

Meeting the MGL c. 40A Section 10 Variance Criteria

New Standard (Effective July 2026): The Board shall grant a variance if strict enforcement would result in a practical difficulty

BENEFITS

- Structure built pursuant to a Town-issued building permit — full good faith reliance
- Footing inspection signed off by Town of Medway Building Department
- Encroachment is minor — 4.2 feet on one side only
- Open-air structure creates no adverse impact on public health, safety, or welfare
- Relocation or tear down would cause substantial cost and disruption disproportionate to the deficiency

DETRIMENTS — None Established

- No adverse impact on public health, safety, or neighborhood welfare
- Structure is not visible from the street — no streetscape impact
- No noise, drainage, light, or privacy impact on surrounding properties
- Fire Chief personally inspected fireplace — found compliant
- Multiple abutters confirm no negative impact on their properties

Optional Factors the Board May Also Consider (MGL c. 40A §10):

(i) Soil/Shape/Topography

- Pool, patio, retaining wall & sports court limited practical siting area
- Placement was only feasible location adjacent to pool- required 10ft from water’s edge
- Property is affected by diagonal side property line that reduces usable building area and limits placement

(ii) Financial Hardship

- Relocation/complete tear down would require major disturbance to completed pool area & hardscape
- Cost grossly disproportionate to 4.2 ft deficiency

(iii) Alternative Method

- No practical alternative location exists given completed site improvements
- Relocation not feasible without substantial reconstruction

(iv) Self-Created Difficulty

- Structure built per Town-issued permit & approved footing inspection
- Applicants acted in complete good faith — not a knowing violation