

**North Carolina Office of the State Fire Marshal  
Engineering and Building Codes Division in the Department of Insurance**

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RE: Appeal of the July 17, 2024, )  
Decision by the Orange County )  
Inspections Department that a )  
pool barrier border cannot be ) OSFM DECISION  
placed further away from the )  
water’s edge than the longest )  
dimension of the pool. )

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In accordance with N.C.G.S. § 160D-1127, Todd Williams, of Swim Safe Pools, Inc., representing homeowners Scott and Lauren Wilcoxon, has appealed the Orange County Inspections Department decision that a pool barrier border cannot be placed further away from the water’s edge than the longest dimension of the pool at the home located at 1034 Secretariat Court, Chapel Hill, North Carolina 27516.

N.C.G.S. § 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the State Fire Marshal or his designee.

**PARTIES**

Appellant: Todd Williams of Swim Safe Pools representing homeowners  
Scott and Lauren Wilcoxon  
1034 Secretariat Court  
Chapel Hill, NC 27516

Appellee: Orange County Inspections Department  
131 W. Margaret Lane, Suite 201,  
P.O. Box 8181  
Hillsborough, NC 27278

**BACKGROUND**

On December 20, 2023, the appellant received notice that the fence intended to act as a pool barrier included in the plans was approved by the appellee.

On and around July 16, 2024, the appellant and appellee discovered that a different fence intended to act as a pool barrier was installed by a separate contractor under contract with the homeowners. Shortly thereafter the appellee cited to the appellant that the different fence intended to

act as a pool barrier installed is a substantial deviation from the original approved in plan review. After review of the installation and plans of the installed fence intended to act as a pool barrier, the appellee informed the appellant that the installed fence intended to act as a pool barrier was not approved because the pool barrier border cannot be placed further away from the water's edge than the longest dimension of the pool, based on their interpretation of the code. The fence intended to act as a pool barrier in the plans approved by the appellee on December 20, 2023, had a border that was located at or within the longest dimension of the pool from the water's edge.

On July 24, 2024, the appellant filed an appeal of appellee's decision pursuant to N.C.G.S. § 160D-1127.

### **ISSUE RAISED IN APPEAL**

The appellant is appealing the appellee's decision that a pool barrier border cannot be placed further away from the water's edge than the longest dimension of the pool at the home located at 1034 Secretariat Court, Chapel Hill, North Carolina 27516.

The appellants' appeal reads in most relevant part as follows:

'Orange County is citing a previous interpretation and is saying our pool barrier is too far away from our pool. They state that the fence can be no further away from the pool than the length of the pool.'

### **FINDINGS**

Based on information submitted by the appellant, the undersigned makes the following findings:

Code sections noted in this letter are referring to the 2018 edition of the NC Residential Code (NCRC) unless otherwise noted.

2018 NCRC Section AV102 Definitions states in part:

**BARRIER.** A fence, wall, building wall or combination thereof that completely surrounds the swimming pool and obstructs access to the swimming pool.

2018 NCRC Section AV105.1 Application states in part:

**AV105.1 Application.** The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near drownings by restricting access to swimming pools, spas and hot tubs.

2018 NCRC Section AV105.2 Outdoor swimming pool states in part:

**AV105.2 Outdoor swimming pool.** An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

....

Section AV105.2 notes that barriers are required. The installation of barriers around swimming pools, spas and hot tubs is intended to restrict access and provide protection against potential drownings and near drownings. Specific maximum distances for the location of barriers from the pool edge are not included in the code because fixed dimensions would be too restrictive for the infinite number of pool designs and pool area options that are available. The ten sets of criteria (not shown in this letter for brevity) listed in Section AV105.2, list various dimensional heights, openings and widths for the various materials used to construct barriers. Of note, criteria for any fixed maximum distances for the location of barriers from the pool edge are not included in the 2018 NCRC Appendix V Swimming Pools, Spas and Hot Tubs nor anywhere else in 2018 North Carolina State Building Code.

### **CONCLUSIONS**

Based on the forgoing findings of fact, the following conclusions are made:

1. Fixed maximum distances for the location of barriers from the pool edge are not included in the 2018 NCRC Appendix V Swimming Pools, Spas and Hot Tubs nor anywhere else in the 2018 North Carolina State Building Code and therefore cannot be enforced by the code official. Only the provisions included within 2018 NCRC Appendix V Swimming Pools, Spas and Hot Tubs and the 2018 North Carolina State Building Code can be enforced by the code official as far as the code is concerned.
2. Fixed maximum distances for the location of barriers from the pool edge may be enforced by the local government if legally included in a Unified Development Ordinance approved by the local government in compliance by law within N.C.G.S. § Chapter 160D.
3. The area around a pool defined by the pool barrier shall be included in the permit application and shall meet the requirements of the code as well as all other applicable laws and ordinances not included within the scope of the code. If the installed pool barrier substantially deviates from the approved permit documents, the local government may revoke and require the return of the building permit (N.C.G.S. § 160D-1115), if arrangements are not made between the permit holder and local government to align the permit application documents with the actual work performed.

**APPEAL DECISION**

Based on the above findings and conclusions, in solely citing compliance with the 2018 North Carolina State Building Code, the appellee's decision that a pool barrier border cannot be placed further away from the water's edge than the longest dimension of the pool at home located at 1034 Secretariat Court, Chapel Hill, North Carolina 27516 is DENIED.

This 9th day of February 2025.



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David Rittlinger, PE, LEED AP  
Division Chief – Codes & Interpretations  
North Carolina Office of State Fire Marshal

**FURTHER APPEAL RIGHTS**

The appellant and appellee have the right to appeal this decision to the NC Building Code Council. Please refer to N.C.G.S. § 160D-1114 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. In accordance with N.C.G.S. § 143-141, you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Michael Rettie, Chief Building Official, Orange County Inspections Department,  
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