

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Roberta Moore, Planner I

SUBJECT: Variance, V 2-1-03, Timothy Griffin, 3950 SW 54 Avenue/Generally located on the east of SW 54 Avenue, north of SW 40 Street

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: V 2-1-03, Timothy Griffin, 3950 SW 54 Avenue (R-3)

REPORT IN BRIEF:

This is an after the fact variance application for the deck, above ground pool, and patio overhang which currently exist. These have been constructed without a building permit. The required setback is fifteen (15) feet and approval of the variance is needed to legally permit the structures.

The variance application is to reduce the required 15 foot side setback to:

allow the wooden deck to be 5.1 feet to the property line;
allow the above ground pool to be 7.5 feet to the property line; and,
allow the patio overhang to be 8.9 feet to the property line.

The subject lot frontage is 75 feet whereas 100 feet is required by code. When the property was platted on March 20, 1946, the required minimum lot frontage was 75 feet. In the rear of the property, there is a concrete driveway that separates the yard in half leaving 17.5 feet on either side.

PREVIOUS ACTIONS: None

CONCURRENCES: At the March 12, 2003, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus, to approve (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report, Justification, Survey, Land Use Map, Zoning and Aerial Map

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation

Applicant Information

Owner/Agent:

Name: Timothy Griffin
Address: 3950 SW 54 Avenue
City: Davie, Florida 33314
Phone: (954) 792-7494

Background Information

Date of Notification: March 5, 2003 **Number of Notifications:** 54

Application History: No deferrals have been requested.

Application Request: Variance

FROM: Section 12-81(A) of the Land Development Code which requires a side setback of an R-3, Low Density Dwelling District, to be a minimum of 15 feet. **TO:** Reduce the minimum side setback for a wooden deck to 9.9 feet.

FROM: Section 12-81(A) of the Land Development Code which requires a side setback of an R-3, Low Density Dwelling District, to be a minimum of 15 feet. **TO:** Reduce the minimum side setback for an above ground pool to 7.5 feet.

FROM: Section 12-81(A) of the Land Development Code which requires a side setback of an R-3, Low Density Dwelling District, to be a minimum of 15 feet. **TO:** Reduce the minimum side setback for a patio overhang to 6.1 feet.

Address/Location: 3950 SW 54 Avenue/Generally located on the east side of SW 54 Avenue, north of SW 40 Street.

Future Land Use Plan Designation: Regional Activity Center

Zoning: R-3, Low Density Dwelling District

Existing/Proposed Use: Single family home

Parcel Size: 05266 acres (22,939 square feet)

Surrounding Uses:

North: Residential single family home
South: Vacant
East: Residential single family home
West: Residential single family home

Surrounding Land

Use Plan Designation:

Regional Activity Center
Regional Activity Center
Regional Activity Center
Regional Activity Center

Surrounding Zoning:

North: R-3, Low Density Dwelling District
South: R-3, Low Density Dwelling District
East: R-3, Low Density Dwelling District
West: R-3, Low Density Dwelling District

Zoning History

Previous Requests on same property: The parcel was annexed into the Town of Davie on September 4, 1984 by Senate Bill 1149.

Application Details

The deck, above ground pool and the patio overhang currently exist and have been constructed without a building permit. There is currently no Code Enforcement Case pending this application. The variance application is to allow a deck, an above ground pool and a patio overhang to encroach into the required 15 foot side setback.

Applicable Codes and Ordinances

Section 12-81(A) of the Land Development Code which requires a 15 foot side setback in an R-3, Low Density Dwelling District and a minimum of 100 feet of lot frontage.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 8. Planning Area 8. This planning area is “heart” of Davie, and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC).

Broward County Land Use Plan: The subject site falls within Flexibility Zone 98.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

In the R-3, Low Density Dwelling District, the minimum lot frontage is 100 feet, and a 15 foot side setback is required. The home currently has an above ground pool, deck and patio overhang built. This variance is to allow the pool, deck and patio to remain.

The subject lot frontage is 75 feet whereas 100 feet is required by code. When the property was platted on March 20, 1946, the required minimum lot frontage was 75 feet. In the rear of the property, there is a concrete driveway that separates the yard in half leaving 17.5 feet on either side. The variance application is to reduce the required 15 foot side setback by 9.9 feet for the wooden pool deck, allowing this setback to be 5.1 feet to the property line; to reduce the required 15 foot side setback by 7.5 feet for the above ground pool, allowing this setback to be 7.5 feet to the property line; and, to reduce the required 15 foot side setback by 6.1 feet for the patio overhang that is attached to the utility room/shed, allowing this setback to be 8.9 feet to the property line. To the north of the parcel is a single family home with a garage that appears to be approximately 10 feet from the property line. In addition, the garage is directly north of the subject pool / deck. The parcel to the south of the applicant appears to be presently vacant.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are special circumstances and conditions applying to the land and building for which the variances are sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district; any circumstances or conditions are not such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought; the alleged hardship is self-created by any person having an interest in the property;

In an R-3, Low Density Dwelling District, the minimum lot frontage required is 100 feet; the applicant's lot frontage is only 75 feet. According to the applicant, when he purchased the property the driveway in his rear yard was existing thus leaving fifteen (15) feet on each side of the drive for any future improvements.

- (b) The granting of the variances are not necessary for the reasonable use of the land or building;

The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed. Although the pool with the deck is existing, a variance would be required for any improvement the applicant would intent on making to the property.

- (c) Granting of the requested variances are not in harmony with the general purpose and intent of this chapter, and are not injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side setback to be reduced to 5.1 feet to the wood deck; 7.5 feet to the above ground pool; and 8.9 feet to the overhang will not be detrimental to the neighborhood since it is located in the rear of the property and there is a garage blocking the pool from the house to the north. In addition, the applicant has a six (6) foot high wood fence surrounding his entire property.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board

Planning and Zoning Board Recommendation: At the March 12, 2003, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus, to approve (Motion carried 5-0).

Exhibits

1. Justification
2. Survey
3. Land Use Map
4. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

TIMOTHY M. GRIFFIN
3950 S. W. 54th AVENUE
DAVIE, FL 33314-3733
(954) 792-7494

February 5, 2003

TO: Davie Town Council

VIA: Planning and Zoning Board

I am seeking a variance for land utilization of accessories in size to provide my family with a reasonable use of our property. The accessories items for which the special circumstances may apply are an 18foot above ground pool, deck, and patio overhang/shelter. The amount of encroachment is minimal with the property's layout and models neighboring residences.

The criteria for the variance; is the existing driveway bisects the property not allowing reasonable use of the adjacent property. The current zoning for R-3, is 15foot side setbacks, under **Table 12-81A**, a minimum lot frontage is 100.0 feet. The current lot is 75.0 feet wide and 305.85 feet deep bisected by a 10-foot driveway, which leaves 17.5 feet on either side of the driveway for accessory use or improvements. The property has a total of 22,939 square feet of area; the total setback area for the property is 11,650 square feet, which equates to 50.8% of the property allotted for setback area. Fifty-one percent is somewhat excessive in this case, and I am respectfully asking that my family be allowed to encroach 3.61% into the setback area.

This equates to 421 square feet for the small portion of the deck, pool, and overhang shelter that encroaches into the setback area do to the bisecting driveway. If this lot were a conforming lot that met the 100-foot width requirement the setback percentage would be only 29.9%, based on the same (22,939) square footage. The difference between 50.8% (setback area) and 29.9% is 20.9%; therefore having a nonconforming lot has a major disadvantage when it comes to improvements and it is hoped that this will be taken into consideration.

The minimum variance would be 9.9 feet for the wooden pool deck, 7.5 feet for the above ground pool, and 6.1 feet for the patio overhang/shelter that is attached to the existing utility room/shed.

SUMMARY

1. The closest portion of the deck would be 5.1 feet from property line.
2. The closest portion of the pool would be 7.5 feet from the property line.
3. The closest portion of the overhang/shelter would be 8.9 feet from the base of the structure to the property line, which follows the contour of the existing shed/utility room.

The above ground pool, deck, and overhang would be located on the north side of the back yard adjacent to the rear of the neighbor's garage and would not be injurious to the neighborhood or otherwise detrimental to the public welfare of our

neighborhood and community. A six-foot wooden privacy fence bisects the neighbor's property from our property and borders the side and back yard.

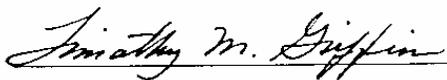
I enjoy the neighborhood that I live in, and I am a third generation Broward County, Florida native, I am currently employed with Broward Community College since 1990.

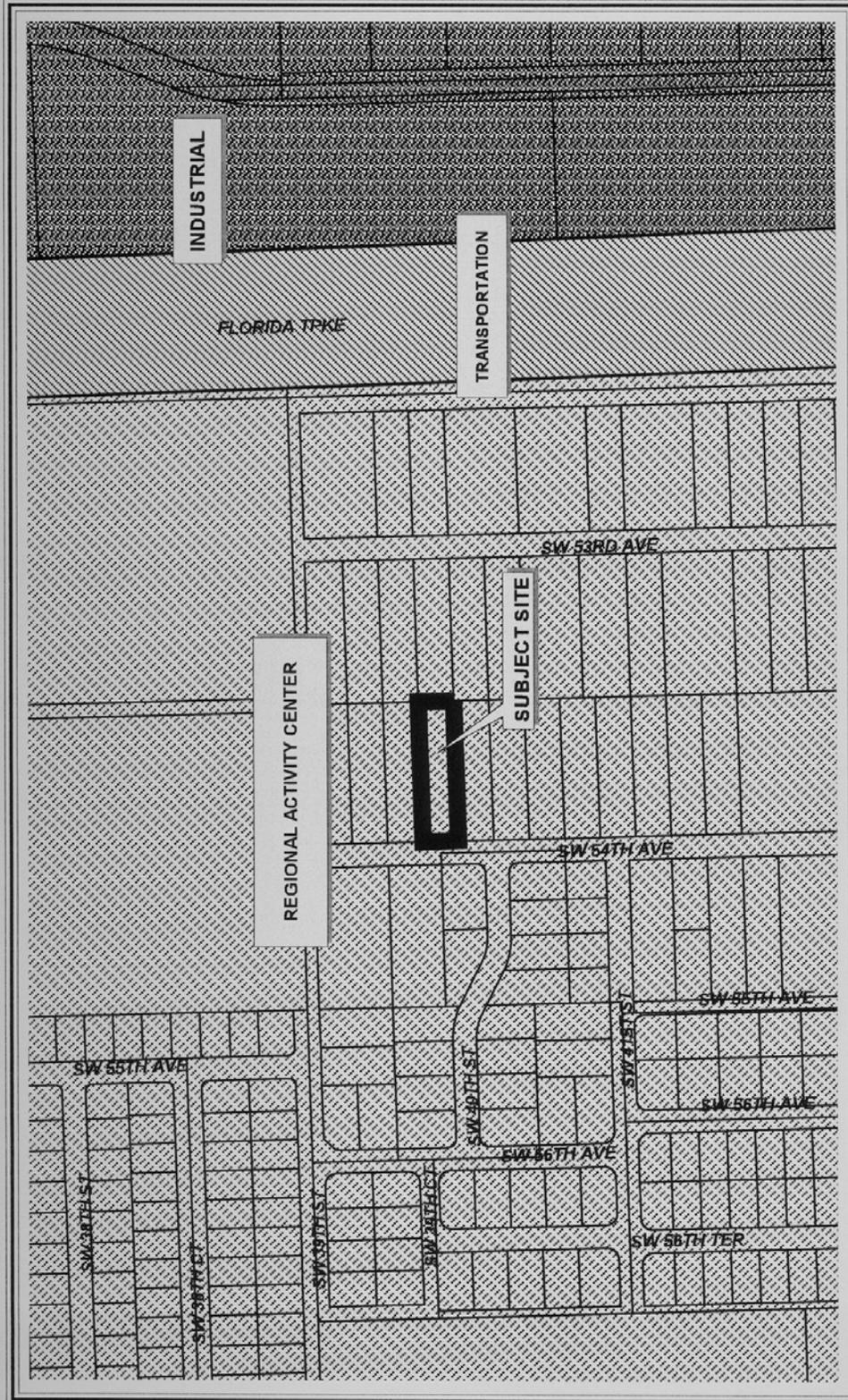
We believe in the open space zoning and the rural lifestyle the Town of Davie fosters. In addition, we respect the current zoning regulations, however the non-conforming lot and existing driveway is very constricting for simple improvements.

I respectfully ask your permission for this variance of the fore mentioned accessories, in the Town of Davie.

I welcome any questions and suggestions on this variance of land use, and can be contacted at Broward Community College (954) 201-8076 during normal business hours. E-mail tgriffin@broward.edu

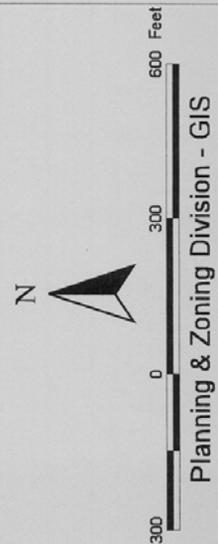
Attachments: (3)
Current survey
Current survey highlighting encroachment
Pictures of back yard

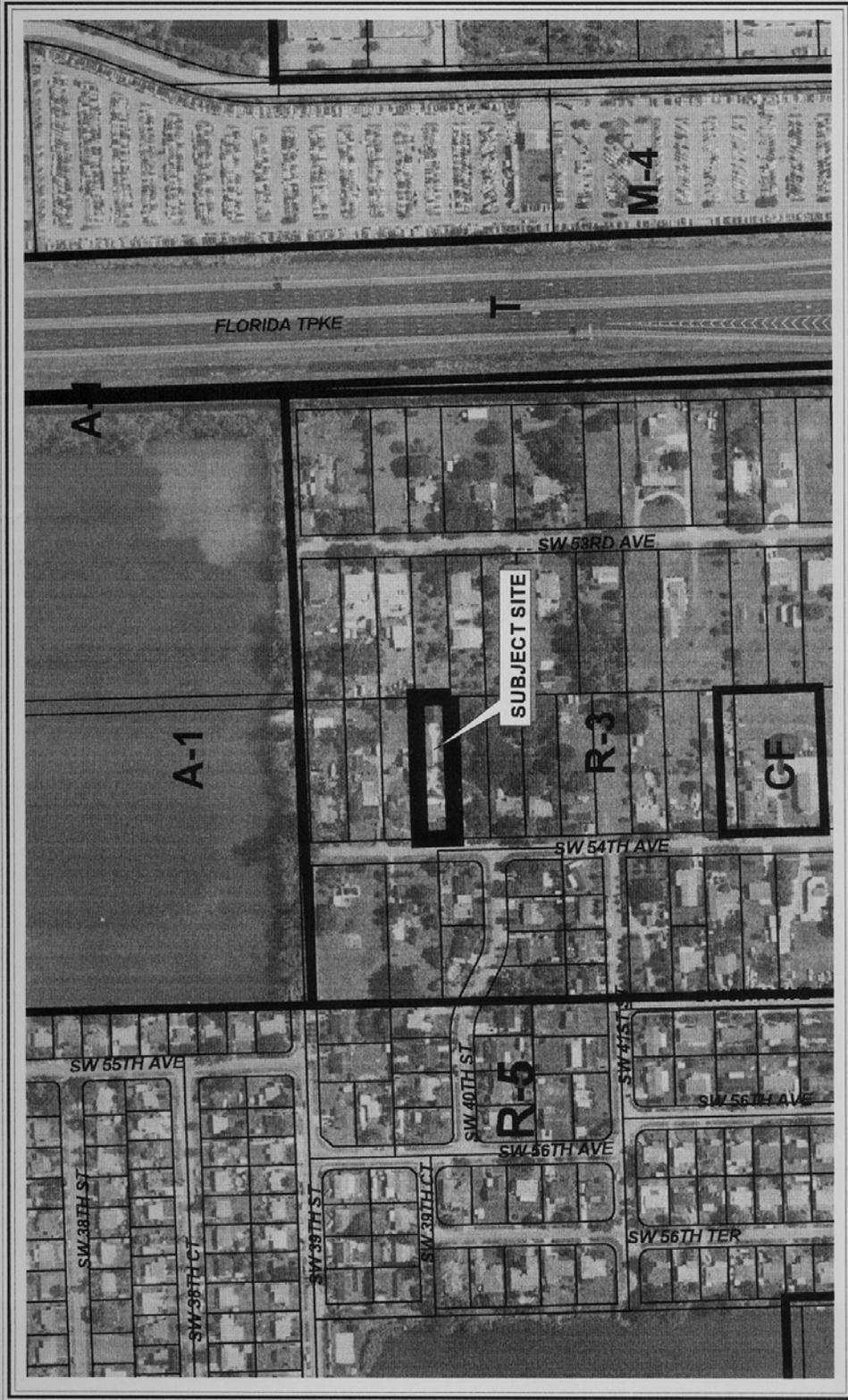




**VARIANCE
V 2-1-03
Future Land Use Map**

Date Prepared: 2/25/03
Prepared By: I.L.D





**VARIANCE
V 2-1-03
Zoning and Aerial Map**

Date Prepared: 2/25/03
Prepared By: ILD



Date Flown:
12/31/00



Planning & Zoning Division - GIS