

(3:11:55)

9. [LN-176](#)

SWIMMING POOL TEXT AMENDMENT

Request: Text Amendment

Project Planner: Lauren Gratzer (954-545-7792) / lauren.gratzer@copbfl.com

Ms. Lauren Gratzer, Planner, introduced herself to the Board. She stated that city staff is requesting to amend the use standards of Articles 4 and 5. Residential corner lots often pose development constraints for accessory structures, specifically swimming pools. This is most challenging for residential corner lots where the home's main entrance faces the street-side lot line rather than the front lot line, or in residential corner lots where the house is angled to face two streets. On a corner lot, the front lot line is determined to be the shorter of the lot lines abutting a street, in accordance with code. This determination, in turn, limits where a pool can be located, as code prohibits any accessory use or structure from being located in a required yard or in front of the principal structure, unless specifically stated otherwise within an individual use standard. In corner lots, this means the pool can only be located in the rear or interior side setback, which may not provide the adequate space necessary for a pool. This proves difficult for some existing residences located in the RS-2 zoning districts, as this district was zoned RA-2 (Residence A-2) prior to the 1991 conversion to RS-2. At the time, the RA-2 zoning district allowed rear setbacks of as little as 15 feet, whereas the RS-2 zoning district requires a 20-foot rear setback today. She stated that this development constraint has resulted in a high number of properties requesting variances from the Zoning Board of Appeals. Between August of 2020 and August of 2021, there have been ten variance application requests to allow pools in corner lots alone. An assessment of swimming pool location regulations was conducted of neighboring similar cities in order to compare the City of Pompano Beach regulations for the same. The following table shows the results of this assessment. Of all cities audited, the City of Pompano Beach currently regulates swimming pools most similar to Coral Springs. All other cities have either a setback requirement or provide setback flexibility for corner lots. It is staff's recommendation that corner lots be given flexibility regarding the location of pools and the height of pool fencing following specific conditions. This recommendation is made to uphold the General Purposes of Residential Base Zoning Districts, to recognize that many homes were built following reduced rear yards and angled building orientations, as well as to alleviate the demand and pressure that currently rests on the Zoning Board of Appeals. The following code amendment proposes to allow corner lots to locate a pool no closer than 5 feet from the front or street side lot lines. Additionally, the amendment allows fence height restrictions to be waived by the Development Services Director in order to meet pool-fencing requirements of section 454.2.17 of the Florida Building Code and Chapter 515 of the Florida Statutes, so long as it is on corner lots and it does not exceed the fence and wall height maximums of the zoning district in which they are located and the fence or wall does not exceed the height permitted on an abutting property. Given the information provided to the Board, as the finder of fact, the Development Services Department provides the following recommendation, and alternative motions, which may be revised or modified at the Board's discretion.

Alternative Motion I: Recommend approval of the text amendment to the City Commission for their consideration.

Alternative Motion II: Table this application for additional information as requested by the Board.

Alternative Motion III: Recommend denial as the Board finds that the request is not consistent with the Future Land Use Goals, Objectives and Policies, or having sufficiently addressed the review standards for a code amendment as listed in this report.

Staff recommends Alternative Motion I.

Mr. Stacer asked if the Board had any questions of staff.

Ms. Aycock asked what the common outcomes of the Zoning Board of Appeals have been for those applications that came before them. She also stated that the fence heights should be the same for everyone and not based on your neighbor’s height limitation. Ms. Gratzner stated it is not allowed to be higher than the district. Ms. Aycock asked if your neighbor had a 3-foot fence, you would not be able to put one up at 6 feet. Ms. Gratzner responded you can as long as you meet the code maximums. Ms. Aycock asked if the fence would need to be setback from the property line. Ms. Gratzner responded from the street side it would need to be set back 4 feet. Ms. Aycock stated she felt 3 feet would be better than 4 feet. Ms. Gratzner responded the 4-foot minimum is based on Florida Statutes for pool enclosures. Ms. Aycock clarified that she was referring to the 4-foot street side setback. She stated she feels screen enclosures should stay the way they are limited in the code. She supported the code amendment.

Ms. Saunders stated that there are many of these types of cases that come to the ZBA. He stated the way he reads it, when you have a situation like the one described, a screen enclosure around a pool would not be permitted. Ms. Gratzner responded yes, and this text amendment is only for pools and spas as well as fences. The screen enclosure regulations are not being amended at this time.

Mr. Stacer asked if anyone from the audience wanted to speak on this item.

Ms. Aycock asked what the common outcomes of the Zoning Board of Appeals have been for those applications that came before them. Ms. Gratzner responded they are typically approved.

(2:23:42)

MOTION by Tobi Aycock and seconded by Joan Kovac that the Board find that competent, substantial evidence has been presented for this text amendment that satisfies the review standards and that approval is recommended, in accordance with Alternative Motion I as suggested by staff. All voted in favor of the motion.

(04:30)

10. COMP PLAN TEXT AMENDMENT TO ADD PROPERTY RIGHTS ELEMENT

Request:	Property Rights Element
P&Z#	21-92000002
Owner:	City of Pompano Beach
Project Location:	City of Pompano Beach
Folio Number:	N/A
Land Use Designation:	N/A
Zoning District:	N/A
Commission District:	Applies to entire City
Agent:	Jean Dolan
Project Planner:	Jean Dolan

Ms. Jean Dolan, Principal Planner, introduced herself to the Board. She stated that the State Legislature passed House Bill 59 this legislative session. It became law on June 29, 2021 and was effective on July 1, 2021. This law adds a Property Rights Element to the required elements in a Comprehensive Plan per new Section 163.3177(6)(i), Florida Statutes. The Element must contain a minimum of 4 policies that are already recognized and constitutionally protected. The new property rights element must be adopted before any other comprehensive plan map or text amendments submitted after July 1, 2021, can be adopted or effective. The policies related to: the right to physical possession, the right to develop, maintain, and improve property, the right to privacy and exclusive use, and the right to sell or gift a property to others. She stated city staff is requesting the Board consider the following possible motions: