

1.13.3. Decision Criteria

- A. The Commission shall, based upon substantial and competent evidence, make an affirmative finding on each of the following in granting a variance application or find that the variance will correct a bona fide staff error that has led to design or construction that does not comply with the LDR:
1. The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
The proximity of the existing pool and pool deck to the southwest (rear yard) and northwest (side yard) necessitate the proposed variance to allow for the pool cage.
 2. The conditions upon which the request for a variance is based are unique to the parcel and would not be applicable, generally, to other property within the vicinity;
The location of the pool and pool deck in close proximity to the property lines prior to the adoption of Sec. 3.1.9.C.2 prohibiting pool cages within five feet of rear and side property lines would not, generally, be applicable to other property in the vicinity.
 3. The variance is not based on any conditions, including financial, occupational, or ability, which are personal to the applicant as applied to the property involved in the application;
The variance is not based on conditions financial, occupational, or ability which are personal to the applicant. The variance is based upon the existing location of the pool and pool deck.
 4. The alleged hardship has not been created by any person presently having an interest in the property or, if it was, it was created as a result of a bona fide error;
The hardship has not been created by the property owner, the location of the pool and pool deck was established prior to the adoption of Sec. 3.1.9.C.2 which prohibits pool cages within five feet of rear and side property lines.
 5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity;
The granting of the variance will not be detrimental to the public or injurious to other property or improvements in the area, and a letter of support has been provided by the property owner adjacent to the yards where the variance is proposed.
 6. The variance granted is the minimum variance that will make possible the reasonable use of the property; and
The variance is the minimum variance required to reasonably enclose the pool and pool deck within the proposed pool cage.
 7. The property cannot be put to a reasonable use which complies fully with the requirements of the Code unless the variance is granted.
The property cannot be put to the reasonable use of a pool cage without the proposed variance.

3.1.9. Accessory Uses and Structures

C.2.Cages or Screened Enclosures. Pool cages and screened enclosures are permitted no closer than five (5) feet from the side or rear property line.