



TOWN OF CHILMARK, MASSACHUSETTS

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TO: Honorable Board of Selectmen
FR: Chilmark Planning Board
RE: Proposed Zoning Bylaw Amendments
DT: December 18, 2018

Dear Selectmen:

The Planning Board, at a properly posted meeting on December 17, 2018, voted unanimously to send the attached zoning bylaw amendments, proposing changes to the Swimming Pool and/or Tennis Court section 4.2A, 3., to the Board of Selectmen in order for the amendment to appear before the Town for a vote at the April 22, 2019 Annual Town Meeting.

Thank you,

Richard A. Osnoss
Chairperson
The Chilmark Planning Board

CHILMARK PLANNING BOARD

Rich Osnoss, Chair Catherine Thompson Peter Cook

Janet Weidner Chris MacLeod John Eisner Mitch Posin

Article 4: USE REGULATIONS

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ACCESSORY USES

Section 4.2A Accessory uses as specified below which are customarily accessory and incidental to a permitted use, subject to the following provisions.

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3. Swimming Pool and/or Tennis Court.

A swimming pool and a tennis court are considered accessory to the use of a principle dwelling. The Town will ~~follow the current approved MA Building Code on Swimming Pools 780 CMR and 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~~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 and iswill 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 property with an existing ~~occupiable~~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:** ~~Such A~~ swimming pool or tennis court permitted under this is may only be used ~~only~~ by the 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 pool-related equipment may may be located within 50 feet of any boundary line of said lot. ~~Related equipment will be placed in a location approved by the Zoning Board of Appeals. Depending on the lot, the Zoning Board of Appeals may require a sound insulated shed or underground vault for pool related equipment~~Setback relief may be available under Section 6.6.
- e. **Access and Enclosure:** The purposes of this section and sections f ('Line-of-Sight Observation') and g ('Covers') below are to prevent a child from (a) gaining unsupervised access to, and use of, the pool, and (b) getting a foot hold to climb over any pool enclosure fencing (including any stonewall) or any nearby

~~vegetation. Swimming pool enclosures are required and must be in accordance with current MA Building Code 780 CMR 120.M. If a stone wall is used for fencing, it must meet MA State Building Code Guidelines for Solid Barrier Surfaces, 780 CMR 120.M 105 Barrier Requirements, Section 3.~~

- ~~1) The pool must be securely and completely enclosed and maintained on all sides with both a fence (or pool barrier) and self-locking gate(s) with the locks mounted on the pool-side of the gate(s). The fence and gate(s) must be not less than 4 feet in height above ground level. The fence must be child-proof.~~
 - ~~2) If a stonewall 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 must be planted and maintained at least four feet outside the pool enclosure and at a height not to exceed four feet.~~
- f. Line-of-Sight Observation: A pool must be situated so as to 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, in the principal dwelling to the entire pool area. 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 ~~will~~must be equipped with a winter safety cover for off-season use and may be required to have an automatic, retractable pool cover.
- h. Energy Use: ~~Heated-If a swimming pool is heated,s (including the heating system, all pool-related pumps, filters, and circulators and the heating system) are permitted if the heat is supplied by~~must be powered with solar or renewable energy alternative systems, which are the most current energy efficient systems that is consistent with current best practices as determined, as approved by the Zoning Board of Appeals. Any on-site, renewable source of power must meet the requirements of section 4.2A3f ('Line-of-Sight Observation'). If a water-heating system is added to an existing swimming pool, a Special Permit is required for prior to its the installation and it must comply with this section.
- i. Light: The swimming pool or tennis court ~~must~~must comply with Chilmark Zoning Bylaw Article 5, Sections 5.5, 5.6 and 5.7 of

these bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts ~~may~~must not be lighted.

- j. **Noise:** The Board may require all pool-related mechanical equipment to be located in an enclosed, sound-insulated shed or in an underground vault to reduce noise. The location of such 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 The swimming pool and related equipment or tennis court must comply with Chilmark Zoning Bylaw Article 5, sSection 5.9 of these bylaws.
- k. **Screening and Landscaping and Visibility:** The purposes of this section are (a) to 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) to 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 may be required by the Board and, if so, it must be approved prior to implementation. Any vegetative screening, whether specifically allowed in the Special Permit or otherwise, must A screening plan shall consist of native, non-invasive species. Any such vegetation must at all times comply with sections e ('Access and Enclosure') and f ('Line-of-Sight Observation') above.
- ~~1)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, provided they are consistent with Article 4.2A, sections 3.f and 3.j and must be perpetually maintained for the life of the pool.
- l. **Fire Protection:** An accessible and functionalA standpipe for Fire Department access is required for all pools containing more over than 7500-10,000 gallons of water. The Fire Chief must also approve with thethe standpipe design, and placement and operation to be approved by the Chilmark Fire Chiefbefore obtaining a Building Permit.
- m. **Initial Filling:** The initial filling of the pool ~~shall~~must come from an off-site source and ~~shall~~must not occur until the pool is in compliance with ~~e. Enclosure and the pool area may be safely securedthis~~ bylaw.
- 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).

o. Maintenance of Equipment: Pool fencing (including gates) and equipment (including the pool cover) must be maintained in good working order.

p. Compliance with Laws: The pool must meet all applicable State and Town laws and regulations governing pools. If there is any conflict between those laws or regulations and this bylaw, the more stringent applies.