



Staff Report

File #: LN-32

Zoning Board of Appeals
Meeting Date: November 19, 2020

VARIANCE - TODD SMITH

Request:	Variance
P&Z#	20-11000010
Owner:	Todd Smith
Project Location:	600 NE 25 th Avenue
Folio Number:	484331270310
Land Use Designation:	L-Low 1-5 DU/AC
Zoning District:	RS-2 (Single-Family Residence 2)
Agent:	Todd Smith
Project Planner:	Scott Reale, AICP

Summary:

Applicant Landowner is requesting Variances from the following provisions:

1. Section 155.4302(B)(2)(a) [Prohibited Location of Accessory Uses and Structures], of the Pompano Beach Zoning Code, in order to allow a storage shed to encroach 3 feet into a utility easement.
2. Section 155.4302(B)(2)(f) [Prohibited Location of Accessory Uses and Structures], of the Pompano Beach Zoning Code, in order to allow a swimming pool to be setback 3' from the street side lot line (NE 6th Street) of an existing single-family corner lot, rather than setback a minimum 15' from the street side lot line as required by code.
3. 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 fence located along the street side lot line (NE 6th Street) rather than setback a distance of 4' from the street side lot line as required by code.

The subject property is located at the northeast corner of NE 25th Avenue and NE 6th Street.

ZONING REGULATIONS

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.

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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.

LAND USE PATTERNS

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

Surrounding Properties (Zoning District / Existing Use):

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

A certificate of occupancy was issued for a single-family dwelling on the subject property on 4/27/1962 via permit 62-5554, with a 30' front yard setback and an 18' street side yard setback.

Although a 6' high fence is proposed along the street side yard lot line, there is a 16' swale area between the lot

line and NE 6th Street. Further, the storage shed's proposed location meets setback requirements; however, relief is required because accessory structures are not permitted within a platted utility easement.

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:

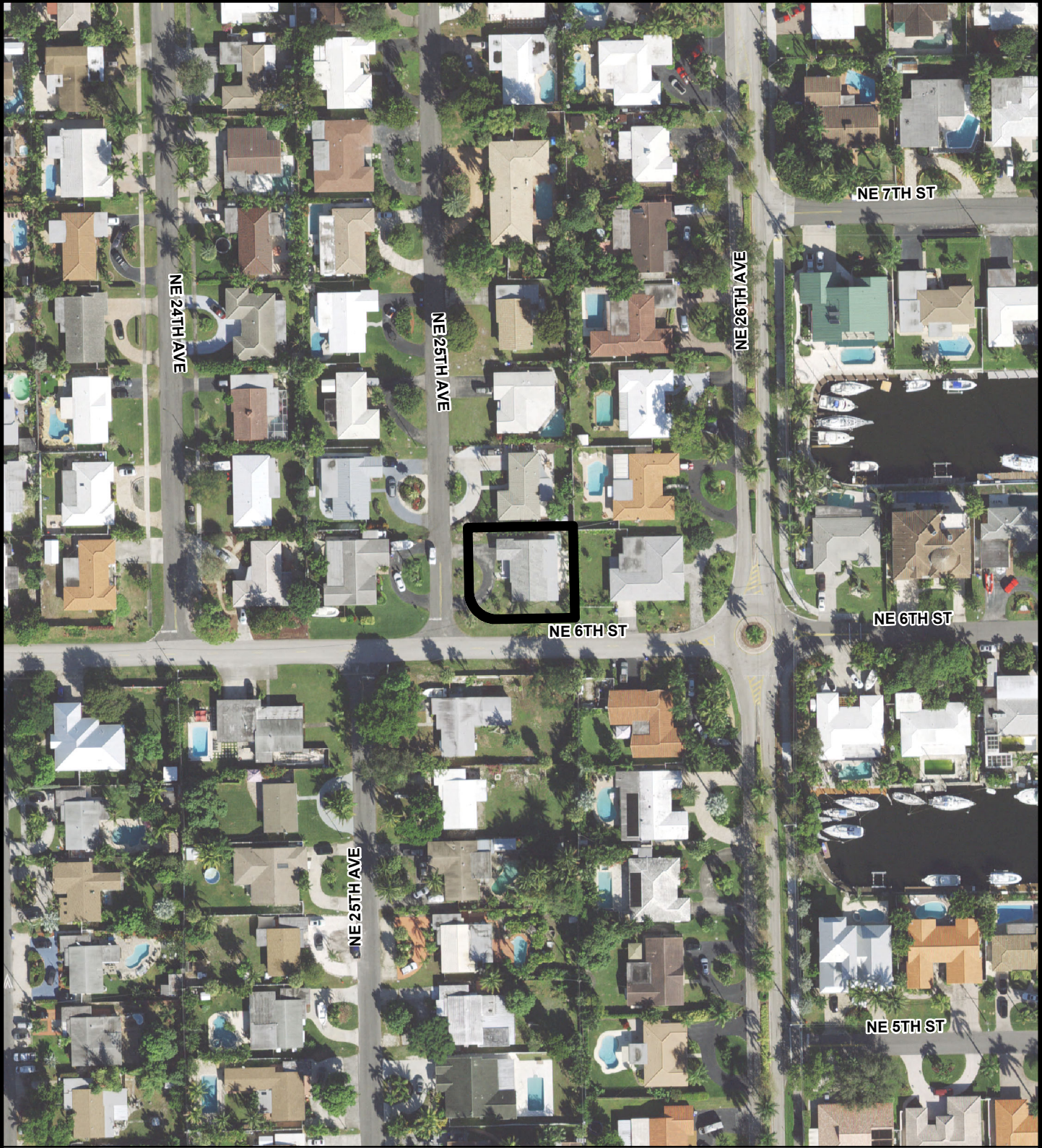
- a. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
- b. Hardships resulting from factors other than application of requirements of this Code;
- c. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; 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. Maintain an overall minimum 30% pervious area.
4. Protect, relocate, or mitigate for any trees impacted by pool.

CITY OF POMPANO BEACH
AERIAL MAP



1 in = 125 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES