



## Staff Report

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**File #:** LN-34

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Zoning Board of Appeals

Meeting Date: November 19, 2020

### **VARIANCE - ALEXANDER WILLIAMS**

**Request:** Alexander Williams  
**P&Z#** 20-11000011  
**Owner:** Alexander Williams  
**Project Location:** 410 NE 5<sup>th</sup> Avenue  
**Folio Number:** 484236000300  
**Land Use Designation:** L-Low 1-5 DU/AC  
**Zoning District:** RS-1 (Single-Family Residence 1)  
**Agent:** Rebecca Smith, Tubten Kunga Center for Wisdom  
**Project Planner:** Scott Reale, AICP

### **Summary:**

Applicant Landowner is requesting Variances from the following provisions:

1. Section 155.5102(C)(2)(a) [Surfacing], of the Pompano Beach Zoning Code, in order to allow grass pervious pavers for parking rather than surfaced with a hard, dustless, and bonded surface material as required by code.
2. Section 155.5102(C)(3)(b) [Location and Arrangement], of the Pompano Beach Zoning Code, in order to allow vehicles to back out from a parking area directly onto a street, rather than prohibiting vehicles from backing out directly onto a street as required by code.
3. Section 155.5102(C)(4)(a) [Markings], of the Pompano Beach Zoning Code, in order to omit parking area stall striping and similar surface markings rather than provide parking markings as required by code.
4. Section 155.5102(C)(8) [Landscaping], of the Pompano Beach Zoning Code, in order to omit certain Vehicular Use Area (VUA) Landscaping (155.5203.D) standards, including landscaped islands at the ends of each row of parking, rather than provide incorporate these VUA standards as required by code.
5. Section 155.5102(C)(9) [Curbing], of the Pompano Beach Zoning Code in order to allow parking without the required continuous curbing rather than provide a continuous curb at each off-street parking space as required by code.

The property is located at the southeast corner of NE 5<sup>th</sup> Avenue and NE 5<sup>th</sup> Street.

This Variance application accompanies an application for Special Exception (PZ20-17000012) in order to allow a Place of Worship at the subject property.

## ZONING REGULATIONS

### **155.5102. OFF-STREET PARKING AND LOADING**

#### **C. General Standards for Off-Street Parking and Loading Areas**

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##### **2. Surfacing**



Figure 155.5102.C.2.b: Use of pervious materials in a parking lot.

#### **Figure 155.5102.C.2.b: Use of pervious materials in a parking lot**

##### **a. General**

Except as provided for in subsections b and c below, all off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone, pavers, or an equivalent hard, dustless, and bonded surface material. Use of surfacing that includes recycled materials (e.g., glass, rubber, used asphalt, brick, block, and concrete) is encouraged. These surfaces shall be maintained in a smooth, well-graded, clean, orderly, and dust-free condition.

##### **b. Pervious or Semipervious Surfacing**

The use of pervious or semipervious parking area surfacing materials-including, but not limited to-pervious asphalt and concrete and open joint pavers may be approved for off-street paving and loading areas, provided such surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming). Any pervious or semipervious surfacing used for aisles within or driveways to parking and loading areas shall be certified as capable of accommodating anticipated traffic loading stresses and maintenance impacts. Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices. (See [Figure 155.5102.C.2.b](#), Use of pervious materials in a parking lot.)

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##### **3. Location and Arrangement**

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##### **b. Backing onto Streets Prohibited**

Except for parking areas serving single-family, two-family, triplex, fourplex, and mobile home dwellings, all off-street parking and loading areas shall be arranged so that no vehicle is required to back out from such

areas directly onto a street. However, for all use types, off-street parking may be arranged to allow for back out onto alleys subject to demonstration adequate back-out distance.

#### 4. Markings

a. Except for parking areas serving single-family dwellings, each required off-street parking area and space, and each off-street loading area and berth, shall be identified by double striping as well as other surface markings that are arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Such markings-including directional arrows, lettering on signs and in handicapped-designated areas, and labeling of the pavement-shall be maintained so as to be readily visible at all times.

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#### 8. Landscaping

Except for off-street parking areas serving single-family dwellings and two-family dwellings, all off-street parking and loading areas shall comply with the standards of Section [155.5203.D Vehicular Use Area Landscaping](#).

#### 9. Curbing

a. Except for off-street parking areas serving single-family dwellings, or off-street parking provided within a Parking Deck or Garage, each off-street parking space shall include a continuous curb.

b. The vehicular overhang area shall be no more than 2½ feet wide and shall not be credited toward any required sidewalk or landscape areas.

c. In place of continuous curbs, wheel stops may be provided when required for compliance with accessibility guidelines promulgated under the Americans with Disabilities Act (ADA). When permitted, the wheel stops shall be made of concrete, wood, metal, or material of comparable durability, and shall be at least six feet long.

### LAND USE PATTERNS

Subject property (Zoning / Existing Use): RS-1 | single-family dwelling

Surrounding Properties (Zoning District / Existing Use):

- North: RS-1 | single-family dwelling
- South: RS-1 | single-family dwelling
- East: RS-1 | single-family dwelling
- West: TO-DPOD | single-family dwelling

The subject property has no open code compliance cases, no open permits, and no Business Tax Receipts. Original building permits could not be found, but according to BCPA the subject property was developed in 1920. Known as the Frank Austin House, the property is listed in the Cultural Resource Roster from the Florida Master Site File as a bungalow-style home built around 1924, and was one of the first homes to be placed on Pompano's Historic Register of Historic Places.

The property is located along NE 5<sup>th</sup> Avenue, which is a busy cut-through street in Old Pompano between Atlantic Blvd and NE 10<sup>th</sup> Street. The requested variances all relate to the new row of parking pavers with grass proposed along NE 5<sup>th</sup> Street. The applicant's narrative contends the Center has about 30 members, and cars

will be parked on the property for about two to three hours, three times per week. The applicant has provided examples of the intended design and material, and staff finds it to be far more compatible with the neighborhood's existing single-family character than constructing the code-required standard asphalt/pavement driveway with surface markings, continuous curbing, and landscaped islands. These issues reflect the first, third, and fourth variance request. It should be noted this change to the property's exterior may require a Certificate of Appropriateness from the Historic Preservation Board.

The second request is the result of an intended change-of-use. Assuming the corresponding Special Exception application for a Place of Worship is approved, the property will no longer be a single-family dwelling, and therefore not exempt from vehicles backing out onto a street when exiting the property. Nonresidential uses require all off-street parking and loading areas to be arranged so that no vehicle is required to back out from such areas directly onto a street. Given the site constraints, the proposed parking pavers requiring backout parking onto NE 5<sup>th</sup> Street seems logical (and far preferable to NE 5<sup>th</sup> Avenue).

### 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.

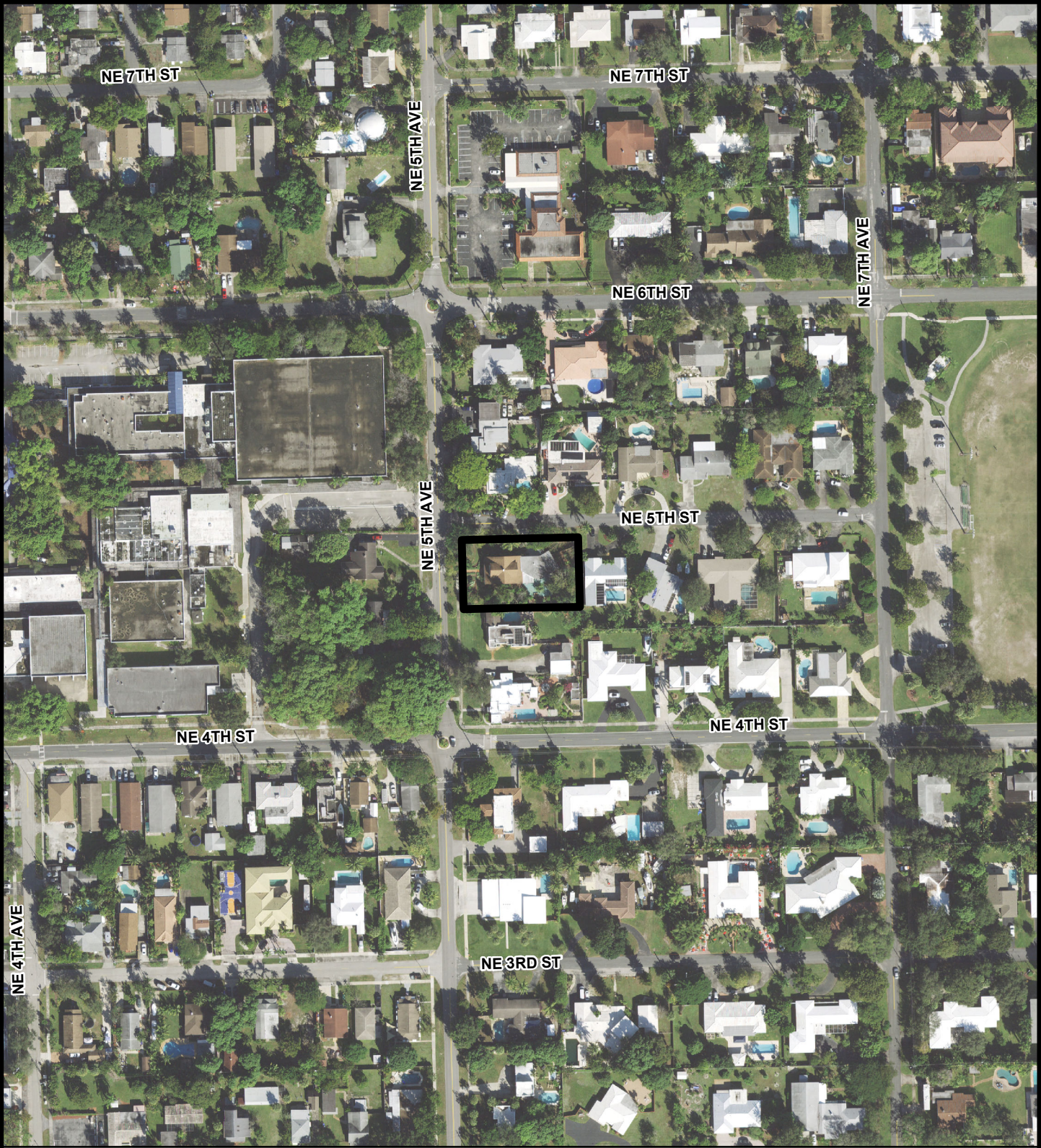
**Staff Conditions:**

The applicant has responded to each of the Variance review standards. However, staff finds that a new row of parking spaces -- which requires backing out onto a street -- may negatively impact neighborhood traffic flow and could adversely affect the health or safety of person residing in the neighborhood. This is an historic residential neighborhood with relatively narrow driveways and limited ingress/egress. The proposed parking area takes up the majority of the property's frontage along NE 5<sup>th</sup> Street. Moreover, because the property is on the Historic Register, staff recommends the applicant present to the Historic Preservation Committee to first obtain a Certificate of Appropriateness for the paver parking and associated improvements.

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. Successfully obtain Special Exception approval to allow a Place of Worship.
2. Obtain all necessary governmental permits and approvals including building and zoning compliance permits, and a Certificate of Appropriateness.
3. Maintain an overall minimum 30% pervious area.
4. Protect, relocate, or mitigate for any trees impacted by new parking area.

CITY OF POMPANO BEACH  
AERIAL MAP



1 in = 208 ft

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES