



## Staff Report

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**File #:** LN-742

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### ZONING BOARD OF APPEALS

Meeting Date: JUNE 18, 2025

### VARIANCE - KENNETH BIRDEN

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	25-11000011
<b>Owner:</b>	Kenneth Birden
<b>Project Location:</b>	40 NE 21 Court
<b>Folio Number:</b>	484226091000
<b>Land Use Designation:</b>	L (Low 1-5 DU/AC)
<b>Zoning District:</b>	RS-2 (Single-Family Residence 2)
<b>Agent:</b>	Kenneth Birden
<b>Project Planner:</b>	Scott Reale

### Summary:

The Applicant Landowner requests a Variance from the following Pompano Beach Zoning Code provisions:

1. Section §155.4303(OO)(3) - *Screened Enclosures with Screen Roof*: To allow a screened enclosure to be located 6 feet from the rear yard lot line, where a minimum setback of 15 feet is otherwise required.
2. Section §155.3203(C) - *RS-2 Zoning District Intensity and Dimensional Standards*: To permit the same screened enclosure to be located 2.2 feet from the interior side lot line, where the Code mandates a minimum setback of 7.5 feet.

The property is located in the Vera Villas subdivision in the NW CRA, along the south side of NE 21<sup>st</sup> Court, approximately 190 feet east of Cypress Road.

### ZONING REGULATIONS

#### **§155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES**

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OO. Screened Enclosures with Screen Roof

- ...
2. Definition  
Screened Enclosures with a screen roof is a building or part thereof, in whole or in part self-supporting, and having walls of insect screening with or without removable vinyl or acrylic wind break panels and a roof of

insect screening material.

**3. Standards**

A screened enclosure with a screen roof may be permitted in a required rear yard, provided it shall be at least 15 feet from the rear lot line.

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

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**C. Intensity and Dimensional Standards**

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Interior side yard setback, minimum (ft): 7.5 ft

**PROPERTY INFORMATION AND STAFF ANALYSIS**

1. The subject property was first developed with a single-family residence in the 1960s.
2. The applicant proposes to construct a screened enclosure around an existing swimming pool at the rear of the residence for outdoor use.
3. Swimming pools are permitted to be located significantly closer to rear and side lot lines than screened enclosures with screen roofs. For example, pools may be located as close as five (5) feet from a rear or interior side property line, while a screened enclosure is subject to stricter setback requirements - 15 feet from the rear and 7.5 feet from the side lot line in the RS-2 zoning district, per sections §155.4303(OO) (3) and §155.3203(C) of the Zoning Code.
4. This distinction is based on the differing structural characteristics, visual impacts, and potential for nuisance between the two types of improvements:
  - Swimming pools are ground-level features with minimal vertical impact. They are not enclosed structures and typically do not obstruct light, airflow, or views. As such, they are generally considered to have limited visual or spatial impact on adjacent properties.
  - Screened enclosures with screen roofs, by contrast, are often classified as accessory structures with semi-permanent or permanent structural components. Even though these enclosures may be visually permeable, they still add vertical mass, which can influence neighboring properties' access to light, air, and views. In addition, they are more likely to be associated with extended use, lighting, and activity, particularly in the evening hours, increasing their potential to affect the enjoyment of nearby residential lots.
5. According to the applicant, strict adherence to the required setbacks would significantly restrict the ability to construct the proposed enclosure, as the existing pool is already situated too close to the lot lines to accommodate a compliant structure. The applicant further states that the screened enclosure is necessary to address ongoing issues with mosquitoes, frogs, and other pests. The use of chemical repellents or pesticides is reportedly not a viable option due to the presence of a toddler and an elderly dog on the property.
6. The request must be evaluated based on the established variance criteria, including whether a legitimate hardship exists and whether the request is the minimum necessary to afford relief.

**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 required permits and approvals, including but not limited to Building and Zoning Compliance approval, prior to construction.
2. Development of the property shall be consistent with the plans submitted in support of this variance application. The enclosure shall consist of a screen roof and open screen walls only. Any future modifications involving solid roofing, framing, or enclosure of walls are strictly prohibited.



# CITY OF POMPANO BEACH

## AERIAL MAP



Scale:  
1:1,500

Kenneth Birden

40 NE 21 CT

Variance

Created by:  
Department of  
Development Services

