



BOARD OF COUNTY COMMISSIONERS

Planning and Development  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321) 633-2070 Phone

## VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action:  Yes  No

If yes, please indicate the case number and the name of the contractor:

Case Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

Building Permit 25BC10995 was approved July 1, 2025 by Brevard County. The project was about 70% complete when a construction hold was abruptly put on the permit. The County conducted the appropriate inspections for the pool location, the shell, the screen enclosure, foundation, footers, and others as were required. At present the homeowners are living in a dangerous construction zone and the homeowners, family, and guests only have one safe access to their home through the garage.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

Our client proceeded forward with the construction of their pool with a licensed contractor in good faith that the permits were approved and there were no additional requirements needed. Our client's have paid over \$70,000.00 toward the completion of the pool, unaware that there was an oversight by the pool contractor and County and multiple variances were needed.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification.

Applicant Response:

The homeowner is applying for three variances and no special privilege would be conveyed by granting the variances. There are numerous other homes in Merritt Island with pools in front of their homes, that have also benefited from applying for similar variances or other means.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

Applicant Response:

The applicants have suffered a severe undue hardship, and currently have limited enjoyment of their property based on it's current condition. Applicant's proceeded through the proper channels to build a pool structure and obtained stamped and dated permits that they believed could be relied upon. Our client specifically instructed their pool contractor that they did not want a pool & enclosure design that would require any variances or special considerations. Once the permit was approved our client's were under the impression no further permissions were needed. They have since incurred further damages through attorneys fees, loss of use, and the undue hardship of living in a construction zone with dangerous conditions present.

