



## Staff Report

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**File #:** LN-751

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### **ZONING BOARD OF APPEALS**

Meeting Date: **JULY 17, 2025**

### **VARIANCE - LARRY AND DONNA THOMPSON**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	25-11000014
<b>Owner:</b>	Larry and Donna Thompson
<b>Project Location:</b>	421 SE 8 Ave
<b>Folio Number:</b>	494201400610
<b>Land Use Designation:</b>	L (Low 1-5 DU/AC)
<b>Zoning District:</b>	RS-2 (Single-Family Residence 2)
<b>Agent:</b>	John Daugherty
<b>Project Planner:</b>	Scott Reale

### **Summary:**

The Applicant Landowner requests a Variance from Section 155.3203(C) of the Pompano Beach Zoning Code, which establishes the intensity and dimensional standards for the RS-2 Zoning District. The requested Variance would allow for the construction of a pergola, attached to an existing single-family residence, with a setback of 5 feet from the waterway. While the existing residence complies with all required setbacks, the proposed pergola would encroach into the Code-required 25-foot setback from the waterway.

The property is located on the west side of SE 8<sup>th</sup> Avenue in the Garden Isles neighborhood, approximately 750 feet north of SE 5<sup>th</sup> Court.

### **ZONING REGULATIONS**

§155.3203. SINGLE-FAMILY RESIDENCE 2 (RS-2)

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(C) Intensity and Dimensional Standards

...

Setback from a waterway or canal, minimum: 25 feet

### **PROPERTY INFORMATION AND STAFF ANALYSIS**

1. The subject property was first developed with a two-bedroom single-family residence in 1963 via permit #6567. In 2021, the dwelling was remodeled to a four-bedroom with the addition of a second-floor, permitted under BP #21-4450. A swimming pool was subsequently added under BP #21-7646.
2. The applicant now proposes a pergola structure, attached to the principal dwelling and located approximately five (5) feet from the waterway. While gazebos and pergolas that are *not* attached to the principal structure may be located this close to a waterway, the attachment to the rear of the house subjects the structure to the 25-foot waterfront setback requirement.
3. The applicant contends that the pergola must be attached due to a specific structural condition involving deep auger cast pilings and an engineered load path through the home's tie beam. Additional concerns were noted regarding the potential for settlement and disruption of the porcelain pavers if new footings are constructed independently of the house.
4. The applicant's justification for the requested variance is moderately compelling, supported by a reasonable degree of technical detail and consideration for neighborhood context. The structural rationale-particularly the concern over differential settlement due to the use of deep auger cast pilings and the engineered load path through the tie beam-presents a legitimate construction consideration. However, it is important to note that challenges related to construction logistics, project cost, or aesthetic preferences do not, on their own, typically meet the legal threshold for an undue hardship under variance criteria. That said, staff recognizes the applicant's effort to mitigate neighborhood impacts and maintain overall design compatibility. If the variance is approved, staff recommends a condition of approval requiring that the pergola structure remain permanently open on all sides, preserving its intended use as an open-air shade structure and preventing future enclosure that could alter its character or further encroach into required setbacks.

### **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: RS-2 | single-family dwelling
- 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 and substantial evidence demonstrating compliance with the eight variance review criteria, staff recommends the following conditions be incorporated into the Board's Order of Approval:

- 1. The applicant shall obtain all necessary permits and approvals, including but not limited to Building and Zoning Compliance permits.
- 2. Development shall be in substantial conformance with the plans submitted in support of this variance application and Building Permit #25-3852.
- 3. The pergola structure shall remain permanently open on all sides and shall not be enclosed at any time.
- 4. A minimum setback of five (5) feet from the waterway shall be maintained. No portion of the pergola structure shall be constructed atop the seawall.



# CITY OF POMPANO BEACH

## 500' RADIUS MAP



### Legend

-  Pompano Beach Parcels
-  Applicant Parcel

Scale:  
1:2,000

Larry & Donna Thompson

421 SE 8 Ave

Variance

Created by:  
Department of  
Development Services

