



PlanW3st LLC
10152 Indiantown Road
Unit 159
Jupiter, Florida 33478
954-529-9417
pwest@planw3st.com

January 25, 2023

Zoning Board of Appeals
City of Pompano Beach
100 West Atlantic Boulevard, Dept. 1510
Pompano Beach, Florida 33060

Via Electronic Mail: scott.reale@copbfl.com

RE: Variance for 3211 NE 9th Terrace (Folio 484224250560)

Dear members of the Zoning Board of Appeals,

PlanW3st is representing owner-resident Grace Kelly Tardim Francisco in pursuit of a Variance for the above-referenced property. The property is located in the Cresthaven neighborhood, on the west side of NE 9th Terrace, just south of NE 33rd Street (refer to **Exhibit “A”** included with this narrative). The owner is seeking permit approval for a whole house remodel that includes adding a covered patio, which extends the roofline of an existing Florida room at the rear of the house. The permit was reviewed by zoning, where property research confirmed that the existing rear patio encroaches into the rear yard setback by 1.5 feet (18 inches). The permit cannot be approved as the existing rear patio does not meet the minimum 15-foot rear setback for the RS-3 [Single Family Residence 3] zoning district as required by code section 155.3204.C.

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

...
C. Intensity and Dimensional Standards *1

Rear yard setback, minimum (ft)	15
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*1. See measurement rules and allowed exceptions/variations in [Article 9: Part 4](#) .

We understand that a Variance shall only be approved on a finding that the request as proposed meets the following standards and justify each as follows:

- 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.*

The subject property is located in a portion of Cresthaven that was annexed into the city in the year 2000. As shown in the 1999 aerial below (www.bcpa.net), the subject property shows to have been developed with a house and a rear addition similar or the same as the one that exists today. The current owner purchased the property with the rear setback as it is today, and has owned the property since September of 2010—12 years after annexing into the City.

1999 Aerial Excerpt



December 2008 - January 2010 Rear Aerial View



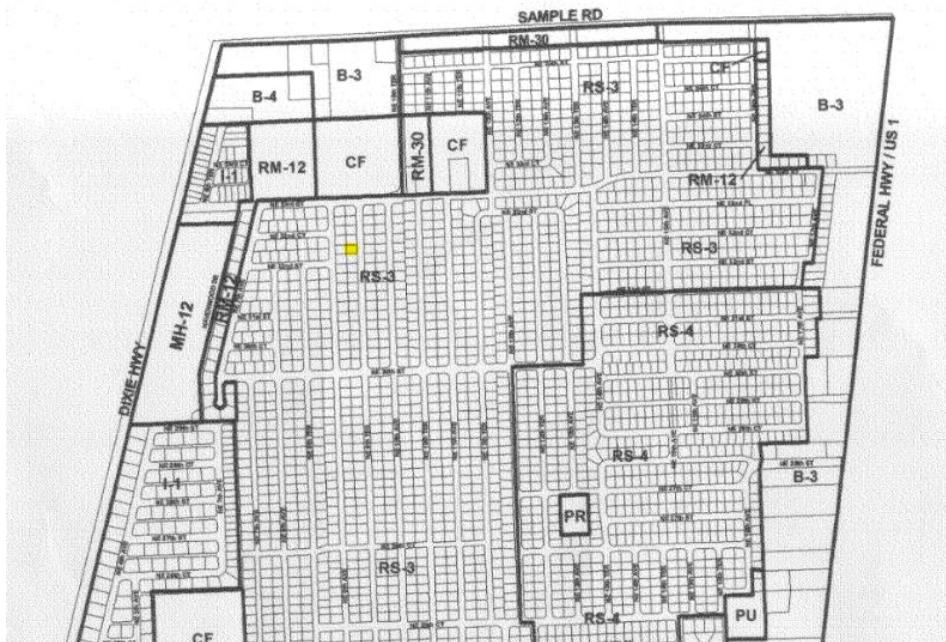
In addition, the lot itself is 70 feet wide, 86 feet deep, and 6,020 sq. ft. in area. The lot is further restricted by a 6-foot utility easement that runs along the rear property line. Since the house was built at an angle, what remains as usable backyard space is limited by the building's orientation. Of the 15-foot setback that is required for this lot, only 9 feet remain outside of the easement in the corner closest to the property line. The addition is encroaching into the setback in this area by a maximum of 1.5 feet, or 18 inches. Additionally, and as shown in the aerial above, the rear yard has a solid fence that mitigates any views of the rear addition from neighboring properties. The provision of additional green space in the rear will also allow for trees to be planted that will provide additional view-screening, if necessary.

- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner.*

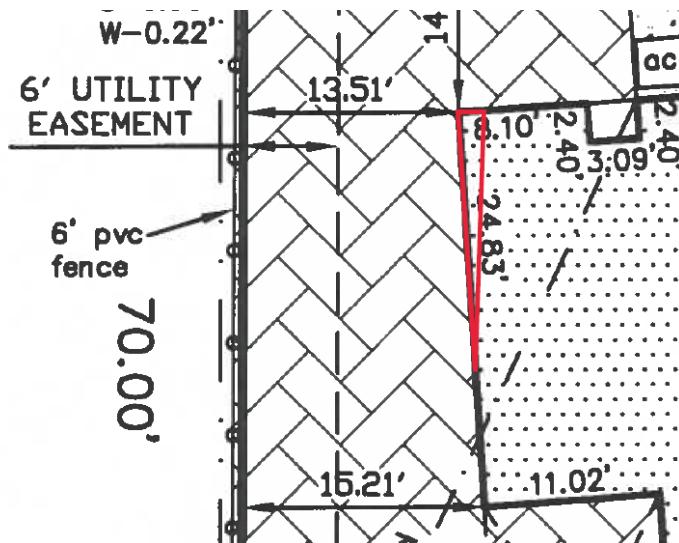
The property was developed under county jurisdiction in the 60s. The property was annexed into the City of Pompano Beach on September 15th, 2000, via House Bill 1779.

An excerpt of the 2002 Official Zoning Map shows the property was zoned RS-3 after or along with annexation. At this point in time, after developing under a prior jurisdiction with possibly different setbacks, is when the 15-foot setback began to apply. The city has no record of the addition being permitted since it was developed under the County. A lack of records does not indicate that the addition was not permitted. The record being referenced on permit comments, is a survey for the driveway, which does not show a rear setback dimension. The property was purchased by the current owner in 2010, as shown in the property deed. The new home and any additions done to the home prior to purchase are not the fault or knowledge of the current owner. If the addition was indeed done without a permit, this information was not disclosed with the purchase of the property and no code compliance cases were filed regarding this rear addition. As such, the property owner assumed the home and addition were fully code-compliant when the purchase was made. The rear addition is only in question now because the proposed covered patio at the rear of the property is extending the roof southward. It is important to note that the new covered patio being permitted meets the 15-foot setback. The portion of the home that does not meet the 15-foot setback is existing, not being expanded, and has existed since the owner purchased the property.

2002 Official Zoning Map Excerpt



Portion of Non-Compliant Existing Addition



- 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.*

The property owner is renovation the entire house, with pride, after 12 years of ownership. The home, and addition, were purchased with the assumption that it was properly permitted. Had the addition not been part of the home, the property owner would not have purchased it as the home would not have been of adequate size. To deny the 18-inch encroachment of the existing addition in the rear of the home would result in unnecessary and undue hardship since the addition, or 18 inches of it, would need to be removed and at a cost not budgeted with the renovation. With the proposed renovations, the extension provides a more cohesive and consistent design to the home. The addition squares off the property and makes the home look more modern and cleaner from the exterior.

- d. *The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.*

This variance does not provide special privilege on the owner. As previously mentioned, the home and addition that encroaches by 18 inches in the rear was built under a different jurisdiction with different regulations, prior to annexing into the City. Most of the Cresthaven neighborhood includes homes that are oriented with a slight angle that make use of the rear yard challenging. Additions in the rear of homes are typical for any residence; in this block alone, 30 of the 34 lots have additions in the rear of their homes—many of them appearing close to the rear property line. The addition is existing, and has existed at least for the last 12 years. The extension proposed with this permit complies with the required setback.

- e. *The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure.*

The extent of the 18 inches is the minimum needed to maintain an existing addition to a home that was presumed to be code-compliant when purchased. The portion being requested to remain is a triangular area at the northwest corner of the home. The entire addition does not encroach into the setback—only this corner does, at a maximum of 18 inches (refer to image above—Portion of Non-Compliant Existing Addition).

f. *The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;*

The request is in harmony with the purpose and intent of the code as defined in section 155.1103 [General Purpose and Intent]. As the general purpose of the code is to promote the public health, safety, and general welfare, as well as implement the goals, objectives, and policies of the City of Pompano Beach Comprehensive Plan, the variance will assist in implementing with the following:

- A. Preserve and enhance present advantages and overcome present handicaps that exist in the city
- B. Encourage the most appropriate use of land, water, and resources;
- C. Deal effectively with future problems that may result from the use and development of land;
- E. Conserve, develop, utilize, and protect natural and historic resources;
- F. Maintain and protect the character and stability of the community and its established neighborhoods
- J. Establish comprehensive, consistent, effective, efficient, and equitable standards and procedures for the review and approval of land development that recognize and respect the rights of landowners and consider the interests of the city's citizens.

Additionally, the request is in harmony with the general purposes of residential base zoning districts as defined in section 155.3201 [General Purposes of Residential Base Zoning Districts], which are established and intend to provide a comfortable, healthy, safe, and pleasant environment in which to live and recreate. The request emphasizes the following purposes:

- A. Provide appropriately located lands for residential development that are consistent with the goals, objectives, and policies of the comprehensive plan and any functional plans and small area plans adopted by the city.
- C. Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
- D. Provide for residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;
- G. Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the city's goals and objectives; and
- H. Preserve the unique character and historic resources of the traditional neighborhoods and the community

The uniqueness of this area in Cresthaven, is in the angle of most of the homes and the reduced rear yard setback. The angle in the homes creates a challenge in providing adequate backyard space while still meeting setbacks.

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;

The variance for the existing addition to remain will not in any way affect the health or safety of persons residing or working in the neighborhood, will not be injurious to property or improvements in the neighborhood, and will not be detrimental to the public welfare. The existing portion has been in existence since before 2010, when the property owner purchased the property. Although there is no proof the addition was previously permitted, the owner would like to reinforce the existing portion's foundation and extend the roof south, which will strengthen the existing addition and verify it meets building code minimums. The variance will allow for any potentially unsafe aspects of the addition to be corrected.

h. The Variance is consistent with the comprehensive plan.

As detailed in f. above, the variance promotes several goals and policies of the comprehensive plan. Additionally, the request is consistent with the following:

Policy 01.03.04 Consider the preservation of established single family neighborhoods in all rezonings, land use plan amendments and site plan approvals.

Thank you for your consideration. We respectfully request the variance is granted as justified above.

Please do not hesitate to contact me with any questions.



Paola A. West, AICP, ISA-CA
Senior Land Planner

Exhibit "A"



Parcel Id: [484224250560](#)

Owner: FRANCISCO,GRACE KELLY
TARDIM

Situs Address: 3211 NE 9 TER POMPANO
BEACH FL 33064

Legal: CRESTHAVEN NO 11 53-41 B
LOT 5 BLK 3