

**Preliminary and Final Report of Planning & Zoning Commission
recommending proposed changes to zoning provisions
governing swimming pools Section 44-157 (5) adopted 10/6/08**

Section 44-157 (5) is amended to read as follows:

- “ (5) *Swimming pools.*
- a. *Generally.* An outdoor swimming pool shall be permitted as an accessory use or structure provided that it meets the following requirements:
 - 1. it must be located in the back or side yard;
 - 2. it must be set back a minimum of 10 feet from the rear lot line, unless the rear lot line of the subject lot abuts the side lot line of another lot, in which case the pool must be set back a minimum of 15 feet from the rear lot line;
 - 3. it must be set back a minimum 15 feet from any side lot line.
 - b. *Special exceptions.* The Board of Adjustment may grant a special exception reducing the minimum set back distance to no less than five feet for non-conforming lots as defined in section 44-218 (b) (1) b. of this chapter.
 - 1. In order to grant a special exception the board must find that because the subject lot is of such unusual size or shape, or because it has valuable trees located in the rear or side yards, it would be impractical to locate a reasonably sized pool on the lot without either reducing the minimum set backs or removing valuable trees.
 - 2. The board must also find that the granting of a special exception permitting a reduced set back would not be unduly harmful to the owners of the lot or lots abutting the side of the subject lot for which a reduced set back is required. In making such determination the board may consider the location and orientation of any existing improvements and any existing utility easements on the subject lot and any abutting lots.

3. The board may condition the granting of a special exception as necessary to protect the interests of abutting property owners and to further the intent of the set back requirements. Conditions may include: a) requiring the applicant to design the pool or related improvements to minimize the impact of its location or use on neighboring property owners; b) requiring the applicant to take necessary measures to protect and maintain any valuable trees that served as a basis for granting the special exception; and c) such other conditions as the board deems necessary.