

# VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and  
name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

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:

\_\_\_\_\_  
*See supplemental attachment for Hardship Questions.*  
\_\_\_\_\_  
\_\_\_\_\_

(2) That the special conditions and circumstances do not result from the actions of the applicant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(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:

\_\_\_\_\_ U \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(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:

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(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

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(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

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I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant Shawn A Benvenuto

Signature of planner Kristen Orourke

**Factors for variance:**

**(1) Special Conditions & Circumstances**

Special conditions and circumstances exist due to the configuration of our property, including the existing residence placement, lot dimensions, and limited buildable backyard area. These conditions are unique to this property and restrict the ability to construct a customary residential swimming pool in full compliance with current setback requirements. The requested variance is necessary to allow reasonable use of the property consistent with other similarly zoned properties in Brevard County.

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**(2) Not Self-Created**

The special conditions and circumstances are not the result of any action by the us but are inherent to the property's original lot layout, dimensions, and the location of the existing structure. The need for the variance arises from these pre-existing conditions and not from any modifications or actions taken by the us.

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**(3) No Special Privilege**

Granting this variance will not confer any special privilege upon us that is denied to other properties within the same zoning classification. Residential swimming pools are a common and permitted improvement within Brevard County, and the variance simply allows us to enjoy a similar use of our property. The request is minimal in nature and consistent with variances granted for comparable properties with similar constraints.

**(4) Hardship / Deprivation of Rights**

The literal enforcement of the Brevard County zoning and setback requirements would create an unnecessary hardship due to the unique configuration of our property, including the existing residence footprint and limited rear yard depth. These conditions restrict the ability to construct a customary residential swimming pool without minor encroachment into the easement setback. Other similarly zoned residential properties within Brevard County are able to reasonably utilize our property for pools and outdoor improvements; however, strict application in this case would deprive the us of those same rights. The hardship is not self-created but is a result of the lot layout and existing improvements.

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**(5) Minimum Variance Request**

The requested two (2) foot easement variance is the minimum necessary to allow for the reasonable use of the property and the construction of the proposed swimming pool. The pool design has been configured to minimize any encroachment into the easement area while still meeting applicable building, safety, and engineering requirements. No greater variance than necessary is being requested.

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**(6) Harmony with Area / Public Welfare**

The granting of this variance will be consistent with the intent of the Brevard County Code of Ordinances and will not be injurious to the surrounding neighborhood or detrimental to the public welfare. The proposed pool will be compatible with existing residential development patterns and will not adversely impact drainage, utility access, or easement functionality. All required permits will be obtained, and the project will comply with applicable Brevard County building codes and regulations. The variance will allow for reasonable property use while maintaining the character and safety of the area.