



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

BOARD OF ADJUSTMENT STAFF REPORT

509 Rye Lane

Meeting	File No.	Application Type
December 7, 2023	2023-268-VAR-BOA	Variance
Property Owner	Applicant / Authorized Agent	
ADF Investments, LLC	Hugh Dean Fuller	

Request

Consideration of a variance request from Land Development Regulations (LDR) 4.6.15(G)(1), Swimming Pool, Whirlpools, and Spas: Yard Encroachment, to allow the construction of a new swimming pool within the front setback (adjacent to Enfield Road) at 15.8 feet, whereas a minimum setback of 30 feet is required.

General Data

Location: 509 Rye Lane

PCN: 12-43-46-08-06-000-0150

Property Size: 0.2368 Acres (10,315 SF)

Land Use Designation: Low Density (LD)

Zoning District: Single Family Residential (R-1-AA),
Lake Ida Overlay District

Existing Land Use: Single Family Home

Adjacent Zoning and Uses:

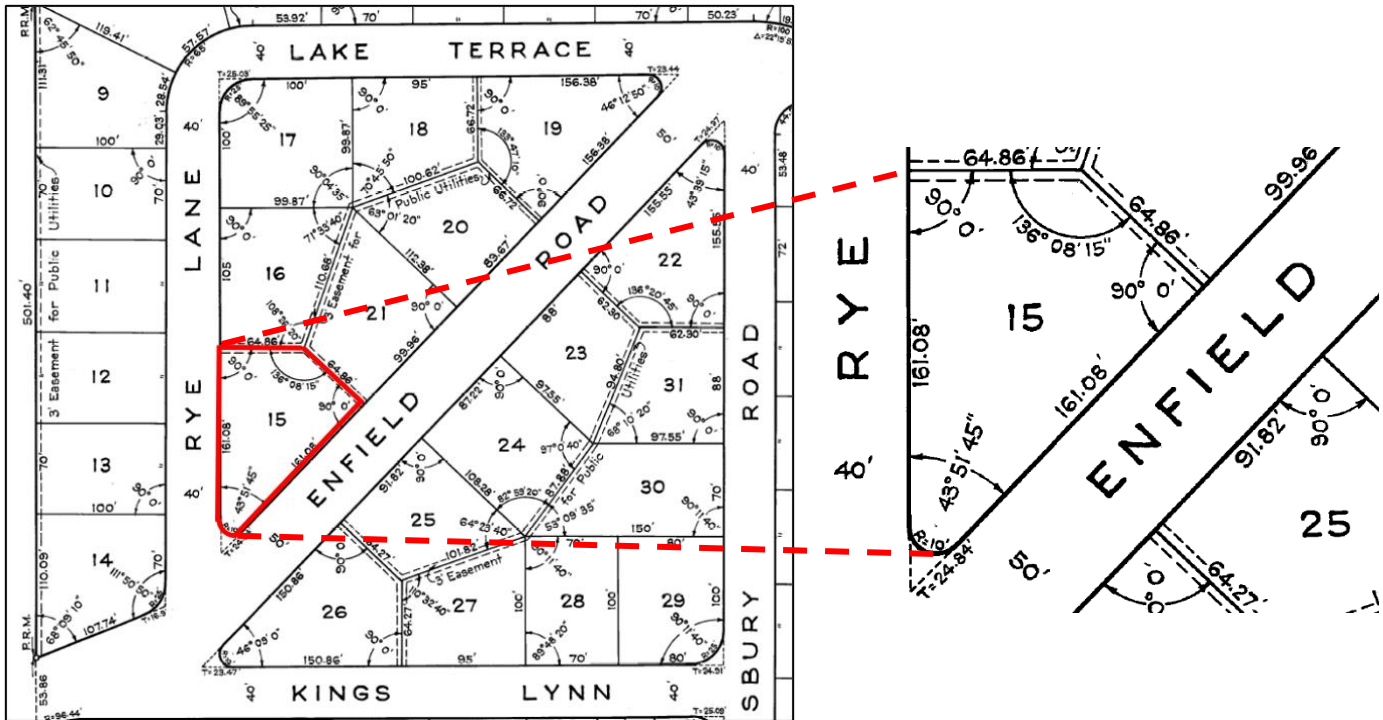
- North, East, South and West: R-1-AA (Single Family)

Legal Description: Lot 15, Chevy Chase Subdivision



Background

The subject property is a legal lot recorded in 1953 as Lot 15 of the Chevy Chase subdivision with lot dimensions of 161.08 feet along Rye Lane and Enfield Road and 64.88 feet along the property lines abutting the neighboring properties. The plat included angled streets that created triangular shaped lots at the intersections as shown below.



The existing single-family residence was constructed in 1957 with a one-car garage accessible from Rye Lane, and a circular driveway access from Enfield Road.

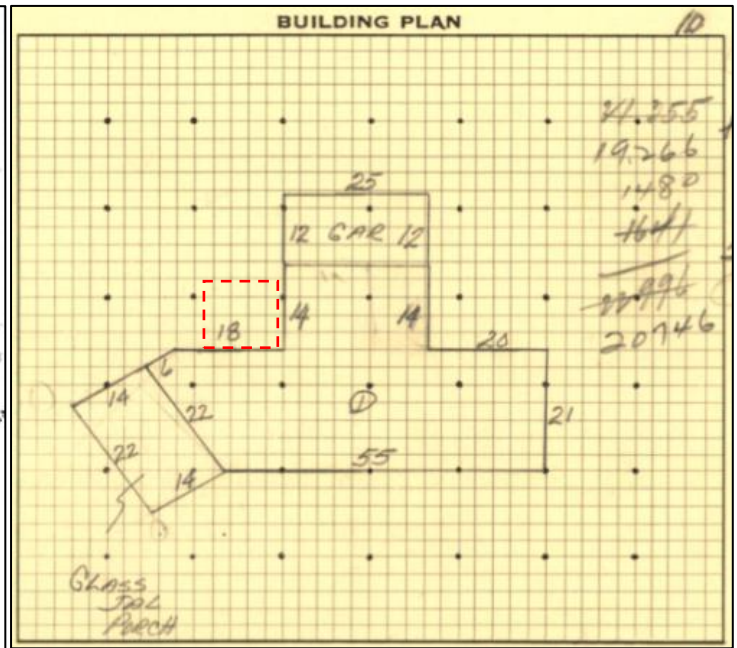
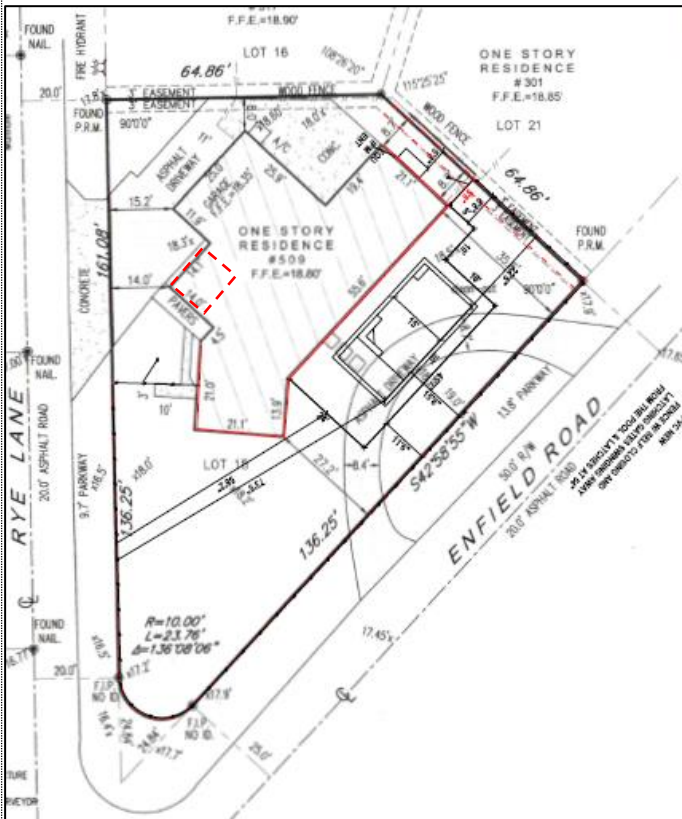


Rye Lane – Garage/Front Door



Enfield Road – Circular Driveway/Front

Below is the original building card demonstrating the 12'x25' one-garage and the single-family home. In 1985, a building permit was issued for a room addition within the required setback. Given the date of construction of the home, complete access to all building permit documents is unavailable to precisely ascertain the approved area of the addition. Nonetheless, upon thorough examination of the original building permit (yellow card) and the survey, it is evident that the addition was constructed towards Rye Lane as shown in dashed lines below.



Pursuant to **Section 4.3.4, Base District Development Standards**, each lot is required to have frontage and the front of a lot is the side with frontage on a street. On corner lots, the side having the least frontage shall be the front for setback purposes. Where a corner lot or through lot has frontage on an arterial or collector street, the front shall be the side with frontage on the arterial or collector.

The LDR defines a corner lot as “a lot located at the intersection of two or more streets”. Both Rye Lane and Enfield Road are classified as local streets that intersect. Therefore, the subject property is considered a corner lot with equal frontage on both Rye Lane and Enfield Road. The code does not specify if there is a distinction for corner lots with equal frontage on local streets however, the code determines setbacks. The setback requirements for single family residences within the R-1-AA zoning district are provided in the table below:

Setback	Location	Required	Provided	
Front (Enfield Road)	Southeast	30'	27'2"	Existing Non-conformity
Front (Rye Lane)	West	30'	14'	Existing Non-conformity
Side Interior	Northwest (Abutting property)	10'	8'2"	Existing Non-conformity
Side Interior	Northeast (Abutting property)	10'	8'6"	Existing Non-conformity
Proposed Pool	East (front setback)	30'	15.2'	Proposed

The existing structure, constructed in 1953, is considered legally non-conforming structure as it does not meet the minimum required setbacks for the R-1-AA zoning district. The residence is situated 27.2 feet from Enfield Road and 14.0 feet from Rye Lane. Thus, the request to construct a swimming pool is constrained on the subject property to the front yard or the corner area where an existing tree is located.



Request

The applicant is requesting a variance to **LDR Section 4.6.15(G)(1), Yard Encroachment**, which specifies that “swimming pools shall not extend into the front setback area noted in Section 4.3.4(K).” The minimum required front setback for properties located within the R-1-AA zoning district is 30 feet measured from the property line. The variance request is to reduce the minimum required front setback for a swimming pool from 30 feet to 15.8 feet from the eastern property line abutting Enfield Road.



Variance Review and Analysis

The Board of Adjustment is authorized to hear and grant variance request to Supplemental District Regulations, Article 4.6 for single-family uses per **LDR Section 2.1.7(E)(1)(c)3** of the Land Development Regulations of the City of Delray Beach.

Pursuant to **LDR Section 2.4.11(A)(5)(a-f)**, **Variance Findings**, the following findings must be made prior to the approval of a variance:

- (a) *That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance);*
- (b) *That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) *That the special conditions and circumstances have not resulted from actions of the applicant;*
- (d) *That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;*
- (e) *That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,*
- (f) *That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.*

In consideration of the criteria listed above, the Board must consider whether special conditions or circumstances exist that are relative to the property, and if the granting of the variance for the pool to encroach 14.2 feet into the minimum required 30-foot front yard setback (to establish a setback of 15.8 feet) is not likely confer onto the applicant a special privilege that has been denied for similar requests to properties of a similar configuration and developmental history. The Board should also consider if the variance petition justifies that the granting of the variance is the minimum variance that will make possible the reasonable use of the land. Regarding reasonable use of the land, a single-family residence exists and the use of the land can be retained whether there is a swimming pool on the property. However, it is important to note that the LDR defines a variance, in part, as “a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public



interest and where, owing to the existing conditions peculiar to the property.” Therefore, the Board would consider, along with the criteria, if there are conditions peculiar to the property that impact the reasonable use of the land.

The lot narrows dramatically towards the front yard creating a triangular shape lot. The existing structure is situated 27.2 feet from Enfield Road, 14 feet from Rye Lane and approximately 8 feet from the interior sides. The code allows swimming pools to extend into the rear, interior or street side setback area but no closer than 10 feet from any property line. Swimming pools shall not extend into the front setback area. Thus, the strict enforcement of the swimming pool locations and the peculiar characteristic of the property prohibits the property owner from constructing a swimming pool on the property. As a result, a variance is sought due to an unnecessary hardship created upon the applicant from special conditions and circumstances that existing which are peculiar to the shape of the land and structure involved which are not generally applicable to other lands and structures subject to the same zoning.

The granting of the variance will not confer onto the applicant any special privilege that is denied to other lands or structures under the same zoning as the peculiar characteristics of the lot and structure exist. Other similar triangular shaped properties in the area such as 210 Enfield Road was granted a variance in 2001 to accommodate a swimming pool within the front setback area adjacent to the right-of-way and 315 Kings Lynn was issued a building permit in 1970 to construct a pool along the right-of-way. Although previous approvals do not constitute a granting of the variance, similar properties have been under the same review and granted permission to construct a pool within the front yard setback due to the same special circumstances.

The variance is not anticipated to be detrimental to the public welfare or be injurious to the neighborhood. The granting of the variance, while note requisite for the reasonable use of the land, will generally be in harmony with the general purpose and intent of existing regulations as similar properties on corner lots have pools in the front yard.

Optional Board Actions

- A. Move **approval** of the Variance request for **509 Rye Lane** (2023-268 VAR-BOA) from LDR Section 4.6.15(G)(1) to allow the construction of a new swimming pool within the front setback (adjacent to Enfield Road) at 15.8 feet, whereas a minimum setback of 30 feet is required, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- B. Move **denial** of the Variance request for **509 Rye Lane** (2023-268 VAR-BOA) from LDR Section 4.6.15(G)(1) to allow the construction of a new swimming pool within the front setback (adjacent to Enfield Road) at 15.8 feet, whereas a minimum setback of 30 feet is required, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- C. Move to **continue with direction**

Public Notice

Pursuant to **LDR Section 2.6.3(G)**, Notice in accordance with Section 2.6.2 (A), (B), (C), and (D) shall be provided prior to a Public Hearing.

LDR section	Date Posted
2.4.2 (B)(1)(j)(i) - Written notice provided to property owners within 500 feet	November 21, 2023
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	November 21, 2023
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	November 21, 2023