

MEMORANDUM

TO: Tom Harmer, Town Manager

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

REPORT DATE: February 21, 2020

MEETING DATE: March 2, 2020

SUBJECT: Ordinance 2020-04, Amending Chapter 158.095, Zoning Code, Accessory Use or Structure, Swimming Pools

Recommended Action

Forward Ordinance 2020-04 to the April 6, 2020, Regular Meeting for second reading and public hearing.

Background

As part of the April 1, 2019, adoption of the updated Zoning Code, the Town Commission, Planning & Zoning (“P&Z”) Board, and staff identified additional items that were deemed to be more substantive issues to be addressed separately from the initial Zoning Code update.

At their September 17, 2019, Regular Meeting, the 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 tried to identify a way to simplify the Section. The P&Z Board provided staff direction to consider redrafting the entire Swimming Pool Code provisions with an intent to simplify rather than attempt to modify existing Code provisions.

At the December 17, 2019, P&Z Board Regular Meeting, staff provided descriptions, background, and an alternative to the existing multi-paragraph text language into a simplified table that clarifies the Swimming Pool Standards to provide ease of use for the reader. The P&Z Board supported the simplified table approach and recommended that staff provide a further simplification of the table that would replace the current Code language describing the requirements for swimming pools. At the January 23, 2020, P&Z Board Regular Meeting, staff provided the requested edits to the table clarifying Swimming Pool Standards for discussion and consideration. The P&Z Board approved the proposed simplified table as presented and directed staff to prepare Ordinance 2020-04 with the recommended changes for consideration at the next P&Z Board Regular Meeting.

At their February 19, 2020, Regular Meeting the P&Z Board approved, Ordinance 2020-04 which incorporates the recommended changes that revise and replace the existing Swimming Pool language in Zoning Code Sec. 158.095(B).

Swimming Pool 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 discussed, the Swimming Pools Section, and its provisions, 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, staff has codified a revised and simplified reformatting of the requirements for Swimming Pools in the form of a user-friendly table, which is provided below following the 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.”

Proposed Alternative Simplified Table

A table was developed that contains the existing requirements for Swimming Pools reflect longstanding design intents to minimize the addition of structures (pool cages and elevated pool decks) that contribute to reducing bulk of houses and preserving views. These intents are similar to the preservation of neighborhood canal and waterfront views addressed in the Town's "Canal View Preservation Zone", Section 158.094(C)(5) of the Zoning Code, which requires the preservation of view corridors along the canals in the Country Club Shores area of the Town.

The table reflects these distinctions by maintaining standards for 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), which are treated quite differently in the Town. These pools are permitted to be constructed closer to side, rear and waterfront property lines, and are 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). The pool types therefore allow a larger pool to be constructed on a site. The other types of pools are limited to an additional 5 percent of building coverage on a property.

The table depicting the proposed changes is available in the Town Clerk’s Office (Note: Due to ADA requirements, this table cannot be reproduced in this version of the memorandum).

The P&Z Board held a public hearing on Ordinance 2020-04 on February 19, 2020, and recommended approval (7-0).

Staff Recommendation

Forward Ordinance 2020-04, to the April 6, 2020, Regular Meeting for second reading and public hearing.

Attachments

- A. Ordinance 2020-04 (Available in Town Clerk’s Office)
- B. PowerPoint Presentation (Available in Town Clerk’s Office)

End of Agenda Item