

Version sent from ZBA **Chilmark Zoning Bylaw for Pool/Tennis Court**
Article 4 Section 4.2A3
Proposed Revised Bylaw
October 24, 2018

Accessory Uses Article 4.2A

3. A swimming pool and a tennis court are considered accessory to the use of a principal dwelling. The Town will adhere to the following process:

- a. **Permitting and Enforcement:** A Special Permit is required for a swimming pool or tennis court. The Special Permit is issued by the Zoning Board of Appeals which, in its discretion, will determine whether the applicant/owner's plan meets the purposes and requirements of this section. Special Permits granted under this section will be enforced by the Building Inspector.
- b. **Application:** The applicant/owner must own the principal dwelling for two (2) years before applying for a Special Permit for a swimming pool or tennis court. Principal dwelling ownership begins when an occupancy permit for the principal dwelling is issued by the Building Inspector or from the date of transfer of the property with an existing dwelling for which an occupancy permit has been granted. Special Permits for new swimming pools and tennis courts may not be transferred to new owners.
- c. **Use:** A swimming pool or tennis court permitted under this section may only be used by residents or tenants of the principal dwelling and their guests.
- d. **Setbacks:** No portion of the swimming pool or tennis court or any related fencing or any pool-related mechanical equipment shall be located within 50 feet of any boundary line of said lot.
- e. **Access and Enclosure:** The purpose of this section (e) and sections (f) and (g) below is to prevent a child from gaining unsupervised access to the pool (a) directly from the principal dwelling on the property (or from any other structure outside the pool enclosure on the property), or (b) by getting a foot hold to climb over any pool enclosure fencing (including any stone wall) or any nearby vegetation.
 - 1) The pool shall be securely and completely enclosed and maintained on all sides with both a fence and self-locking gate(s) with the locks mounted on the pool-side of the gate(s). The fence and gate(s) shall be not less than 4 feet in height above ground level. The fence must be child-proof, e.g. a wire mesh size of 1" wide x 2" high.
 - 2) No portion of the principal dwelling (or any other structure on the lot) shall act as any section of the fence. If a stone wall is used for any section of the fencing, it must meet the minimum height requirement, and the exterior stone joints must be filled with mortar and flush with the exterior face of the wall.

- 3) Any vegetative screening of the pool or the pool enclosure shall be planted and maintained at least four feet outside the pool enclosure and at a height not to exceed four feet.
- 4) No pool may be approached from the principal dwelling (or other structure on the lot) or any associated deck without entering through a gate restricted as above.
- 5) The separation between the principal dwelling (or other structure on the lot outside the pool enclosure) or any associated deck and the swimming pool enclosure must be at least ten (10) feet, and the enclosure/fencing must be located no more than 50 feet distant from the pool.

f. **Line-of-Sight Observation:** A pool must be situated reasonably close to the principal dwelling and provide a clear and direct line of sight – not dependent upon by a closed circuit camera or other equipment enabling remote observation -- from a highly used room or place, such as a kitchen, living room or outside deck. Any fencing and/or vegetative screening between the principal dwelling and the pool must not interfere with a clear line of sight.

g. **Covers:** All swimming pools shall be equipped with automatic, retractable pool covers.

h. **Energy Use:** If a swimming pool is heated, all swimming pool-related pumps, filters, circulators, and the heating system shall be powered with solar or sustainable energy that is consistent with current best practices as determined by the Board. Any on-site, sustainable source of power shall meet the requirement of section 4.2A3g. If a heating system is added to an existing swimming pool, a Special Permit is required prior to its installation and it shall comply with this section.

i. **Light:** The swimming pool or tennis court shall comply with sections 5.5, 5.6 and 5.7 of these bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts shall not be lighted.

j. **Noise:** The Board may require all pool-related mechanical equipment to be located in an enclosed, sound-insulated shed or, preferably, in an underground vault to reduce noise. The location of such a shed or vault must be approved by the Board. Any such equipment which the Board does not require to be so located must comply with the provisions of Article 5 section 5.9 of these bylaws.

k. **Landscaping and Visibility:** The purposes of this section are to (a) allow vegetative screening provided it does not unreasonably interfere with an abutting property owner's enjoyment of their property and views from that property, and (b) protect public vistas.

- 1) If the applicant/owner intends to plant any vegetation between the principal dwelling and pool or between the pool and an abutting property, a specific landscape plan, if required must be approved by the Board. Any vegetative screening, whether specifically allowed in the Special Permit or otherwise, shall consist only of native, non-invasive species. Any such vegetation must at all times comply with sections e and f above.

- 2) No portion of the swimming pool or tennis court or any related fencing or any pool-related mechanical equipment or vegetative screening may be sited so as to interfere with the view of natural surroundings from a way used by the public or public land.

l. Fire Protection: A standpipe for Fire Department access is required for all pools containing over 10,000 gallons of water. The Fire Chief shall also approve the standpipe design and placement before obtaining a Building Permit.

m. Initial Filling: The initial filling of the pool shall come from an off-site source and shall not occur until the pool is in compliance with 4.2A3f.

n. Drainage: The concentration of potentially hazardous chemicals in the water must be significantly reduced and pool water must be properly tested before any necessary draining of the pool water directly into the ground of the property. Pool water must not be drained into any 'buffer zone' (as that term is defined in the Wetland Protection Act).