



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of Adjustment Members
FROM: Paul Body, Senior Planner
Thru: Trina Gilliam, Planning & Zoning Manager
SUBJECT: Variance Staff Comments for Wednesday, March 18, 2026
DATE: February 26, 2026

DISTRICT 2

(26V00002) William R. and Sharon Mullinax Palmer (Monica Pritchard) request three variances of Chapter 62, Article VI, Brevard County Code as follows; 1.) Section 62-2123(a) to allow a swimming pool to be located forward of the principal structure; 2.) Section 62-1341(5)(b) to allow a swimming pool to be located forward of the front building line; and 3.) Section 62-1341(5)(b) to allow a swimming pool screen enclosure forward of the front building line in an RU-1-9 (Single-Family Residential) zoning classification. This request represents the applicants' request to legitimize a swimming pool under construction (permit 25BC10995) and permit a swimming pool screen enclosure (permit 25BC18624) that are located in forward of the front building line of the existing house. The applicants state that the building permit (25BC10995) for the swimming pool was issued in error and are requesting variances to finish the pool and to build a pool screen enclosure. There are no variances to the have a swimming pool or pool screen enclosure located forward of the front building line requirement in the immediate area. There is no code enforcement action pending with Brevard County Planning and Development Department. If the Board approves this variance, it may want to limit its approval as depicted on the survey provided by the applicant with a revision date of 1/2/2026.

Is the request due to a Code Enforcement action? **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:

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.

Staff response: **The permit for the swimming location was issued in error. The swimming pool bowl and decking have been built. Location of the swimming pool will effect the pool screen enclosure.**

(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 clients 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.

Staff response: **The permit for the swimming pool location was issued in error. The swimming pool bowl and decking have been built.**

(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.

Staff response: **This parcel is located on canal and is not a double frontage lot in which the property owner could pick the canal as the front property line to allow a swimming pool to be located forward of the house. Variances will be required to have a swimming pool and swimming pool screen enclosure located in forward of the front building line of the existing house.**

(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 its 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 clients 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.

Staff response: **The permit for the swimming pool location was issued in error. The swimming pool bowl and decking have been built.**

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

Applicant response: The approval of the three variances will make it possible for our client to make reasonable use of the pool as was originally approved in their permit. It will also allow them to finish construction and secure the area removing the dangerous conditions present on the property.

Staff response: **The variances will be required to have a swimming pool and swimming pool screen enclosure located in forward of the front building line of the existing house.**

(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:

Applicant response: Our client does not have front facing neighbors. This is a residential neighborhood and allowing the variances for the pool and screen enclosure will not be out of harmony with the general intent and purpose of this chapter. The property across the street, in front of the home, is a sanctuary where no future homes can be constructed. Allowing our client's to finish the pool would be to the benefit of the public welfare as the property currently contains dangerous conditions.

Staff response: **The parcel only fronts along the street. There is a sanctuary across the street where no future homes can be constructed.**