

The Building Official's ruling was that the entire barrier must be on the same property as the pool. The City of Cape Coral would like to appeal the decision based on the fact that a variance cannot be issued for a technical code and this barrier is a life safety requirement.

This residential swimming pool barrier must comply with all the requirements of the Florida Building Code 2004.

Section 424.2.17.1.12 The barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section.

The barrier and pool perimeter are defined as:

Barrier: A fence, dwelling wall or nondwelling wall or any combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.

Pool Perimeter: A pool perimeter is defined by the limits of the pool deck, its surrounding area including **yard area on the same property**, and any dwelling or nondwelling wall or any combination thereof which completely surrounds the pool.

105.4.1 Permit Intent

*A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, **cancel alter or set aside any of the provisions of the technical codes**, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction or violations of this code.*

Since this portion of pool barrier is not located on the same property as the residential swimming pool we do not feel this meets the minimum life safety requirements of sec. 424.2.17.1.12. This section of the swimming pool barrier can be removed or remodeled at any time by the fence property owner.

The lack of control and use of the pool barrier would be direct conflict with the general intent and purpose of the FBC and would be detrimental to the public health, safety and general welfare of the general public.