



## Staff Report

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**File #:** LN-158

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Zoning Board of Appeals  
Meeting Date: July 15, 2021

### **VARIANCE - BIANCO**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	21-12000012
<b>Owner:</b>	Michele Bianco
<b>Project Location:</b>	381 SE 1 Terrace
<b>Folio Number:</b>	494201250300
<b>Land Use Designation:</b>	L-Low 1-5 DU/AC
<b>Zoning District:</b>	RS-2 (Single-Family Residence)
<b>Agent:</b>	Michele Bianco
<b>Project Planner:</b>	Daniel Keester-O'Mills

### **Summary:**

Applicant Landowner is requesting a Variance from the following provisions:

1. Section 155.4302(B)(2)(f) [Prohibited Location of Accessory Uses and Structures] and 155.4303(GG)(3)(d)(i) of the Pompano Beach Zoning Code, in order to allow a swimming pool to be constructed within the street side yard (SE 4th Street) setback the 5'-6" from lot line of an existing single-family corner lot, rather than setback a minimum of 15 feet from the street side lot line as required by code.

The property is located at the northwest corner of the intersection of SE 7th Drive and SE 28th Avenue.

### **I. ZONING REGULATIONS**

### **155.4302. GENERAL**

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### **B. General Standards for All Accessory Uses and Structures**

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## 2. Prohibited Location of Accessory Uses and Structures

Unless otherwise provided for in Section [155.4403](http://library.amlegal.com/nxt/gateway.dll?f=jumpink$jumpink_x=Advanced$jumpink_vpc=first$jumpink_xsl=querylink.xsl$jumpink_sel=title;path;content-type;home-title;item-bookmark$jumpink_d=florida(pompanobeach_zoning)$jumpink_q=%5bfield%20folio-destination-name:%27155.4403%27%5d$jumpink_md=target-id=JD_155.4403) (Standards for Specific Accessory Uses and Structures), accessory uses and structures shall not be located within the following:

- a. Any platted or recorded easement;
- b. Any required landscape easement or buffer;
- c. An area over any known utility;
- d. An area designated as a fire lane or emergency access route on an approved site plan;
- e. An area designated as a parking area on an approved site plan;
- f. **A required yard setback;**
- g. In front of the principal structure;
- h. Within 15 feet of a property line abutting a waterway or canal; and
- i. Within 25 feet of the historic dune vegetation line.

## 155.4303. GG. Swimming Pool, Spa, or Hot Tub

### 2. Definition

A swimming pool, spa, or hot tub is an above- or below-ground structure that is filled with water and used for swimming, soaking, relaxation, massage, or hydrotherapy.

### 3. Standards

#### d. Setbacks

i. A swimming pool, spa, or hot tub may be located in a required interior side yard setback or required rear yard setback.

ii. A swimming pool, spa, or hot tub shall be located at least five feet from any interior side or rear lot line.

iii. The measurements shall be taken from the inner edge or water line of the pool.

c. Portable pools which are less than 24 inches in depth may be allowed in any required yard setback

d. Mechanical equipment associated with a permitted swimming pool shall comply with the standards for Section [155.4303.JJ](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) (Mechanical equipment and similar features).

e. Screen enclosures associated with a permitted swimming pool shall comply with the standards for Section [155.4303.OO](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) (Screened Enclosures with Screened Roof).

## II. PROPERTY AND CODE INFORMATION

1. Owner: Michele Bianco
2. The subject property has no open code compliance cases.
3. The subject property was incorporated into the City of Pompano Beach in 1958, by Ordinance 698.
4. The subject property has two open building permits: (1) related to a new swimming pool & deck (BP: 21-4410) & (2) related to a violation of an electrical panel (BP: 03-4987)

5. The subject property was developed in 1959 (according to the data on the Broward County Property Appraiser's website).
6. The 1957 zoning code indicated that accessory structures shall not be constructed closer than 5 feet from any lot line.
7. In 1976 more specific regulations were adopted specific to pool location and placement, prohibiting pools in the required front and street side yards. (Ord. 1976-5)
8. In 1991, the zoning code adopted standards specifically prohibiting most accessory structures from being constructed in front of principal structures. (Ord. 1991-63)
9. The survey included with the application indicates that SE 4<sup>th</sup> Street was originally platted as SE 6<sup>th</sup> Street and SE 1<sup>st</sup> Terrace was originally platted as SE 3<sup>rd</sup> Avenue; however, the survey included in this application does accurately reflect the subject property & the legal description is the same.

### III. LAND USE PATTERNS

- A. Subject property (Zoning / Existing Use): RS-2 (Single-Family Residence 2)/ single-family residence
- B. Surrounding Properties (Zoning District / Existing Use):
  - a) North: RS-2 (Single-Family Residence 2)/ single-family residence
  - b) South: RS-2 (Single-Family Residence 2)/ single-family residences
  - c) East: RS-2 (Single-Family Residence 2)/ single-family residences
  - d) West: RS-2 (Single-Family Residence 2)/ single-family residence

### IV. 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 met the necessary prerequisites for granting a Variance, Staff requests the Board include the following conditions as a part of the order:

1. Obtain all necessary governmental permits and approvals including a Zoning Compliance and Building permits.
2. To minimize visual impact, prior to building permit approval for a swimming pool, submit a Zoning Compliance Permit for the installation of a solid fence between the property line and the pool.
3. Pool equipment must comply with setbacks and screened in accordance with the standards in code section 155.5301.A.1.a. ii.