

Variance Request for Property at: 865 NE 23rd Terrace I Folio Number(s): 4843 31 23 1050 with a legal description of BEACHWAY ESTATES 30-14 B LOT 2 BLK 8.

SUBMISSION REQUIREMENTS

- Written Narrative, with list of each Review Standard. A point-by-point response to each Review Standards. Narratives must be on letterhead, dated with the author's name/signature.
- Current survey. (In order to be considered a "current" survey, the survey must illustrate all improvements on the property and provide a legal description) – Attachment 1 (2 pages)
- Legal description of property (in word/text file format)
BEACHWAY ESTATES 30-14 B LOT 2 BLK 8.
- Conceptual site plan, demonstrating requested variance/ special exception or temporary use.
1986 Permit and Attachment 1
- Other documents may be submitted to support the request (photographs or other evidence, etc.). – Language for submission in Language to Justify Approval of Short-Term Rental License after Approval of After the Fact Permit (final compliance items). Relevant to show progression and sacrifice already burdening the owner and justify sense of urgency and support the request to approve the short-term rental licesnse.

VARIANCE WRITTEN NARRIARATIVE

A variance is requested at the subject property rfor the installation of a 2nd kitchen on the 2nd floor of the property at 865 NE 23rd Terrace, Pompano Beach, FL 33062 to be complaint with building code Alternate Dwelling Unit (ADU) Standard §155.4303(A)(3) for the following reasons:

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.

- 2nd Floor Addition/Extension Permit (1996) Approved and Closed– The 1986 a Permit (Building Permit #86-3687) was approved and closed by the City of Pompano Beach with a scope of adding the upstairs addition, which included two access points, an outside set of stairs and a spiral staircase. The addition made the property different than others designed in the neighborhood. 1985 permit referenced a future bar which commonly has amenities to the ADU guidance section §155.4303(A)(3) in the building/zoning code, requiring the access between the two units. While the property was permitted for the 2nd level addition in 1986 included two entrances to the upstairs construction, (1) the existing external staircase and the (2) there was a spiral staircase planned, the construction was completed and approved by the City of Pompano Beach without the spiral staircase. After construction, the permit was closed without violationThe application design included specific reference to a future bar which commonly includes amenities that are like kitchens. The lack of a violation from the permit closure resulted in adequate disclosures about the compliance requirements at the time of completion.
- Topological Design Limitations of the Approved Spiral Staircase / Limits to the Structural Infeasibility of the Enhancements - The Two Kitchen and Bath permits that are currently ongoing (**BP24-00008431: BUILDING APPLICATION NO CO - REMODEL KITCHENS & BATHS ATF (CE24-09006587) - 865 NE 23 TE**) triggered the issue. The current design of the home has limited space available for the spiral staircase as designed in the floorplan of the 1986 Permit. The two diagrams (upstairs and downstairs) show that the planned location in the 1986 permit (Ciricle Annotated with #1) would now block the master bedroom door. Alternative location 2 or further into the kitchen would go directly into the covered balcony, which would not meet the standard of entering the primary dwelling. Alternate location 3 is directly in the middle of the room making the room not functional. These alternatives are all on the same side of the upstairs unit (2 rooms) because the bathrooms and closets brohibit the use of the opposite side of the room.
- Timing/Rollout/Updates to ADU guidance from section §155.4303(A)(3) of the building code– This building code guidance regarding ADUs has changed over the years since the closure of the 1986 permit. With the many changes over the year and even the most recent changes in January 2022, the timing of the changes to this guidance impacted the awareness of the barriers to the 1986 Permit (Building Permit #86-3687) and the guidance at the time was much different. The recent application did not significantly change with the after the fact permit submitted in 20204. Therefore, granting this variance would acknowledge the changes toi the guidance over the year and grandfather the work done in

1986. The “future bar” to alert the current owner and future purchaser of the concerns with this renovation/addition. Lastly, among the recent changes to the ADU guidance approved in January 2022, there was inadequate time for the new guidance to proliferated to property owners and investments into the planning for the additional kitchen, albeit cited for completion by the previous owner without a permit, the timing of the updated guidance approval and rollout impacted the complete disclosure to the buyer and the current owner during the purchase in 2023.

- B. The extraordinary and exceptional conditions referred to in paragraph a. above are not the result of the actions of the landowner.
- The violation of this code was not a result of the current landowner as the addition with the amenities were installed by previous owners, when the current owner closed on the property in July 2023. The current after-the-fact permit for the 2 kitchens and bath remodel identified, required due to the short-term license inspection in October 2024 revealing unpermitted work.
- 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 three options proposed, referenced above are not feasible and would render the home not usable. (Following Excerpt Repeated from Above) “The two diagrams (upstairs and downstairs) show that the planned location in the 1986 permit (Circle Annotated with #1) would now block the master bedroom door. Alternative location 2 or further into the kitchen would go directly into the covered balcony, which would not meet the standard of entering the primary dwelling. Alternate location 3 is directly in the middle of the room making the room not functional. These alternatives are all on the same side of the upstairs unit (2 rooms) because the bathrooms and closets prohibit the use of the opposite side of the room.
- D. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- The approved 1986 Permit for the addition of the upstairs resulted in an uncommon design in the neighborhood with most houses limited to the same story.
- E. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure.
- The variance provides the minimum necessary to avoid degradation of the property use with the current design limitations of installing options.
- F. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- The variance is in harmony with the general purpose of the code given the 1986 historical changes, design barriers to install the planned spiral staircase.

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

- The variance would not adversely effect health and safety for all above because the stairs approved in the 1986 permit allows for egress and departure from the 2nd floor.

H. The Variance is consistent with the comprehensive plan.

- The variance applies only to the internal use of the property and does not impact on the comprehensive plan.

Zoning Letter Draft

Additional Comments are intended to highlight the challenges that stem from the Pompano Beach Policy that does not allow issuance of short-term licenses:

- Financial Hardship due to Lost Rental Revenue and Penalties imposed by Magistrate due to delays in compliance stemming the City of Pompano Beach's policy to close all permits prior to completing the short term rental license, which causes delays compliance and unduly increases risk of fines – The current owner has continued to make strides toward full compliance since the day the property was purchased. Illustrating this is the status of a permit for the October 2023 violation of the installation of a Pergola and Fence (**BP24-00000485: A~ BUILDING APPLICATION NO CO - FENCE/PERGOLA (CE 23-09003186) - 865 NE 23 TE**), which is now closed. The permit was created on January 20th 2024 and was approved in May 5th 2024 after expansive revisions. This building permit was created because of the compliance citing from October 2024 and closed adequately to justify the short-term rental license inspection in. Due to the Pompano Beach Poloc, Short Term rental licenses are only issued after full closure of all permits. As a result, I was denied the ability to proceed with a variance for the pergola (after the fence was certified as compliant). The loss of a pergola in August, which resulted in the loss of a \$15000 pergola (replacement value), the City of Pompano Beach approved the short-term rental inspection to proceed and was completed by October 7th, 2024, when several items were identified including a lack of permits for 2 kitchen and bathroom. Continuing to strive toward compliance, the owner resolved all items that required changes and submitted the required building permits. Had the policy to deny short term inspections allow for inspections with open approved permits, the issue with missing permits would have been discovered several months earlier (potentially May 2024), giving more time to resolve the additional items identified in the short term rental license inspection. Other cities within Broward County would allow for short-term rental licenses to be obtained if all permits are approved, and no unsafe structure standards are met. This difference is a key cause of the financial hardship that would come from penalties certified by the magistrate to pay and the resultant lack of complete revenue. This property was purchased as a 1031 Exchange, which

establishes a clear intention to rent the property. Proper disclosure of these Pompano Beach standards was not met in escrow package and, as a result, the buyer was not made aware of the dependencies on closed permits to achieve compliance with violations in the compliance case, especially crucial because this dependency in Pompano Beach does not apply to several cities in Broward County. The magistrate fines are currently certified to run in the background and the Magistrate will review the progress in compliance at the next hearing. The owner has completed expansive due diligence in resolving the items listed at the short-term rental license inspection and, as of the short-term rental license reinspection dated October 22nd. 2024 and the two compliance issues that remain beyond the missing permits in the short-term rental license (Business Tax Receipt and Short-Term Rental License) are dependent on closure of the 2 Kitchen and Bath permit that have been submitted. This variance is critical to the timely closure of this permit to achieve compliance with the permit closure and final two compliance issues. The short-term rental inspection that was part of the and the dependency on closed permits, which differs from the policy in other Broward County Cities, was not disclosed to the purchaser, placing the property owner in code compliance. The seller commitments were made by the seller, who also served as the selling and buyer realtor, he failed to meet those commitments to get the property compliant as set in a signed lease agreement that was signed as a stipulation of closing escrow and completing the sale.

- Financial Hardship due to the Pompano Beach Policy requires owners to choose between a rental inspection for both short-term and long-term rentals to maintain compliance. – The current owner is dependent on revenue from the property to maintain financial wellness. The current violations in the compliance case must be resolved to support either short-term or long-term revenue. The need to move forward with this short-term rental license is based on the need to choose. The compliance items must be resolved for either short term or long-term rental inspections to be complete and signed off to receive a business tax receipt, so renting the property long term is not going to resolve the issue without a violation.
- Financial Hardship caused by the inadequate disclosure of the pompany beach policies related to closure prior to the purchase of the property in Pompano Beach. The delay will result in planning construction and the cost for planning the motif compliance with the two remaining items. From a historical perspective, in October 2023, when the property was cited for a pergola and fence installation without a permit (Compliance case #23-0903186), the buyer initiated expansive efforts to be compliant with guidelines to support a successful short term rental license inspection to achieve compliance with Short Term Rental License guidelines. When the building permit was approved on May 5th, 2024, with the scope to move the fence and destroy the pergola, The Pompano Beach Short Term Rental policy prevented the application of short-term rental license until the permit was closed in September 2022, delaying the short-term rental license inspection because of this dependency. This dependency significantly delayed the short term rental license inspection, a requirement to comply with the two remaining compliance items as of the date of this submission, which is the business tax receipt and operating a short term-rental license without a permit. During the October 7th 2024 Short term rental licenses, the installation of the 2 kitchen and bathroom was cited as work done without a permit in addition to several other violations. The owner, taking strides to rectify all items identified in

the short-term rental licesnse inspection and the only remaining items are the non-permitted work, the business tas receipt aan short term rental license. The submitted permit application is BP24-00001483 and discovered the ADU policy referenced above. The necessary plans are in order to respond to all comments to approve the permit for the non-permitted work identified. This variance would assist in avoiding financiual hardshioip and achieve compliance with the property sooner, avoid potential certification of fines by the magistrate and excessive additional investment. Currently, the investment in getting the property compliant is well over \$60.000 in total investment and impact of property value. The magistrate penalties are currently running the the background. This variance is a dependency for the owner to comply with the Business Tax Receipt and Short-Term Rental portion of the subject compliance case and enable revenue for the owner.

- Hardship Impact on a Disabled Veteran – The buyer is operating as an individual, not a company, which places greater undue financial impact on the owner and buyer of the property in July 2023, a 100% disabled veteran now facing this financial hardship.

RECOMMENDATION: Approve the issuance of the Short Term Rental License after approval of the permits required in the short term retnal license application.