



Staff Report

File #: LN-679

ZONING BOARD OF APPEALS
Meeting Date: JANUARY 16, 2025

VARIANCE - CATHERINE TAKOURIAN

Request: Variance
P&Z# 24-11000014
Owner: Catherine Takourian
Project Location: 551 SE 18 Ave
Folio Number: 494306310520
Land Use Designation: L (Low 1-5 DU/AC)
Zoning District: RS-3 (Single-Family Residence 3)
Agent: Paola West
Project Planner: Scott Reale

Summary:

Applicant Landowner is requesting a VARIANCE from the following provisions:

1. Section 155.4302(B)(2)(h) [General Standards for All Accessory Uses and Structures] to allow a canopy structure and outdoor bar to be located within the property’s required rear yard setback abutting a waterway, rather than providing a minimum 15-foot setback as required by code.
2. Section 155.4303(NN)(3)(b) [Setback Requirements for Gazebos] to allow a canopy structure and outdoor bar to be located along the property’s interior side lot line rather than providing a minimum 5-foot setback as required by code.
3. Section 155.5302(D)(5)(a) [Height Requirements in Rear Yard Corner Triangle] to allow an 8-foot high canopy structure within the rear yard corner triangle, rather than adhering to the 3-foot high limit or relocating the structure outside of the sight visibility triangle as required by code.

The property is located on the west side of SE 18th Avenue, between SE 5th Court and SE 6th Street in the Cypress Cove subdivision.

ZONING REGULATIONS

§155.4302. GENERAL

...
B. General Standards for All Accessory Uses and Structures

...
2. Prohibited Location of Accessory Uses and Structures

...
h. Within 15 feet of a property line abutting a waterway or canal

...
NN. Gazebo

...
3. Standards
b. Setback

- i. The structure may be located within an interior side yard setback or a rear yard setback, but shall be located at least three feet from a side or rear lot line.
- ii. The structure located closer than five feet to an interior side or rear lot line shall be screened with a six foot high solid fence or a hedge maintained at a height of five feet along such interior side and/or rear lot line.

...
§155.5302. FENCES AND WALLS

...
D. Height Requirements for Fences and Walls

...
5. Fences and Walls Adjacent to Waterways

Where a lot abuts a canal or waterway, fences and walls adjacent to the canal or waterway shall comply with the following standards:

a. Within Rear Yard Corner Triangle

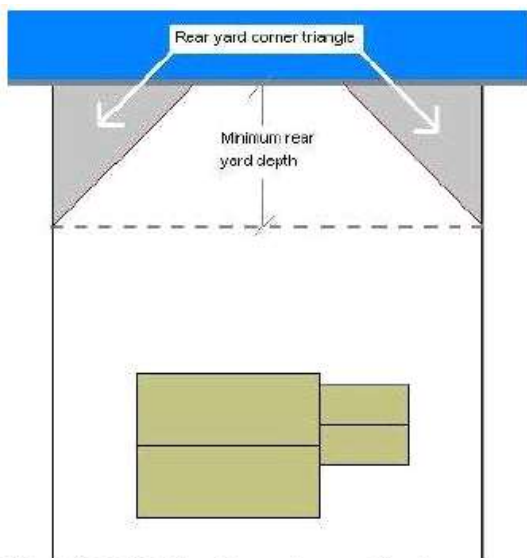


Figure 155.5302.D.5.a: Rear yard corner triangle

Figure 155.5302.D.5.a: Rear yard corner triangle

Except as otherwise provided in subsection e below, where the rear lot line abuts the canal or waterway, no fence, wall, or other obstruction greater than three feet high shall be located within the triangular land area formed by the intersection of the rear lot line with an interior side lot line not abutting a canal or waterway-with two sides of the triangle running along the rear and interior lot lines and being equal in length to the minimum rear yard depth, and the third side being a line connecting the ends of the other two sides-provided that a fence in such area may be as high as 42 inches if it is 66 percent see-through and may be as high as six feet if it is at least 75 percent see-through. (See Figure 155.5302.D.5.a: Rear yard corner triangle.)

PROPERTY INFORMATION AND STAFF ANALYSIS

1. The subject property was originally developed in 1968 under Building Permit #68-6143, with a single-family dwelling set back 25 feet from the rear lot line (waterway). In 2001, an addition to the principal dwelling was approved under Building Permit #01-4386, which permitted a reduced setback of 15 feet from the rear lot line (waterway).
2. In 2019, the applicant installed a canopy shade structure and bar without the required permits, in a location that does not comply with setback regulations. The applicant asserts that the contractors who installed the canopy structure and bar assured her that permits were not necessary. In 2024, during an unrelated inspection, the unpermitted structures were identified and a Code Enforcement case (Case #24-09005188) was subsequently opened. The applicant has since submitted an after-the-fact permit (Building Permit #24-3786). However, the Zoning reviewer rejected the permit, as setback relief would be necessary to allow the canopy and bar to remain in their current location.
3. The applicant argues that due to the existing swimming pool and the 15-foot rear setback of the dwelling, it would be nearly impossible to relocate the accessory structures elsewhere in the rear yard.
4. It is worth noting that a proposed text amendment aims to eliminate the rear yard corner triangle provision, which currently prohibits obstructions greater than 3 feet in height. If approved, detached accessory structures such as gazebos, canopies, and tiki huts would be permitted within the sight visibility triangle, provided they are located at least three feet from a side or rear lot line. The proposed amendment also addresses roof overhangs, stating they must not be closer than one foot to any side or rear property line unless adjacent to a waterway or canal, in which case the overhang may extend to the rear property line. The canopy shade structure, however, is located directly along the rear (waterfront) and interior side lot lines, with a 0-foot setback.

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: Crystal Waterway (canal)
- 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 sufficient to meet the eight Variance review standards, staff recommends the following conditions be included in the Order:

- 1. The applicant must obtain all necessary permits and approvals, including Building and Zoning Compliance permits.
- 2. The applicant must address and resolve all violations related to Code Case #24-09005188.
- 3. Setback relief is strictly limited to the canopy and bar area shown in the plans submitted with this application. Any encroachments by other accessory structures are prohibited.
- 4. Canopy posts/columns must not be installed on top of the seawall.

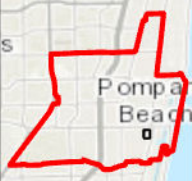
CITY OF POMPANO BEACH AERIAL MAP



Legend

- Pompano Beach Parcels
- Applicant Parcel

Folio:
494306310520
Area: 0.16 Acres



Scale:
1:2,000

Date: 11/6/2024 9:26 AM

Catherine Takourian

551 SE 18 Avenue

Variance

Created by:
Department of
Development Services

