

M E M O R A N D U M

TO: Planning and Zoning Board

THROUGH: Allen Parsons, AICP,
Director, Planning, Zoning and Building Department

FROM: Tate Taylor, AICP, Planner

REPORT DATE: November 22, 2019

MEETING DATE: December 17, 2019

SUBJECT: Discussion on Swimming Pool Standards

Recommended Action

Provide direction to Staff on preferred Zoning Code language for Swimming Pools.

Background

As part of the adoption of the updated Zoning Code on April 1, 2019, the Town Commission, Planning & Zoning (“P&Z”) Board, and staff identified 17 additional items that were deemed to be more substantive issues to be addressed separately from the initial Zoning Code update. At their March 19, 2019, Town Commission Regular Workshop Meeting, the Commission provided staff direction to prioritize the majority of these items into five separate groupings or “batches” of amendments.

At the September 17, 2019 regular meeting, Planning & Zoning (“P&Z”) Board reviewed the second phase or batch of Zoning Code amendments in which the Swimming Pool code provisions were included as Staff has received ongoing feedback from the public that the current Code language that address Swimming Pools can be difficult to understand. P&Z Board discussed how the Swimming Pool section is overly complicated, and contemplated if there was another way to simplify the Section. The P&Z Board provided direction to staff to consider redrafting the entire swimming pool provisions with an intent to simplify rather than attempt to modify existing code provisions, which led to having a workshop discussion on the Swimming Pool standards.

Staff has provided descriptions and background of the Swimming Pool Standards discussion topic below and will be seeking P&Z Board input into identifying opportunities to simplify this section of the Code to provide ease of use for the reader.

Swimming Pool Discussion Item Background

During the Zoning Code rewrite process, staff identified a number of policies and Code Sections to revisit and revise. Staff initially sought to re-write and re-format the Swimming Pools Section to bring greater clarity to how the Section was worded to bring about better understanding of the requirements. As mentioned, the Swimming Pools Section is complicated as it brings together several different sets of requirements; Required Yards (Setbacks), Lot Coverage (Building Coverage), and Non-Open Space Coverage all entwined into several paragraphs of text as shown below. At the direction of the P&Z Board and to assist with the workshop discussion, staff has provided a revised and simplified reformatting of the requirements for Swimming Pools in the form of a user-friendly table, following the below existing text that is currently in the Code.

Existing Code Language

Zoning Code Section 158.095 (B) currently states:

“(B) Swimming pools.

(1) Swimming pools, not to be enclosed by a structure other than fences or screening (Section 158.103) as required or permitted by the Town, may be constructed within the required yard areas, except the required street yard as prescribed by this Chapter. However, no part of the pool structure may protrude more than six inches above finished grade in the required yard (excluding gulf side or pass waterfront yards), and the pool walls shall be at least eight feet from the lot lines. No swimming pools shall be permitted within the required gulf or required pass waterfront yards unless:

(a) The swimming pool shall meet the requirements of the department of environmental protection; and

(b) The swimming pool location must be a minimum of 100 feet from the mean high-water line or erosion control line, whichever is more landward.

(c) Swimming pools shall be subject to the following setbacks as measured from the mean high-water line:

1. Bay waterfront yards. 20 feet.

2. Canal waterfront yards, except in the Special Canal Waterfront Yard Area as illustrated in Article XI, Appendices. 15 feet.

3. Canal waterfront yards in Special Canal Water Front Yard Area as illustrated in Article XI, Appendices. 10 feet.

(2) In determining the percentage of coverage of a lot by buildings, swimming pools and decks surrounding the pool shall not be counted in the computation if they are not more than six inches above finished grade. However, residential single-family buildings with a pool cage over a swimming pool and deck to surround the pool shall be permitted an additional five percent of allowable building coverage over the percentage otherwise permitted in the district. In addition, where a residential single-family building's swimming pool is more than six inches above finished grade and in conformance with Town regulations, an additional five percent of allowable building coverage over the percentage otherwise permitted in the district shall be permitted whether or not there is a swimming pool cage over the swimming pool and surrounding deck. In any event, the non-pool cage area of the building may not exceed the building coverage otherwise permitted in the district. However, notwithstanding the above, existing single-family residential buildings with an existing legally nonconforming pool cage may apply for a Building Permit to replace the pool cage with a pool cage of the same dimensions or smaller. A larger pool cage may be permitted subject to conformance with other Town regulations, including total building coverage on the lot not exceeding five percent more than the percentage otherwise permitted in the district.”

Alternative Simplified Table

The following table and requirements for swimming pools is provided for P&Z Board workshop discussion. Staff is of the opinion that the existing code provisions are sound and reflect longstanding design intents to minimize the addition of structures (pool cages and elevated pool decks) that contribute to bulk and view preservations. The table below, therefore does not propose altering any of the existing requirements for Swimming Pools.

As the P&Z Board will note, swimming pools that, are less than or equal to 6 inches above finished grade and without a pool cage (the first pool type listed in the table below, or for discussion purposes - Low Elevated Pool, (LEP)), are treated quite differently in the Town. These pools are permitted to be constructed closer to side, rear and waterfront property lines, and permitted to count toward the “non-open space” coverage requirements (typically a maximum of 50%) on a property, rather than toward lot (building) coverage (typically a maximum 30% + an 5% allowed for pools). These LEP pool types therefore allow a larger pool to be constructed on a site.

As shown in the below table, where other pools are limited to an additional 5 percent of building coverage on a property, the LEP pool type is permitted to count toward the property’s non-open space coverage, which is a maximum of 50 percent of the land area of the property in most cases. As to why these exceptions were originally crafted for these LEP types, staff reasons that the origin may be in preserving neighborhood canal and waterfront views; whereas the other pool types that are either elevated from finished grade or contain pool cages, would infringe taller structures into, and thus, blocking waterfront and especially the canal front view-sheds. This parallels the requirement of the “Canal View Preservation Zone”, Section 158.094(C)(5) of the Zoning Code to preserve the views along the canals in the Country Club Shores area of the Town.

In addition, the Code provides incentives for homeowners and builders to construct LEP type pools by providing more permissive yard and land coverage (non-open space) requirements.

(B) Swimming pools.

(1) Swimming pools shall meet the required yard and bulk requirements set forth in Article IV and Section 158.094(C), but may count toward lot coverage and non-open space coverage, and may be permitted within required yard areas as prescribed by the following yard and bulk regulations:

Pool Type (Elevation and Pool Cage)	Within Required Street Yard Setback	Within Required Min. Rear Yard Setback Allowed ^a	Within Required Min. Side Yard Setback Allowed ^a	Within Required Min. Waterfront Yard Setback Allowed (ft.) ^b	Pools Count Toward Max. Lot (Bldg.) Coverage
≤ 6 inches above finished grade without a pool cage	Not Permitted	Allowed 8 feet	Allowed 8 feet	Gulf/Pass: 100 ^a ; Canal: 15 ^a ; Bay: 20 ^a	No ^c

All Other Pool Types					
≤ 6 inches above finished grade with a pool cage	Not Permitted	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Yes Per Zone District, Plus 5%
> 6 inches above finished grade without a pool cage	Not Permitted	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Yes Per Zone District, Plus 5%
> 6 inches above finished grade with a pool cage	Not Permitted	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Not Permitted Must Meet Zone District Req's	Yes Per Zone District, Plus 5%

^a As measured from the exterior pool wall.

^b Refer to Section 158.094(C)(4)(b) for "special canal waterfront yard area" illustrated in the appendix: "land use charts and illustrations".

^c This pool type counts toward the maximum non-open space for the zone district.

Recommended Action

Provide Staff direction on preferred Zoning Code language for Swimming Pool requirements.