



Legislation Text

File #: LN-576, Version: 1

Zoning Board of Appeals  
Meeting Date: March 21, 2024

**VARIANCE - 33 NW 33RD ST INDUSTRIAL LLC**

**Request:** Variance  
**P&Z#** 24-11000001  
**Owner:** 33 NW 33RD ST INDUSTRIAL LLC  
**Project Location:** NW 33 Street  
**Folio Number:** 484221070070  
**Land Use Designation:** I- Industrial  
**Zoning District:** General Industrial (I-1)  
**Agent:** Ed Stacker  
**Project Planner:** Scott Reale

**Summary:**

The Applicant Landowner is requesting a VARIANCE from Section 155.4228.A.3.a.i and 155.4228.A.3.f [Outdoor Storage Screening Standards] of the Pompano Beach Zoning Code in order to allow the materials stored in an outdoor storage yard to exceed the height of the screening wall or fence.

The subject property is located on the north side of NW 33<sup>rd</sup> Street, between Florida’s Turnpike and NW 27<sup>th</sup> Avenue.

**ZONING REGULATIONS**

**§155.4228. INDUSTRIAL: WAREHOUSING AND FREIGHT MOVEMENT USES**

**A. Outdoor Storage (as a principal use)**

**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

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

## 2. Definition

Outdoor storage as a principal use is the keeping, in an area that is not totally and permanently enclosed, of any finished goods, material, merchandise, boats, or vehicles in the same place for more than 24 hours, where such storage is the principal use of a lot. This use does not include a junkyard or salvage facility or the display and storage of vehicles as part of an automobile, recreational vehicle, trailer, or truck sales or rental use.

## 3. Standards

Outdoor storage as a principal use shall comply the following standards:

a. Perimeter buffer and screening standards

i. The area(s) used for outdoor storage shall be fully enclosed with a fence or masonry wall no less than eight feet high in accordance with Section 155.5302, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

ii. Perimeter buffers in accordance with Section 155.5203.F, Perimeter Buffers, shall be provided between the outdoor storage area(s) and the site's boundaries, with a type C buffer provided between an outdoor storage area and the front lot line, a type B buffer provided between an outdoor storage area and any side or rear lot line adjoining a street, and a type A buffer provided between an outdoor storage area and any other side or rear lot line.

iii. Development Existing on or Before April 27, 1999.

(A) Existing properties. Lawfully existing outdoor storage established prior to 1999, or lawfully existing outdoor storage established prior to annexation without a landscape plan approved on record shall comply with the perimeter buffer and screening standards of this section. Submission and approval of a landscape plan shall be required for compliance with this section. Upon compliance said outdoor storage facility shall be deemed a lawfully existing special exception use:

(1) A fully-opaque fence may be substituted for the wall where required.

(2) Any lot on public record prior to June 25, 1991, that is 100 feet or less in width may provide a five-foot wide perimeter buffer between an outdoor storage area and an interior side or street side lot line.

(3) Buffer and screening standards shall not apply to a property line abutting an active railroad siding servicing the property.

(4) Street trees shall be provided as required by the landscape ordinance.

b. Any repair of equipment shall be conducted on a paved surface or within an enclosed building.

c. All areas used for outdoor storage shall have a surface that avoids dust and safeguard groundwater.

d. If the outdoor storage area is covered, the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

e. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

f. Materials shall not be stored higher than the height of the screening.

d. All areas used for outdoor storage shall have a surface that avoids dust and safeguard groundwater.

## PROPERTY INFORMATION/HISTORY

1. The subject property was developed as an additional parking lot to serve the adjacent Festival Marketplace/Festival Flea Market immediately to its north in the early 1990s. The site currently has an active Major Temporary Use Permit to allow for overnight parking of commercial vehicles (PZ #22-1500013). Additionally, in October of 2022, the ZBA granted a Special Exception for Outdoor Storage (as a principal use). The applicant has since filed a Major Site Plan application, PZ #23-1200019, for an industrial project consisting of a two-story office building, one-story warehouse, and an outdoor storage area. During Development Review Committee (DRC) review of the site plan, it was realized the applicant intends to store materials higher than the maximum allowable screening wall height of ten (10) feet. The applicant is thus seeking relief from the code provision that prohibits materials in an outdoor storage yard from exceeding the height of the required screening fence/wall.

2. The applicant notes the types of materials to be stored are large format components of scaffolding and formwork, platforms, and support systems that, when stacked, will be up to 20 ft in height. Further, the applicant suggests that - in addition to installing a 10 ft high opaque fence - the outdoor storage yard will be screened from view by a number of factors including the proposed warehouse, perimeter landscape buffering that will be at least 26 ft wide along the two street frontages, and perimeter trees ranging between 10 to 22 ft in height.
3. To support their contention that the proposed screening will be sufficient, the applicant has included line-of-sight exhibits, suggesting materials stacked 20 ft high will not be visible to the average passerby.

### **LAND USE PATTERNS**

Subject Property (Zoning | Existing Use): I-1 | parking lot

Surrounding Properties (Zoning | Existing Use):

- North: B-3 | Festival Flea Market
- South: I-1 | warehouse/distribution
- East: I-1 | warehouse/storage
- West: Florida's Turnpike

### **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 a Development Order for Major Site Plan PZ #23-12000019, Zoning Use Certificate, and Business Tax Receipt.
  
2. Stacked materials shall not exceed a height of 20 feet.
  
3. In collaboration with the City's Urban Forester, revise landscape plan to provide superior and enhanced landscaping in excess of code requirements in areas where landscaping is provided, specifically along the adjacent street frontages.