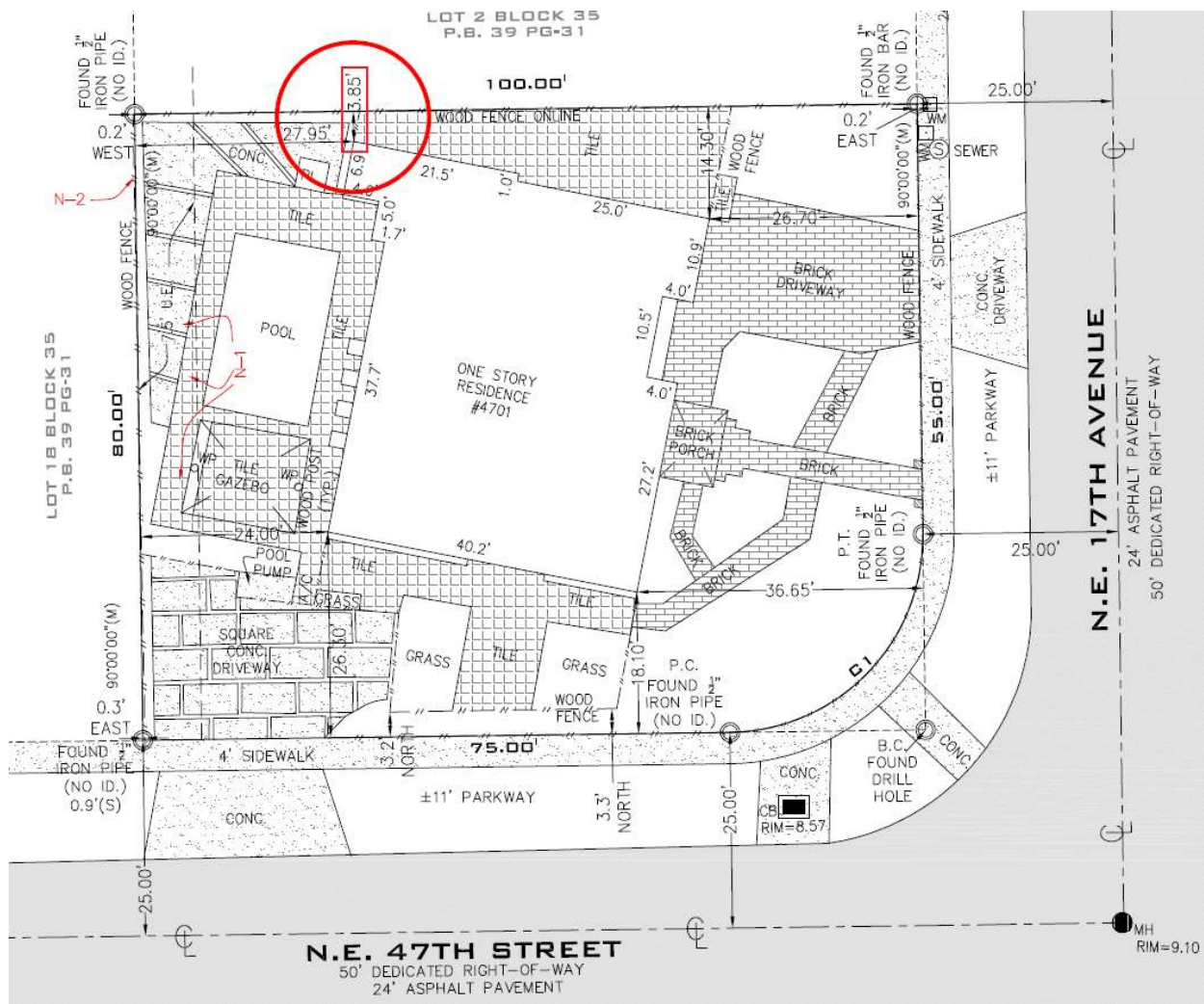
...

**Interior side yard setback, minimum (ft) = 7**

### PROPERTY INFORMATION AND STAFF ANALYSIS

1. The property was first developed in 1956 when the Highlands was under Broward County jurisdiction. The neighborhood was annexed into Pompano Beach via Resolution 2004-323 on 9/15/2004. Permit records show that corner properties in the Pompano Beach Highlands - Third Addition subdivision required a minimum 7.5 ft setback from an interior side lot line. Today's Code requires a 7 ft setback

- from an interior side lot line in the RS-3 zoning district.
- Currently, the subject property is dealing with an open Code Case (Case #24-06006978) related to an addition that was constructed without permits. The as-built survey reveals that a portion of the addition is located 3.85 ft from the interior side lot line, resulting in a 3.15 ft encroachment into the required 7 ft side yard setback.
  - A permit for a 680 sq ft building addition, BP #23-7917, is currently in plan review. The Zoning reviewer noted that the survey provided showed another addition along the north side of the lot that was likely constructed without permits, which prompted this Variance request. The applicant concedes a bedroom was added to the principal dwelling unit over seven years ago to improve its value. Staff confirmed the addition was constructed without permits and encroaches into the required interior side yard.
  - The original dwelling was constructed at a slight angle to the lot lines, with the north elevation setback 14.3 ft from the interior side lot line at the front of the house and gradually moving closer to the interior side lot line as one moves west toward the back of the property. The applicant justifies the encroachment, in part, by stating that it is simply an extension to the north façade, and the angle was not recognizable to the owner.



5. The survey provided indicates a deficiency in the overall pervious area. The code stipulates that at least 30% of the lot shall be comprised of living pervious plant material. However, the survey notes that the total pervious area only makes up 23.89% of the lot, highlighting another code compliance issue.

### **LAND USE PATTERNS**

Subject property (Zoning District | Existing Use):

- RS-3 | single-family dwelling

Surrounding Properties (Zoning District | Existing Use):

- North: RS-3 | single-family dwelling
- South: RS-3 | single-family dwelling
- West: RS-3 | single-family dwelling
- East: RS-3 | single-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.

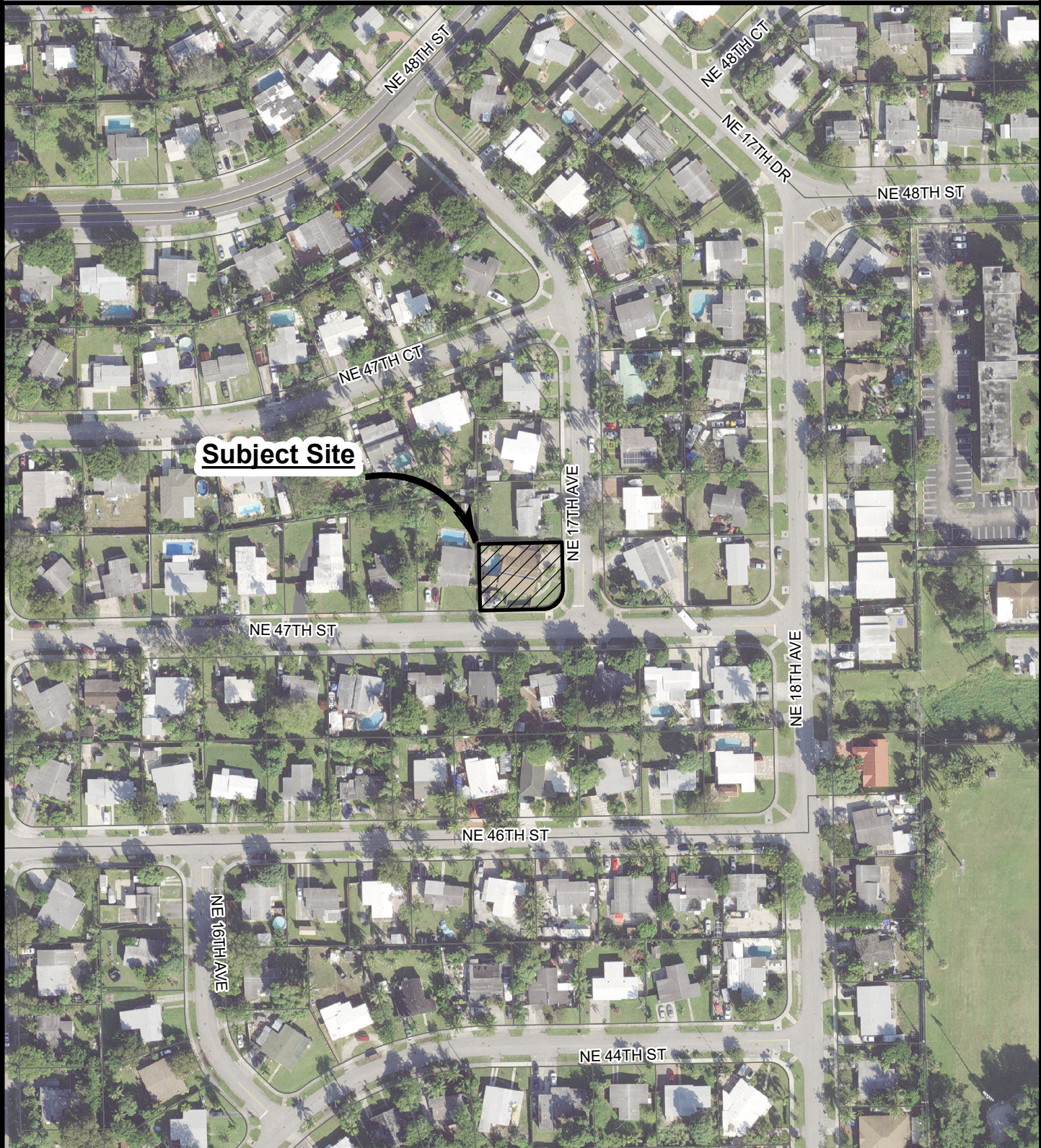
**Staff Conditions:**

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. Approval is strictly limited to the as-built conditions depicted on the survey submitted with this application. No additional encroachments into setbacks shall be permitted.
3. Remove pavers or other impervious materials so that at least 30% of the lot comprises living pervious plant material.



# CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

**4701 NE 17th Ave**

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES