



Staff Report

**File #:** LN-242

Zoning Board of Appeals  
Meeting Date: March 17, 2022

**VARIANCE - SELBY OF FLORIDA LLC**

**Request:** Variance  
**P&Z#** 22-11000003  
**Owner:** Selby of Florida LLC  
**Project Location:** 800 N Federal Highway  
**Folio Number:** 4943 31 23 0010  
**Land Use Designation:** C-Commercial  
**Zoning District:** General Business (B-3)  
**Agent:** Jim Frogner  
**Project Planner:** Scott Reale

**Summary:**

The Applicant Landowner is requesting a VARIANCE from Section 155.4209(B)(3)(a) [Specialty Medical Facility Standards], of the City of Pompano Beach Code of Ordinances, in order to allow a Specialty Medical Facility to be located 50 feet from a Two-Family (RD) Zoning District, rather than requiring the facility to be located at least 500 feet from a Two-Family (RD) Zoning District as per code.

The property is located on the east side of N Federal Highway between NE 8<sup>th</sup> Street and NE 9<sup>th</sup> Street.

**ZONING REGULATIONS**

155.4209. INSTITUTIONAL: HEALTH CARE USES

...  
B. Specialty Medical Facility

...  
2. Definition  
A specialty medical facility is a facility, regardless of size, offering specialized treatment and services including, but not limited to, ambulatory surgical facilities, dialysis centers, substance abuse treatment facilities, outpatient rehabilitation facilities, birthing facilities, and urgent care facilities (not including a 24-hour urgent care facility). This use also includes medical or dental offices which are larger than 5,000 sq ft gfa.

3. Standards  
A specialty medical facility shall comply with the following standards:  
a. Separation from Residential Uses. The facility shall be at least 500 feet from a Single Family (RS) or Two-Family (RD) Zoning District.  
b. Overnight Treatment. Overnight treatment is prohibited.  
c. Hours of Operations. The facility shall not offer treatment or similar services between the hours of 10:00 p.m. and 7:00 a.m.

**PROPERTY INFORMATION**

1. The subject property, commonly known as the Beachway Plaza, has several active Business Tax Receipts for various commercial and retail uses.
2. The subject property does not have any open code compliance cases.
3. The subject property has the following open business permits:
  - a. 09-9107        WINDOWS & DOORS
  - b. 09-1029        ELECTRICAL REPAIRS/BEACHWAY
4. The applicant is proposing a *Specialty Medical Facility*, which requires approval via Special Exception. An application for that use has been concurrently submitted, and one of the use-specific standards is that specialty medical facilities must be located at least 500 feet from a Single-Family or Two-Family Zoning District. It should be noted the applicant contends the nearest affected property is 380 feet away. However, the code requires staff to measure separation distance from property line to property line, so the actual distance to the nearest affected property is 50 feet, which is the width of the NE 23<sup>rd</sup> Avenue right-of-way.
5. According to the 500' radius map prepared by the Development Services Department, fifty-four (54) residentially-zoned properties are located within 500' of the subject property. Although there is some VUA (vehicular use area) perimeter landscaping between the rear parking lot of the subject property that abuts NE 23<sup>rd</sup> Avenue, it is considered nonconforming to today's more stringent residential compatibility standards. Further, there are two points of vehicular access along NE 23<sup>rd</sup> Avenue, directly across from residential dwellings. The Specialty Medical Facility use will likely generate increased trips to the subject property and surrounding area which is one of the reasons why the use requires Special Exception approval in B-3 zoning and includes a use-specific standard of a 500-foot separation from low density residential.
6. A similar distance separation variance for a Specialty Medical Facility was recently approved at Pompano Citi Centre; however, only 4 residential properties were within 500' of the facility and they were separated from the subject property by Federal Highway and another commercial development. This request, on the other hand, potentially impacts dozens of residential properties and does not include a major arterial to adequately segregate the residential and nonresidential uses.



**LAND USE PATTERNS**

Subject property (Zoning / Existing Use):

- B-3 / Beachway Plaza Shopping Center (various commercial uses)

Surrounding Properties (Zoning District / Existing Use):

- North: B-3 / car dealership (Acura)
- South: B-3 / car dealership (BMW)
- East: RD-1 and RS-2 / two-family dwellings and single-family dwellings
- West: CF / Pompano Community Park

**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.

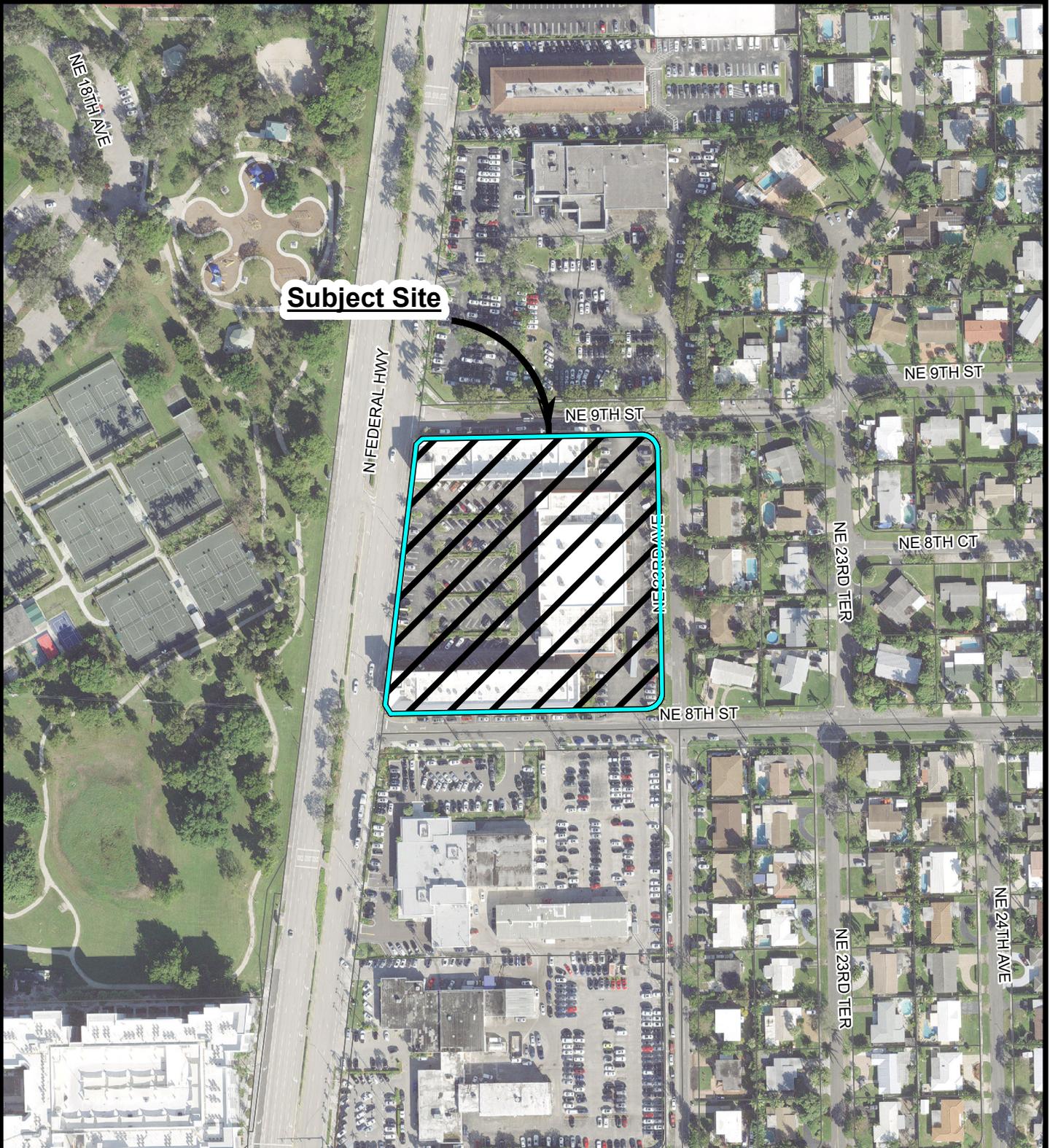
**Staff Conditions:**

Staff objects to the proposed variance application. There are other viable commercial properties throughout the city that would not require a separation variance. Both the City's Zoning Code and Comprehensive Plan aim to protect the character of existing single- and two-family residential development from negative impacts resulting from more intense adjacent forms of development.

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 with all necessary final inspections, zoning use certificate and city-issued Business Tax Receipt.
- 2. Successfully obtain a Special Exception for a *Specialty Medical Facility*.
- 3. Close out, final, or withdraw all open building permits.

# CITY OF POMPANO BEACH AERIAL MAP



1 in = 208 ft

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES