



Staff Report

File #: LN-503

Zoning Board of Appeals
Meeting Date: August 17, 2023

VARIANCE - Lisette Sacon

Request:	Variance
P&Z#	23-11000015
Owner:	Lisette Sacon
Project Location:	401 SW 18 Court
Folio Number:	494211130420
Land Use Designation:	L- Low 1-5 du/ac
Zoning District:	Single-Family Residence 2 (RS-2)
Agent:	Lisette Sacon
Project Planner:	Scott Reale

Summary:

The Applicant Landowner is requesting a Variance from Section 155.5302(D)(5)(a) [Rear Yard Corner Triangle], of the City of Pompano Beach Zoning Code, in order to allow a 6 foot opaque fence located along the interior side lot lines to encroach 5 feet into the rear yard corner triangle, rather than provide a 6 foot fence that is at least 75% see-through in the rear yard corner triangle, as required by code.

The property is located on the north side of SW 18th Court and west of SW 3rd Avenue in the Boulevard Park Isles Section 4 subdivision.

ZONING REGULATIONS

§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

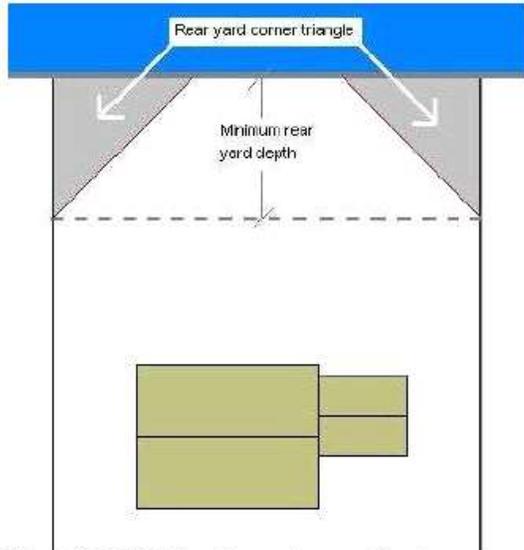


Figure 155.5302.D.5.a: Rear yard corner triangle

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 has no open code compliance cases and no Business Tax Receipts.
2. The property was developed in 1961 for construction of a single-family residence, and was annexed into the City of Pompano Beach in 1969 via House Bill 2638.
3. For decades the Zoning Code only allowed chain link fencing within 15 feet of a waterway or canal. The Code was later revised to allow for other fencing material, so long as it was at least 75% see-through.
4. The proposed plans would comply with code but not for five feet of fencing along the interior side lot lines, located just inside the rear yard corner triangle.
5. The applicant previously obtained relief from the ZBA for the exact request in 2018 via PZ #18-11000018. Unfortunately, the Variance Order expired 7/31/2020 because a building permit for the fence was never submitted and a development order extension was never requested. Fence Permit #23-5456 was recently approved and complies with code requirements; however, if this Variance application is approved, the applicant will likely submit a revision to reflect the proposed relief.
6. The applicant claims the dwellings on the adjacent properties obstruct the water views as they are setback only 20 ft from the waterway. In addition, the landowner can see directly into the bathroom of one of the adjacent dwellings. A privacy fence that encroaches 5 ft into the sight visibility triangle may help shield the adjacent property from view.

LAND USE PATTERNS

Subject property (Zoning District | Existing Use):

- RS-2 | single-family dwelling

Surrounding Properties (Zoning District | Existing Use):

- North: waterway/canal
- South: RS-2 | single-family dwelling
- West: RS-2 | single-family dwelling
- East: 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:

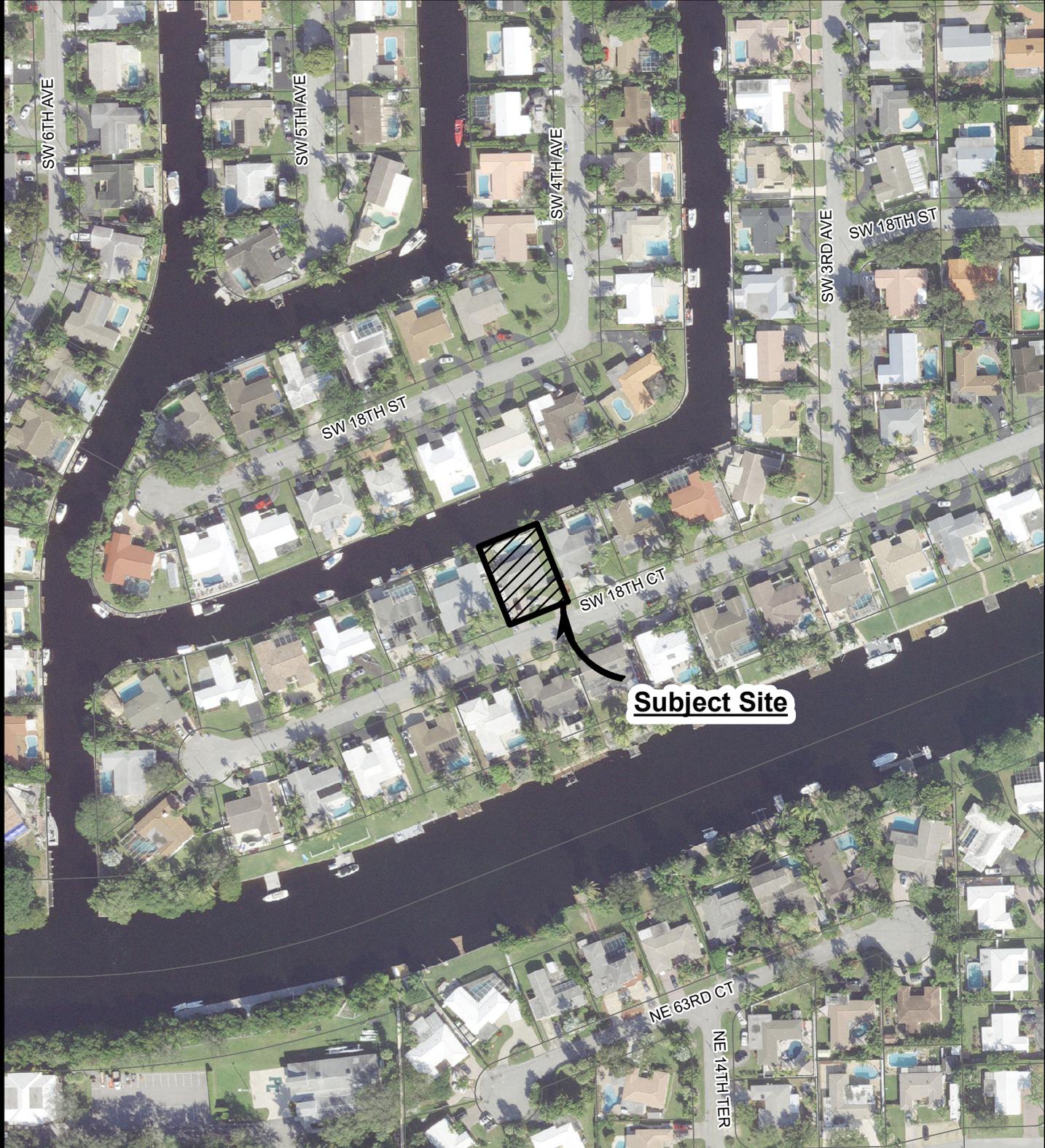
- a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- 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.

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 for the fence, including building and zoning compliance permits, utility easement agreement forms, and all necessary inspections.
2. When submitting a revision to permit BP #23-5456, each segment of fence must clearly show all setbacks, total linear width of each fence segment, fence material(s), height, and percent see-through.

CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

401 SW 18 Ct

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES