



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: Sharp Pools and Spas

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:

The unique shape of the southern tip of Merritt Island restricts the locations a swimming pool could be installed due to the proximity to the Banana and Indian river on either side of the property and the size of the lot. The property is limited in the space to build with the existing structure already built inside the current setback. The current setback for a double frontage home is 10 feet minimum setback from a seawall. The home is built 8 feet from the setback currently. The current pool setback is 20 ft setback would require the pool to be built inside of the home on one side of the property and wouldn't be allowed on the other due to the septic drain field. This home is double frontage and less than 0.5 acres. There are over 310,000 homes in Brevard county and less than 100 homes in that have water on both sides and less than 0.5 acres. This represents approximately 0.0004% of all homes in Brevard County

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

Applicant Response:

When the home owner bought this home did they not anticipate putting in a pool originally. The special location at the south tip of Merritt Island has extremely limited space for a pool based on the current setback requirements. Upon review of the setback requirements is when the home owner discovered the challenges to build.. The current limited space is not the result of the home owner making any modifications, but it caused by size of the island itself.

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:

This will not provide any special privileges due to other properties in this area building in the same setback location being requested by this variance. Similarly the south neighbor property at 11660 Dragon Point Dr, Merritt Island, FL 32952 has structures in this same setback location and the home owner (Jerry Willoughby) has provided a letter of support for this variance request. The next house south (11670 Dragon Point Dr, Merritt Island, FL 32952) also has structures built in this same setback locations. Google Earth satellite images are attached as supporting documentation.

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:

There are no other locations on the property were a pool can be built, without this variance approval the customer will not be able to build a pool on their property. Approximately 25% of all homes in Brevard county have pools installed. The typical double frontage home in Brevard does have space for a pool without a variance request, without the variance approval the home owner will not be able to build a pool.

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

Applicant Response:

Due to the setback requirements, the location drain field and road in the front of the property, this is the only location a pool could be built. Additionally, there is enough room with a variance request for a larger pool but the applicant is only requesting enough room to build a reasonable pool that also fits in with the esthetics's of the home. This application only request enough room to build the attached designed pool which uses less than 50% of the possible variance space.

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

Applicant Response:

The intent of the provision is to protect the seawall from undue weight loading from a pool and for environment protection from storm runoff into the river. The homeowner has paid for an engineering geotech and structural studies and professional civil and structural engineering stamped designs providing helical piling support for the preventing of loading the seawall. The homeowner paid for a professional civil engineer to provide a environmental protection plan for storm runoff and retention which has been reviewed and approved by Natural Resources Management Department in building permit application 25BC08881.

I fully 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 a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.

Sam Dicpetris

Signature of Applicant

Jackson,
Desiree

Digitally signed by
Jackson, Desiree
Date: 2025.08.26
10:06:32 -04'00'

Signature of Planner