



City of Pompano Beach

100 West Atlantic Blvd.
Pompano Beach, FL 33060

Staff Report

File #: LN-670

ZONING BOARD OF APPEALS

Meeting Date: DECEMBER 19, 2024

VARIANCE - JASON ORTIZ

Request: Variance
P&Z# 24-11000012
Owner: Jason Ortiz
Project Location: 865 NE 23 Ter
Folio Number: 484331231050
Land Use Designation: L (Low 1-5 DU/AC)
Zoning District: RS-2 (Single-Family Residence 2)
Agent: Jason Ortiz
Project Planner: Scott Reale

Summary:

The Applicant is requesting a Variance from Section 155.4303(A)(3)(c) of the Pompano Beach Zoning Code, which requires an operative interconnecting door between an attached accessory dwelling unit (ADU) and a principal dwelling. The Applicant seeks approval to allow an attached ADU without this interconnecting door.

The property is located on the west side of NE 23rd Terrace, between NE 8th Street and NE 9th Street, in the Beachway Estates subdivision.

ZONING REGULATIONS

155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

A. Accessory Dwelling Unit

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
A	A	A	A	A	A	A	A	A	A	A					

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
						A						A		A	A	A

2. Definition

An accessory dwelling unit is an ancillary or secondary living unit to a single-family dwelling use that may contain a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

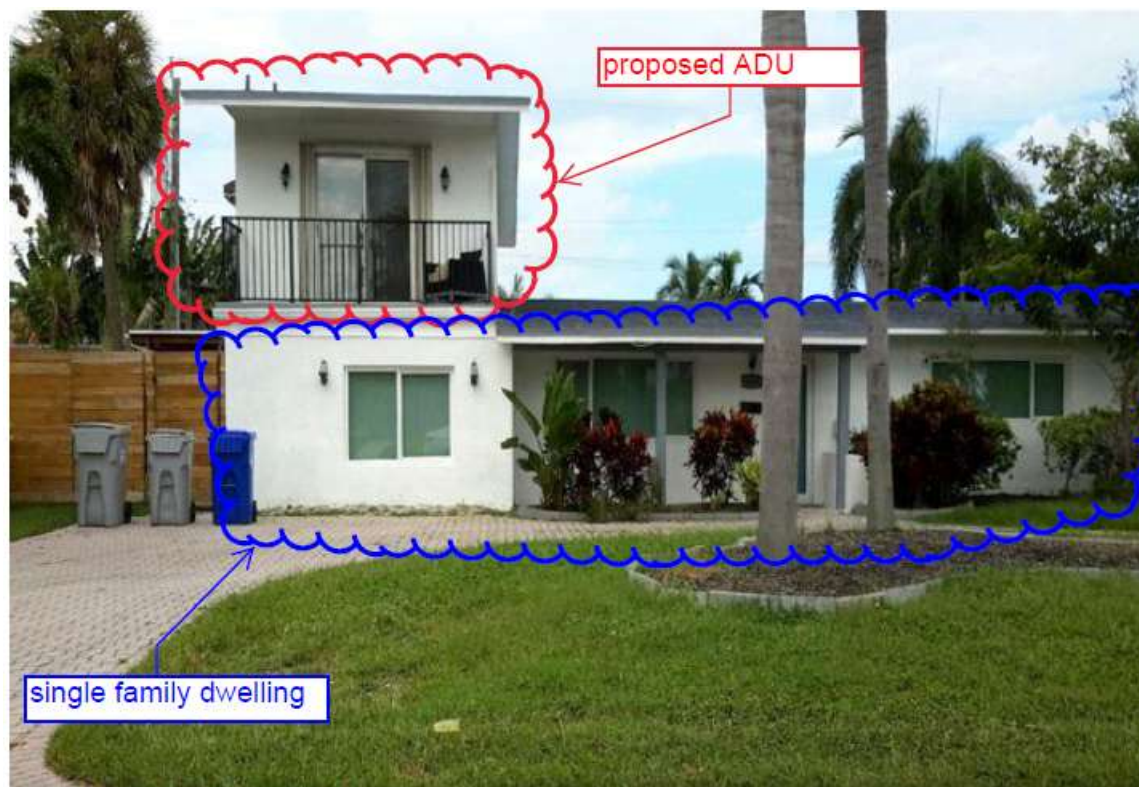
3. Standards

An accessory dwelling unit is allowed as an accessory use to a single-family dwelling, subject to the following standards:

- a. An accessory dwelling unit is permitted only as accessory to, and on the same lot as, a single-family dwelling, and are not permitted as accessory to a two-family dwelling, multifamily dwelling, or mobile home dwelling.
- b. Not more than one accessory dwelling unit per lot is permitted, and the accessory dwelling unit may not encroach on any required setback for the principal structure.
- c. An accessory dwelling unit may be within or attached to the principal dwelling (e.g., a downstairs apartment), or exist within or as a detached structure (e.g., an apartment above a detached garage or a guesthouse). An accessory dwelling unit attached to the principal dwelling shall have an operative interconnecting door with the principal dwelling, and shall have a principal access only from the side or rear yard of the principal dwelling.
- d. The use of a mobile home, recreational vehicle, or a similar vehicle as an accessory dwelling unit is prohibited.
- e. The floor area of an accessory dwelling unit may be up to 1,000 square feet but may not exceed the floor area of the principal dwelling.
- f. At least one, but no more than two, off-street parking spaces shall be provided for an accessory dwelling unit (in addition to the off-street parking required for the principal dwelling).
- g. For purposes of determining maximum density, an accessory dwelling unit shall be considered a half dwelling unit, however, accessory dwelling units that are committed to be restricted to be affordable housing per F.S. §163.31771, are permitted without the need to calculate density. An affidavit that attests to the fact that the unit will only be rented at an affordable rate to extremely-low-income, very-low-income, low-income, or moderate-income person or persons is required to be submitted as part of the building permit requirements if the unit is to be approved without a density calculation.

PROPERTY INFORMATION AND STAFF ANALYSIS

1. The subject property was originally developed in the 1950s. On December 19, 1986, a Certificate of Occupancy (C/O) was issued for an addition to the single-family dwelling under permit #86-3687. The approved plans included the construction of a new second floor over part of the existing structure and explicitly stated that the property was designed for single-family use only. Under the current Zoning Code, a property with a single-family dwelling is permitted to have one Accessory Dwelling Unit (ADU), provided the requirements outlined in Section 155.4303(A)(3) are met. One such requirement specifies that an ADU attached to a principal dwelling must include an operable interconnecting door.
2. The applicant proposes to convert the second-floor addition into an ADU. However, the associated building permit (#24-8431), was rejected by the Zoning Department because the plans do not include an interconnecting door. The applicant argues that installing an interconnecting door is impractical and awkward due to the design of the house, with the proposed ADU located above the principal dwelling. It is likely that the design typology, where the ADU is placed on a separate floor from the main dwelling, was not considered when the code provision was written, as most ADUs are either detached or located on the same floor as the principal dwelling. The proposed ADU is accessed by an exterior staircase along the side of the house, which complies with the ADU standards.



3. Given the unique design of the property, staff does not object to waiving the requirement for an interconnecting door between the principal dwelling and the ADU.
4. The property currently has one open code enforcement case for a short-term rental violation (Case #24-09006587).

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: RD-1 | two-family dwelling (duplex)
- 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, including Building and Zoning Compliance permits.
- 2. Address and resolve all outstanding violations associated with Code Enforcement Case #24-09006587, to the satisfaction of the Code Compliance Department and Special Magistrate, prior to the issuance of a short-term rental permit.

CITY OF POMPANO BEACH

AERIAL MAP



Legend

-  Pompano Beach Parcels
-  Applicant Parcel

Scale:
1:1,500

Jason Ortiz

865 NE 23 Terrace

Variance

Created by:
Department of
Development Services

