

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP  
(954) 797-1101

**SUBJECT:** Quasi Judicial Hearing: Variance

V 3-4-01 Seda/Seda, 7919 North Silverado Circle/Generally located on  
the south side of Stirling Road 600 feet east of University Drive

**TITLE OF AGENDA ITEM:**

V 3-4-01, Seda, 7919 North Silverado Circle (RM-5)

**REPORT IN BRIEF:**

The applicant is proposing to construct an attached aluminum roof screen enclosure on the existing patio. Under the Land Development Code, a patio is permitted to be setback five (5) feet from the rear property line, however the Code states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, and shall maintain a ten (10) foot minimum separation from the structure to the rear property line. Therefore, strict application of the Code allows the applicant to enclose only half of the patio. The Code also states that accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard, and the screened patio would occupy thirty-three (33) percent. North of the rear property line is a thirty-five (35) foot landscape buffer, then Stirling Road. To the west is thirty-five (35) feet of open space that is comprised of ten (10) feet of the applicant's property, and twenty-five (25) feet land dedicated to common area for the entire subdivision which includes landscaping and an entrance sign. To the east is another single story dwelling unit owned by the applicant's mother, Ivette Toledo, who has also applied for a the same variance under petition V 3-5-01.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Ms. Moore, approval. (Motion carried 5-0)

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** Justification letter, Site Survey, Subject Site Map, Land Use Map, Aerial

**Application #: V 3-4-01**

**Revisions:**

**Exhibit "A"**

**Original Report Date: 4/27/01**

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**TOWN OF DAVIE  
Development Services Department  
Planning & Zoning Division Staff  
Report and Recommendation**

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**APPLICANT INFORMATION**

**Owner/Petitioner:**

**Name:** Ramon and Leticia Seda  
**Address:** 7919 North Silverado Circle  
**City:** Davie, FL 33024  
**Phone:** (954)430-4452

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**BACKGROUND INFORMATION**

**Date of Notification:** April 18, 2001    **Number of Notifications:** 12

**Application History:** No deferrals have been requested.

**Application Request:** Three (3) variances **FROM:** Section 12-33(A)(5) of the Land Development Code which states accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard **TO:** allow an accessory building to occupy thirty-three (33) percent of a required rear yard; **FROM:** Section 12-33(A)(6)(b) of the Land Development Code which states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, but shall maintain a ten (10) foot minimum separation from the structure to the rear property line **TO:** allow a screen enclosure to extend into the required rear setback by sixty-seven (67) percent and to reduce the minimum separation from the rear property line to five (5) feet.

**Address/Location:** 7919 North Silverado Circle/Generally located on the south side of Stirling Road 600 feet east of University Drive.

**Future Land Use Plan Designation:** Residential (5 DU/AC)

**Zoning:** RM-5, Planned District

**Existing Use:** Single family dwelling

**Proposed Use:** Single family dwelling with screen enclosed patio

**Parcel Size:** 0.092 acres (4,042 square feet)

**Surrounding Uses:**

**Surrounding Land  
Use Plan Designation:**

<b>North:</b>	Vacant, across Stirling Road	Residential (10 DU/AC)
<b>South:</b>	Single family residential	Residential (5 DU/AC)
<b>East:</b>	Single family residential	Residential (5 DU/AC)
<b>West:</b>	Community park, across community entrance	Residential (5 DU/AC)

**Surrounding Zoning:**

<b>North:</b>	R-1, Estate Dwelling District
<b>South:</b>	RM-5, Planned District
<b>East:</b>	RM-5, Planned District
<b>West:</b>	RM-5, Planned District

**ZONING HISTORY**

**Related Zoning History:** None.

**Previous Request on same property:**

1. Town Council approved petition ZB 5-4-97 on July 16, 1997 rezoning the subject site from R-5, Low Medium Density Dwelling District to RM-5, Planned District.
2. Town Council approved petition V 10-4-97 on December 24, 1997, reducing the required rear setback of the subdivision from 24 feet to 15 feet and reducing the required peripheral boundary setback from 35 feet to 0 feet along the western, southern and northeast boundaries of the subject site.
2. Town Council approved the site plan for the subject site, SP 11-3-97 Stirling Meadows, on May 6, 1998.

**APPLICATION DETAILS**

The applicant is proposing to construct an attached aluminum roof screen enclosure on the existing patio. Under the Land Development Code, a patio is permitted to be setback five (5) feet from the rear property line, however the Code states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, and shall maintain a ten (10) foot minimum separation from the structure to the rear property line. Therefore, strict application of the Code allows the applicant to enclose only half of the patio. The Code also states that accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard, and the screened patio would occupy thirty-three (33) percent. North of the rear property line is a thirty-five (35) foot landscape buffer, then Stirling Road. To the west is thirty-five (35) feet of open space that is comprised of ten (10) feet of the applicant's property, and twenty-five (25) feet land dedicated to common area for the entire subdivision which includes landscaping and an entrance sign. To the east is another single story dwelling unit owned by the applicant's mother, Ivette Toledo, who has also applied for a the same variance under petition V 3-5-01.

## **Applicable Codes and Ordinances**

1. Section 12-33(A)(5) of the Land Development Code states accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard.
  2. Section 12-33(A)(2) of the Land Development Code permits accessory structures to be located five (5) feet from any plot line.
  3. Section 12-33(A)(6)(b) of the Land Development Code which states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, but shall maintain a ten (10) foot minimum separation from the structure to the rear property line.
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## **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 11. This Planning Area is bound by Griffin Road on the north, Davie Road Extension on the southeast, and University Drive on the west. The area is characterized by multi-family residential development on the south side of Stirling Road, ranging from 8 to 16 dwellings per acre. There is one single family residential subdivision developed at five dwellings per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 102.

**Applicable Goals, Objectives & Policies:** None.

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## **Staff Analysis**

In evaluating this request staff considered the impact of the screen enclosure on the surrounding area and the unique circumstances that apply. The dwelling on the subject site and adjacent site to the east are unique on this street, as they are single story homes. All other dwellings on the rest of the street are two-story weak link townhouses that were designed with a covered porch in the rear, which have met code setbacks. In addition, variance petition V 10-4-97, which reduced the required rear set back from 24 feet to 15 feet, did not take into consideration the impact the reduced rear yard would have on screen enclosures. The northern portion of the subject site has a thirty-five foot landscape buffer, and the western portion has additional green area which adds to the perceived size of the lot. Staff finds that the applicant's request is reasonable and will not have a negative impact on the surrounding area.

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## **Findings of Fact**

**Variances:**

**Section 12-309(B)(1):**

**The following findings of facts apply to the variance request.**

- (a) There is a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district, and that said circumstance or condition is such that the strict application of the provisions of this

chapter would not deprive the application of the reasonable use of such land or building for which the variance is sought. The alleged hardship is not self-created by persons having an interest in the property.

*This property and the lot adjacent are unique in that they are the only two homes on the street that are adjacent to the thirty-five foot landscape buffer that do not have porches.*

**(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.**

*While granting of the requested variance is not necessary for reasonable use of the land; a denial would prevent the owner from enjoying the same privilege afforded to the majority of the home owners in the development.*

**(c) Granting of the requested variance is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

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**Staff Recommendation**

**Recommendation:** Based upon the above and the finding of facts in the positive, staff recommends **approval**, of petition V 3-4-01.

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**Planning & Zoning Board Recommendation**

The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Ms. Moore, approval. (Motion carried 5-0)

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**Exhibits**

1. Justification letter
2. Site Survey
3. Subject Site Map
4. Land Use Map
5. Aerial

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

March 12, 2001

To Whom It May Concern:

We are requesting a variance that will allow us to put an aluminum roof screen enclosure on our property. It was brought to our attention that we needed a 10 foot set back in order to obtain the permit, unfortunately we only have a 5 foot set back.

Upon purchasing the property, the builder lead us to believe we would not have a problem in doing this. We have a 15 foot landscaped buffer between our property and the street which should be taken into consideration. Our circumstances are also unique in that we have the only single story homes on this street, all other two story homes would be able to have their patios enclosed without any difficulties.

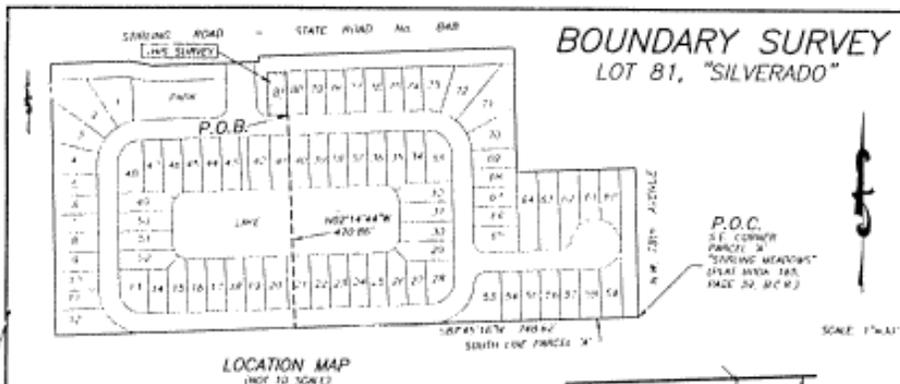
We feel that we will be deprived the opportunity to use and enjoy our patios to its fullest extent.

We also feel that granting us the variance would not create a problem and in fact, would allow us to obtain the enclosed patio we had been hoping for.

Thank you for your time and consideration into this matter.

*Ramon B. Lobo*  
*Leticia Lobo*





# BOUNDARY SURVEY LOT 81, "SILVERADO"



### LEGAL DESCRIPTION:

A PORTION OF PARCEL "C", "STARLING MEADOWS", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 165, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL "A", THENCE SOUTH 87°45'16" WEST ALONG THE SOUTH LINE OF SAID PARCEL "A", A DISTANCE OF 288.82 FEET, THENCE NORTH 82°14'44" WEST 430.86 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 87°44'37" WEST 42.10 FEET, THENCE NORTH 02°15'23" WEST 96.00 FEET, THENCE NORTH 87°44'37" EAST 42.10 FEET, THENCE SOUTH 02°15'23" EAST 96.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITuate, LYING AND BEING IN THE TOWN OF DADE, BROWARD COUNTY, FLORIDA AND CONTAINING 4,042 SQUARE FEET (92.82 ACRES) MORE OR LESS.

ALSO KNOWN AS LOT 81 OF THE "SILVERADO" SITE PLAN.

### CERTIFICATIONS:

CERTIFIED TO:  
 EDWARD J. SCHACK, ESQUIRE,  
 ATTORNEYS' TITLE INSURANCE FUND, INC.,  
 RAMON SEGA AND LERON SEGA,  
 HUSBAND AND WIFE,  
 AUTO-CAR MORTGAGE GROUP, INC., ITS  
 SUCCESSORS AND/OR ASSIGNS, AS AKA

ADDRESS:  
 2874 NORTH SILVERADO CIRCLE  
 DADE, FL 33024

### FLOOD INFORMATION:

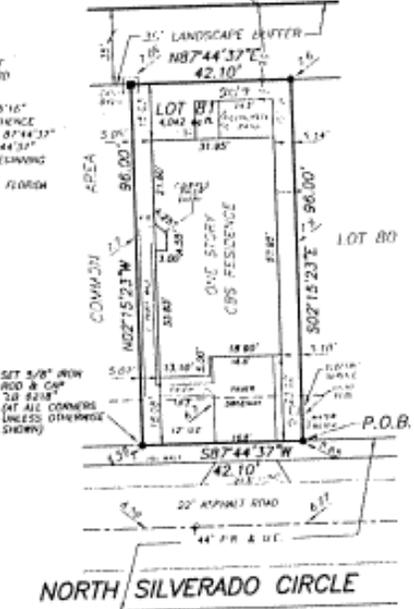
COMMUNITY PANEL NO. 320075 0304/0305 F  
 FIRM SURVEY DATE 08-02-97  
 EFFECTIVE DATE 8-16-92  
 BASE FLOOD ELEVATION 5.00  
 ZONE AH  
 NOTE: PANEL DIVISION GRIDES SUBSTANDARD

### LEGEND:

- DENOTES EXISTING ELEVATION
- DENOTES CENTERLINE
- DENOTES POINT OF COMMENCEMENT
- DENOTES POINT OF BEGINNING
- DENOTES UTILITY EASEMENT
- DENOTES LAKE MAINTENANCE EASEMENT
- DENOTES DRIVEWAY & UTILITY EASEMENT
- DENOTES 5/8" ROW AND 1/4" CAP "B" EASEMENT
- DENOTES SCHEDULE

### SURVEYOR'S NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL DATED SEAL OF A LICENSED SURVEYOR & MAPPER
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, ENCUMBRANCE, OR OTHER INSTRUMENTS OF RECORD BY ABSOLUTE SURVEYING, INC.
3. DIMENSIONS SHOWN HEREON ARE RELATIVE TO "STARLING MEADOWS", P.B. 165, PLS. 39, B.C., THE REFERENCE BEARING IS THE WEST LINE OF THE PLAT BEING N87°44'37\"/>



LOWEST FLOOR ELEVATION = 8.62  
 GARAGE FLOOR ELEVATION = 7.82

### SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 461.17-8, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 461-122, FLORIDA STATUTES.

DATE 6-21-00 BY MITCHELL R. MULLORY

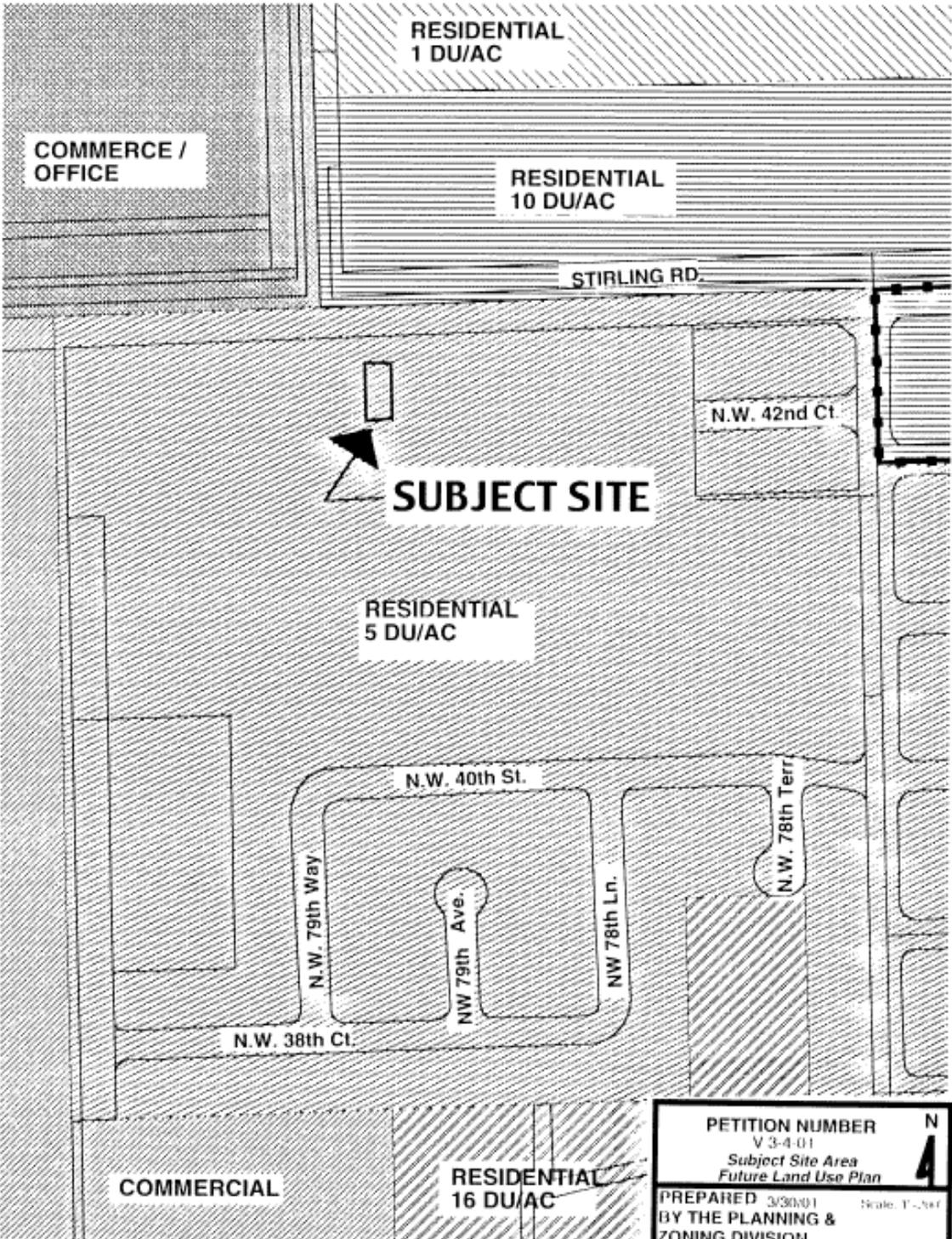
MITCHELL R. MULLORY  
 PROFESSIONAL SURVEYOR & MAPPER  
 FLORIDA REGISTRATION NO. 48761

PROJECT No.: 97252

**ABSOLUTE SURVEYING INC.**  
 LAND SURVEYORS  
 1800 WEST OAKLAND PARK BLVD  
 SUITE 102  
 FORT LAUDERDALE, FL 33311  
 (954) 777-2733  
 LICENSED BUSINESS NO. 8214



REVISION	BY	DATE	FIG./V.	END
BOUNDARY SURVEY	JMP	8-11-99		MRW
PLOT PLAN	JMP	9-9-99		MRW
SPOT SURVEY	JMP	11-20-99	97/16	MRW
FINAL SURVEY	JMP	5-04-00	110/4	MRW



<b>PETITION NUMBER</b> V 3-4-01 <i>Subject Site Area</i> <i>Future Land Use Plan</i>		N <b>4</b>
<b>PREPARED</b> 3/30/01 <b>BY THE PLANNING &amp; ZONING DIVISION</b>		Scale: 1" = 400'

64A

**CC**

**R-1**

33 34

**SUBJECT SITE**

