



Staff Report

File #: LN-48

Zoning Board Of Appeals
Meeting Date: December 17, 2020

VARIANCE - JANICE GRIFFIN

Request:	Variance
P&Z#	20-11000012
Owner:	Janice Griffin
Project Location:	310 SE 6 th Terrace
Folio Number:	4942 01 40 0010
Land Use Designation:	L-Low 1-5 DU/AC
Zoning District:	RS-2
Agent:	Janice Griffin
Project Planner:	Scott Reale, AICP

Summary:

Applicant Landowner is requesting Variances from the following provisions:

1. Section 155.5302(D)(2)(a) [Fences and Walls in Residential Districts], of the Pompano Beach Zoning Code, in order to allow the construction of a six (6) foot high opaque privacy fence located within the required front yard and setback 21' from the front lot line rather than 25' as required by code.
2. Section 155.5302(D)(5)(a) [Fences and Walls Adjacent to Waterways], of the Pompano Beach Zoning Code, in order to allow the construction of an above-ground hot tub and a six (6) foot high opaque privacy fence located within the rear yard corner triangle (fence proposed along a portion of the south lot line) rather than fully complying with opacity and height requirements.
3. Section 155.4302(B)(1)(a) [Prohibited Location of Accessory Uses and Structures], of the Pompano Beach Zoning Code, in order to allow the placement of an above-ground hot tub within 15 feet of a property line abutting a waterway, rather than setback at least 15 feet and not located within the rear yard corner triangle.

The property is located on the east side of SE 6th Terrace in the Garden Isles subdivision, just south of the bridge to SE 11th Avenue.

ZONING REGULATIONS

155.5302. FENCES AND WALLS

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D. Height Requirements for Fences and Walls

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2. Fences and Walls in Residential Districts

Except as otherwise provided in 155.5302.D.5, Fences and Walls Adjacent to Waterways, the following height limits shall apply to fences and walls within Residential zoning districts:

a. No fence or wall within a front yard or a street side yard shall exceed a height of four feet, provided that a fence or wall in a street side yard may be up to six feet in height if set back at least four feet from the street side lot line. Fence posts, including decorative finials, may extend up to six inches above the maximum fence height.

b. No fence or wall within an interior side yard or a rear yard shall exceed a height of six feet.

3. Fences and Walls in Commercial and Special Districts

Except as otherwise provided in 155.5302.D.5, Fences and Walls Adjacent to Waterways, no fence or wall within a commercial or special base zoning district shall exceed a height of eight feet, provided that a fence or wall abutting an Industrial zoning district may be up to ten feet in height.

4. Fences and Walls in Industrial Districts

Except as otherwise provided in 155.5302.D.5, Fences and Walls Adjacent to Waterways, no fence or wall within an industrial zoning district shall exceed a height of ten feet.

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

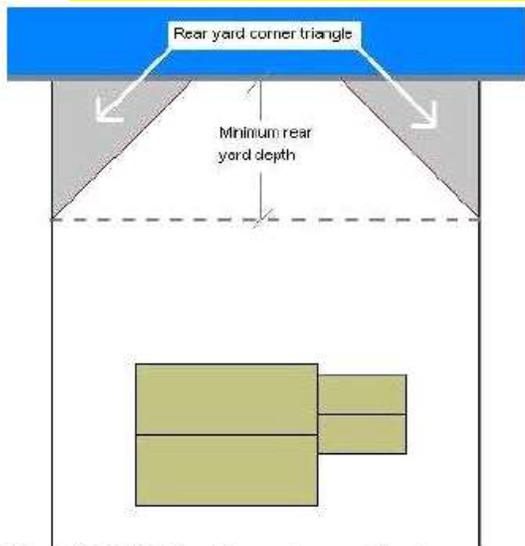


Figure 155.5302.D.5.a: Rear yard corner triangle

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.)

b. On a Rear Yard Terrace or Patio

Except as otherwise provided in subsection a above, the height of a fence or wall erected on a terrace or patio located or extending into the rear yard may be up to 42 inches high if it is at least 66 percent see-through and does not obstruct view of the canal or waterway from abutting lots.

c. Adjacent to Sea Wall

Except as otherwise provided in subsection a above, where a lot line abuts a canal or waterway along a sea wall that is less than four and one-half feet above mean sea level, the height of a fence or wall adjacent to the lot line may be up to seven and one-half feet above mean sea level.

d. Atop Sea Wall

No wall or fence shall be erected atop a seawall.

e. On all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue)

On all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue) a site visibility area shall be provided as follows:

i. The sight visibility area shall be that private property which lies 25 feet north and 25 feet south of the centerline of a canal and east of the east right-of-way line of Harbour Drive (NE 26th Avenue) to the edge of the permitted seawalls as they exist on November 25, 2003.

ii. No walls or fences shall be constructed or maintained within the sight visibility area.

PART 3 ACCESSORY USES AND STRUCTURES

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155.4302. GENERAL

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B. General Standards for All Accessory Uses and Structures

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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. There are no open code compliance cases.
- 2. In 2007 the property obtained a Certificate of Occupancy for a new single-family dwelling via building permit #07-1211.
- 3. The SE 6th Terrace and SE 11th Avenue Bridge is in the process of being redesigned and replaced to improve the safety of the current traffic pattern, with construction expected though June 2023. The applicant contends the bridge's configuration in relation to the property has adversely impacted privacy and security, and the new bridge may compound these conditions. This is the applicant's primary basis for the requested relief.

4. Staff typically recommends denial of applications that involve obstructions in the sight triangle areas of waterfront properties; however, this property is a unique point lot located next to a bridge. As a result, development is restricted due to setback requirements, and the bridge furthers privacy concerns.

LAND USE PATTERNS

A. Subject property (Zoning | Existing Use): RS-2 | single-family dwelling

A. Surrounding Properties (Zoning District | Existing Use):

- a) North: waterway/canal
- b) South: RS-2 | single-family dwelling
- c) East: waterway/canal
- d) West: RS-2 | 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.

The following factors do not constitute sufficient grounds for approval of a Variance:

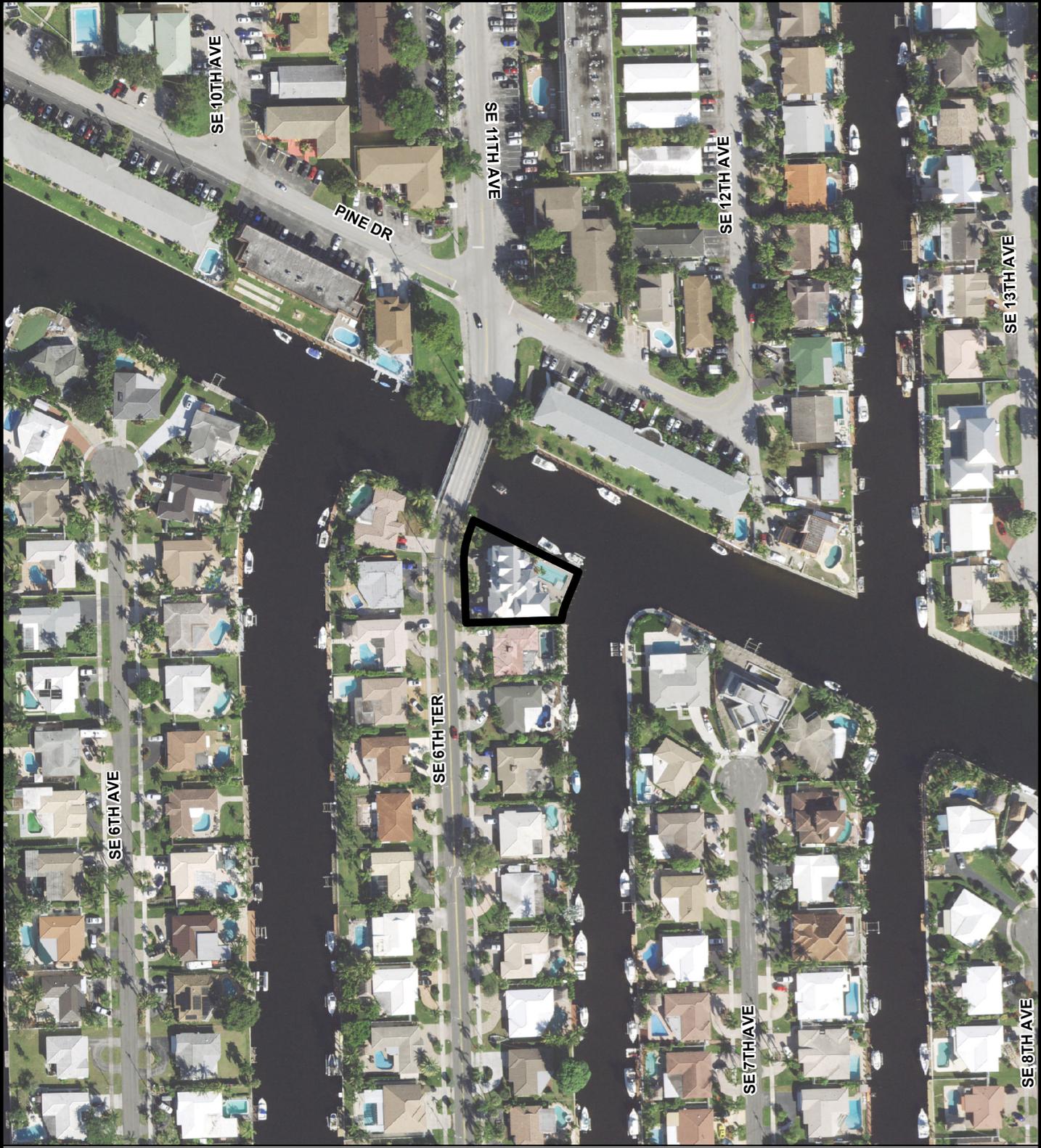
- a. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- b. Hardships resulting from factors other than application of requirements of this Code;
- c. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or
- d. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

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. Protect, relocate, or mitigate for any trees impacted by improvements.

CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES