

Staff Report

File #: LN-424

Zoning Board of Appeals
Meeting Date: March 16, 2023

VARIANCE - FLORA

Request:	Variance
P&Z#	23-11000007
Owner:	Christopher Flora
Project Location:	1260 NE 27 Way
Folio Number:	484330210850
Land Use Designation:	L- LOW 1-5 DU/AC
Zoning District:	Single-Family Residence 2 (RS-2)
Agent:	Christopher Beale
Project Planner:	Scott Reale

Summary:

Applicant Landowner is requesting a Variance from Section §155.3203(C) [Intensity and Dimensional Standards of the RS-2 Zoning District], of the Pompano Beach Zoning Code, in order to allow the construction of new single-family dwelling to be setback 15 feet from a waterway or canal (north and east lot lines) rather than setback a minimum of 25 feet as required by code.

The property is located north of NE 12th Street on a cul-de-sac at the end of NE 27th Way in the Country Club Isles subdivision.

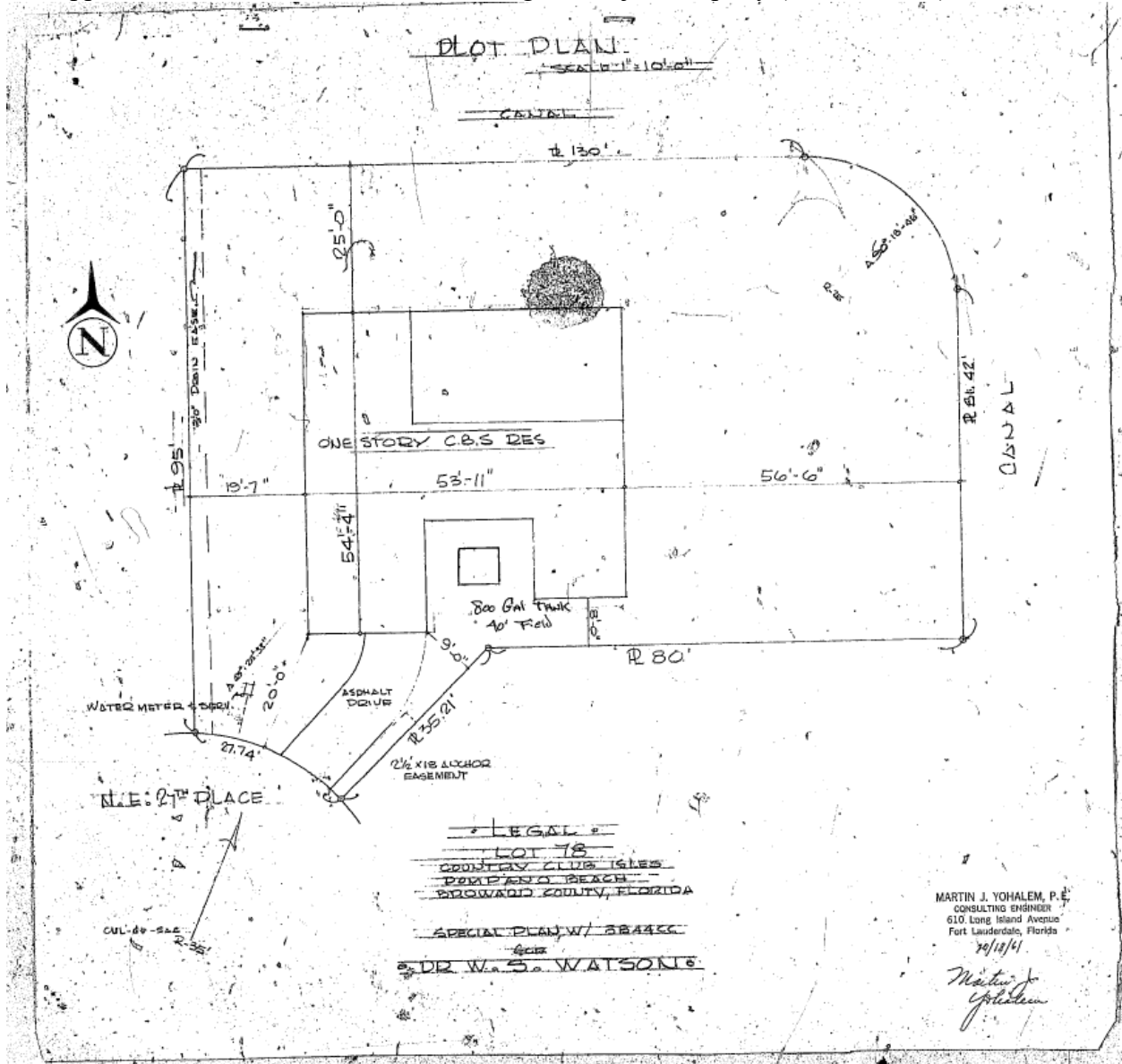
ZONING REGULATIONS

§155.3203(C) SINGLE-FAMILY RESIDENCE 2 (RS-2)
Setback from a waterway or canal, minimum = 25 feet

PROPERTY INFORMATION AND STAFF ANALYSIS

1. The subject property is currently vacant. It was originally developed in 1961 via permit #61-4938 with a single-family dwelling setback 25 feet from the north lot line and 56.5 feet from the east lot line. Thus, the previous home on the subject property was developed without any relief from code requirements. That principal dwelling was demolished in 1985 via demo permit #85-3373, and the property has remained vacant ever since. A building permit is now in plan review (BP #21-7890) that proposes a 15 foot setback from the waterfront on both the north and east lot lines. While it is regrettable staff did not note the waterfront setback requirement in the initial review cycle, the oversight was ultimately caught and the permit has not yet been approved.

Approved Site Plan for Previous Dwelling on Subject Property.(BP #61-4938):



2. The applicant references a code provision that allows for a rear setback in the RS-2 zoning district to be as close to 15 feet from the waterfront. However, that provision is only applicable to existing development that was approved with those setbacks. Most waterfront homes in Pompano Beach are located at least 25 feet from a waterway, including the very dwelling that was demolished on the subject property. Homes that were built closer to the water are the exception and not the rule.
3. Staff objects to the proposed variance. Setbacks ensure that development is far enough from the water's edge that it will not be threatened by erosion and other coastal and marine hazards. Preventing construction from encroaching on the edges of water bodies may help to reduce property damage during storms, both to the property which may otherwise have included construction closer to the water, and to adjacent properties. Preserving view corridors is another reason waterfront setbacks are more stringent than typical rear yard setbacks. Moreover, by keeping impervious surfaces further from the water's edge, stormwater pollutants may be reduced.

4. The applicant contends the lot is narrow, but the survey suggests otherwise, and the 11,149 sq ft lot area is equal to or larger than most other lots in this subdivision. Further, because the property is located on a cul-de-sac, the principal dwelling can actually be located as close as 15 feet from the front lot line rather than 25 feet. The proposed dwelling can be redesigned and configured in a manner that fully complies with code requirements.

LAND USE PATTERNS

Subject property (Zoning District | Existing Use):

- RS-2 | vacant

Surrounding Properties (Zoning District | Existing Use):

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

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:

Staff objects to the proposed variance. The alleged hardship is self-imposed because the subject property is a large vacant parcel that provides for a myriad of site plan options and configurations that can fully comply with setbacks and other code requirements.

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 condition(s) as a part of the Order:

1. Obtain all necessary governmental permits and approvals including building and zoning compliance permits.
2. Setback relief is limited to the building footprint depicted on the conceptual site plan submitted with this application and does not apply to any future development on the subject property.
3. Demonstrate compliance with RS-2 zoning district standards for minimum pervious area and maximum lot coverage.

CITY OF POMPANO BEACH
AERIAL MAP



1 in = 167 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES