



# ZONING MEMORANDUM

**February 05, 2025**

Prepared for  
Town of Howey-in-the-Hills  
Attn: Sean O'Keefe, Town Manager



## **204 W. Myrtle Street: Screen Enclosure Setback Variance Request**

**Applicant: Joseph L. and Coleen M. B. Lahr**

### **Project Description and Background:**

In 2024, a swimming pool permit was approved for 204 W. Myrtle Street. The property owner has since made application for the approval of a screen enclosure to be built surrounding the pool, which is customary. The Town's Land Development Code (LDC) in Sec. 5.01.08 requires that swimming pools, decks, and screen enclosures meet a 10-foot setback from both the rear and side property lines.

The swimming pool was approved with a deck that sits 6 inches into the required rear 10-foot setback. The deck is 9.5 feet from the rear property line. The applicant is not seeking to increase the nonconformity, nor encroach further into the setback area. They are only requesting a variance of 6 inches so that their screen enclosure may be built at the edge of the existing deck surrounding the swimming pool in a manner that will not present a hazard in walking around the pool inside between the screen enclosure and the swimming pool.

The LDC does not provide for an administrative variance to be approved by Town staff. Therefore, this application must come before the Planning and Zoning Board for recommendation to and then subsequent action by Town Council, as the Board of Adjustment, consistent with LDC Section 4.13.00.

Please note, Town staff has taken corrective action so that moving forward, reviews of swimming pool, deck, and screen enclosure applications meet the required 10-foot setback from both the rear and side property lines prior to approval.

**Planning and Zoning Board Recommendation:** At their January 23, 2025, public hearing, the Planning and Zoning Board voted unanimously (6-0) to recommend approval of the requested variance.



**Staff Recommendation:** Approve the requested 6-inch variance for the screen enclosure as it meets the standards for a variance approval required by LDC Section 4.13.04:

- A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district. **The special circumstances in this case are that the applicant is seeking to build the screen enclosure within the footprint of an existing deck previously approved by the City. Building the screen enclosure closer to the swimming pool would create a walking hazard between the enclosure and the swimming pool.**
- B. That the special conditions and circumstances do not result from the actions of the applicant. **The applicant had a reasonable expectation that the screen enclosure would be able to be built on the approved pool deck.**
- C. That literal interpretation of the provisions of this LDC would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this LDC and would work unnecessary and undue hardship on the applicant. **Building the screen enclosure closer to the swimming pool would create a walking hazard between the screen enclosure and the swimming pool, which would be an unnecessary and undue hardship.**
- D. That the variance created is the minimum variance that will make possible the reasonable use of the land, building or structure. **The applicant is only requesting a variance of 6 inches so that their screen enclosure may be built at the edge of the existing deck surrounding the swimming pool. This represents the minimum variance that will make reasonable use.**
- E. And, that the granting of the variance will be in harmony with the general intent and purpose of this LDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. **Building the screen enclosure closer to the swimming pool would create a walking hazard between the screen enclosure and the swimming pool. Granting this variance is in harmony with the general intent and purpose of the LDC and is not detrimental to the public welfare.**



In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this LDC. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this LDC.

**Motion Examples:**

1. Approve the requested 6-inch variance for the screen enclosure as it meets the standards for a variance approval required by LDC Section 4.13.04, or
2. Deny the requested 6-inch variance for the screen enclosure as it does not meet the standards for variance approval [specify which standards are not met] required by LDC Section 4.13.04, or
3. Continue the requested 6-inch variance for the screen enclosure pending additional information [specify information needed] from the applicant that shows the request meets the standards for a variance approval required by LDC Section 4.13.04.

*Please note: Pursuant to LDC Section 4.13.05 (a), when a variance is granted for residentially zoned property, construction, installation, and initiation of the approved structure or use must occur on or before the first anniversary of the date the variance is granted. The owner must file written notice with the Town Manager that the owner has begun the approved construction, installation, or use at the subject property. If no such notice is filed on or before the first anniversary, and if the Town Council determines that construction, installation, or initiation of the approved structure has not been initiated the Town Council may terminate the approved variance.*