



Staff Report

**File #:** LN-653

ZONING BOARD OF APPEALS  
Meeting Date: OCTOBER 17, 2024

**VARIANCE - DOMINICK CRISAFULLI**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	24-11000009
<b>Owner:</b>	Dominick Crisafulli
<b>Project Location:</b>	830 SE 3 Ter
<b>Folio Number:</b>	494201320040
<b>Land Use Designation:</b>	L (Low 1-5 DU/AC)
<b>Zoning District:</b>	RS-2 (Single-Family Residence 2)
<b>Agent:</b>	Dominick Crisafulli
<b>Project Planner:</b>	Scott Reale

**Summary:**

The Applicant Landowner is requesting Variances from the following provisions:

1. Section 155.5302(D)(2)(a) [Height Requirements for Fences and Walls], of the Pompano Beach Zoning Code, to allow a 6 ft fence to encroach 1 ft into the front yard (24 ft from front lot line), rather than limit its height to 4 ft, as required by code.
2. Section 155.5302(D)(5)(a) [Height Requirements for Fences and Walls], of the Pompano Beach Zoning Code, to allow a 6 ft opaque fence located along an interior side lot line (south side) to encroach 2 ft into the rear yard corner triangle (23 ft from rear lot line), rather than provide a 6 ft fence that is at least 75% see-through, as required by code.

The property is located on the east side of SE 3<sup>rd</sup> Terrace, between SE 8<sup>th</sup> Street and SE 8<sup>th</sup> Court, in the Cypress Harbor 5<sup>th</sup> Section subdivision.

**ZONING REGULATIONS**  
**155.5302. FENCES AND WALLS**

- ...
- D. Height Requirements for Fences and Walls**
- ...
- 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 shall exceed a height of four feet.
- b. Fence posts, including decorative finials, may extend up to six inches above the maximum fence height.
- c. No fence or wall within an interior side yard, street side yard or a rear yard shall exceed a height of six feet.
- d. On a through lot, where the front yard setback applies to both street-fronting lot lines, a fence or wall may not exceed a height of four feet within the yard considered the primary entrance, as determined by the Development Services Director based upon consistency with development patterns in the immediate vicinity.

...  
**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**

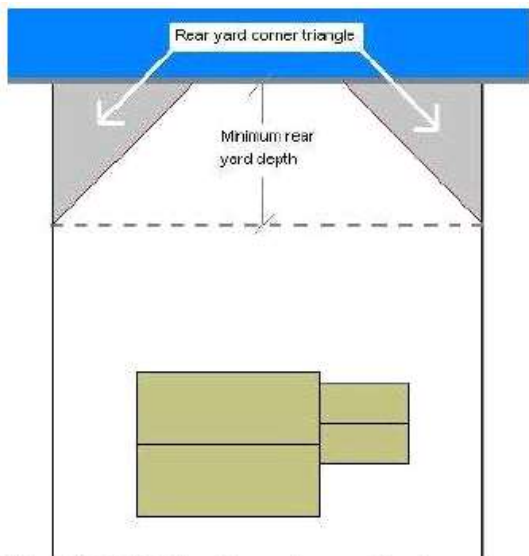


Figure 155.5302.D.5.a: Rear yard corner triangle

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 was first developed in 1960, prior to the 1969 adoption of House Bill 2638, which annexed most of the Cypress Harbor neighborhood into the City of Pompano Beach.
2. The applicant is seeking variance approval to allow a six-foot high opaque fence to encroach two feet into the rear yard corner triangle along the south lot line of the subject property. The first 23 ft segment of fencing, measured from the intersection of the interior side lot line and rear lot line (waterway), fully

complies with transparency requirements. The applicant states that the 2 ft encroachment is necessary for privacy because the dwelling unit on the adjacent property (to the south) is setback approximately 22 feet from the waterway. That setback is considered a legal nonconformity because today's code requires a minimum 25 ft setback from a lot line abutting a waterway. Staff finds the 2 ft encroachment of the solid fence to be de minimis in nature and will not obstruct the neighboring property's water views, which is the primary reason for the sight visibility code provision.



3. Additionally, the applicant requests approval of a 6 ft high fence/gate that encroaches 1 ft into the required front yard setback. It should be noted that this fencing segment is flush with the front-facing building façade. Thus, to the average passerby, one could not tell that the fence is setback 24 ft rather than 25 ft from the front lot line, as required by code. This request is also de minimis; the fence/gate location is simply an extension of the existing legal nonconforming setback of the garage.



4. It should be noted the landowner has been cited for constructing the fence without a permit (Code Enforcement Case 24-09005874). However, the applicant has submitted for an after-the-fact fence permit (BP #24-6552), and Zoning approval is contingent on successfully obtaining relief through this Variance application.

**LAND USE PATTERNS**

Subject property (Zoning District | 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
- West: RS-2 | single-family dwelling
- East: canal (Nantucket Waterway)

**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, including Building and Zoning Compliance permits.
2. Substantial compliance with the plans submitted with this application and BP #24-6552.

# CITY OF POMPANO BEACH AERIAL MAP



1 in = 167 ft

**830 SE 3 Terrace**

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES