



April 15, 2022

City Council  
C/o City Messenger

**RE: Holyoke Zoning Ordinance, Swimming Pools in a Front Yard**

At our meeting of 25 January 2022, the Planning Board voted 4-1 to recommend AGAINST the proposed Ordinance Change to allow front-yard pools on corner lots by special permit because of negative impacts on public safety. This communication is intended to give additional information to support this finding. We do not believe that front yard pools would further the interests of public safety nor contribute to the streetscape values of our city, and we find that there is no compelling difference that would support separate rules for corner lots, and thus we continue to urge the City Council to NOT allow this Ordinance change.

Zoning Ordinances in 4.4 regulate Accessory Uses and Structures. All permitted accessory uses and structures are listed in 4.4.2; the accessory structures allowed in *residential districts* include private garages and carports, toolsheds, dog houses, and private pools. The Ordinance specifies in 4.4.6 that all of these uses “may be erected in the rear yard area” and cannot cover more than 25% of the rear yard. Ordinance 4.5 lists specific regulations for swimming pools, including setbacks (4.5.2). Ordinance 4.5.2 reads in full:

The wall of a swimming pool shall not be located less than eight (8) feet to any dwelling or accessory structure, six (6) feet from any rear or side lot line, and ten (10) feet from the street line. A pool shall not encroach into any front yard of a parcel. In the case of corner lots, pools shall not be constructed within the front yards of the lot.

The argument has been made in the Ordinance Committee and before the City Council that residences on corner lots are at a disadvantage in siting a pool due to having two sides of their property considered front yards. However, we believe this is an incorrect interpretation of the current ordinance, because similar spatial restrictions apply to residences on non-corner lots. Consider the hypothetical of a completely symmetrical lot with a house in the center of the lot [a graphic representation is attached below]. This lot looks like a tic-tac-toe board with the middle 1/9<sup>th</sup> occupied by the house. If this hypothetical standard lot is a non-corner lot, according to 4.4.6 the homeowner can have a pool in any of the 3/9ths of the lot which are behind the house (in other words, neither in the 3 front 9ths nor in the two side yards). If this hypothetical standard lot is a corner lot, according to 4.5.2 the homeowner cannot have a pool in the 5/9ths of the lot which are “front yards,” but can have a pool in the 3/9ths of the lot which are not front yards. While corner lots have more “front yard,” the ordinance allows them to site pools in the two sections of their yard which could be considered “side yard.” In both cases, 3 of 9 sections of the lot are available to place a pool. Thus, the current ordinance creates equal opportunity for owners of corner and non-corner lots, given a hypothetical symmetrical lot.

Of course, in practice houses on corner lots are often set back from the street such that no pool can fit behind the house, but this is equally true of many non-corner lot houses. In a city like Holyoke, many homeowners, regardless of what type of lot they own, do not have the available land to put a pool on their property while following the

required setbacks and other regulations. This is true for other accessory structures as well, and we see no compelling reason to create special exemptions for pools.

While the ordinance does not outline the specific reasons why accessory structures, including pools, have been restricted to backyards, we offer the following general principles to consider:

- Creating unencumbered streetscapes for reasons ranging from public enjoyment to minimizing distraction for drivers, particularly in this case given the likely activity around a pool
- accessibility to the dwelling by the fire department in the case of fires, which could be impeded by accessory structures like pools
- provision of utilities which are often through the front yard
- pools are often seen as an “attractive nuisance,” and siting them in view of the neighborhood and passersby increases the likelihood of trespassing, unauthorized use, and attendant dangers

Specifically in the case of pools, fencing is required to enclose a pool, and were a pool to be placed between a dwelling and the street, additional concerns related to fencing as defined in ordinance 4.6 would need to be considered, and could create significant issues for public safety. In particular, the issue of adequate sight lines around corner lots has generated substantial concern in Holyoke. The additional fence setback regulations that this issue necessitates for corner lots further impede the siting of a pool.

In the course of researching this issue, Planning Department staff surveyed the ordinances of a number of neighboring towns, and found that none of these neighboring communities allow front yard pools, including on corner lots *even by special permit*. A summary of these findings is attached. While other cities’ decisions are not controlling on ours, we take this as an indication that there is a general agreement that concurs with our belief that front yard pools should not be allowed for the variety of safety and other concerns outlined above.

If the City Council wishes to move toward allowing such pools by special permit despite this advice, we would suggest you consider the following questions:

- What is the rationale for allowing front yard pools in corner lots and not non-corner lots, given equitable siting opportunities between such lots?
- What is the rationale for allowing front yard pools but not other accessory structures in front yards, given that pools are can be viewed as more of a luxury than structures like a garage or shed?
- What additions would need to be made to setbacks to ensure adequate sight lines around a corner pool and how would the special permit process guarantee them?
- How would the special permit process guarantee equal treatment for applicants throughout a residential zone?

Because of the myriad concerns this issue presents, we suggest that retaining the prohibition on front yard pools in corner lots *as on all other lots* is a preferable solution for the City.

Thank you,



John Kelley, Chairman  
Holyoke Planning Board

# Local Zoning Examples for Swimming Pools

## Holyoke

### 4.5.2 Location.

The wall of a swimming pool shall not be located less than eight (8) feet to any dwelling or accessory structure, six (6) feet from any rear or side lot line, and ten (10) feet from the street line. A pool shall not encroach into any front or side yard of a parcel. In the case of corner lots, pools shall not be constructed within the front yards of the lot.

## Westfield

Minimum front yard setback for all accessory buildings/uses shall be the same as that of a principal building or the setback of the lot's existing principal building, whichever is less.

A pool shall not be nearer than eight (8) feet to any lot line or eight (8) feet to any dwelling.

## West Springfield

A pool shall not be nearer than eight feet to any lot line or 10 feet to any dwelling.

### Accessory structures:

- (1) Accessory structures shall be located in the rear yard of the principal structure.
- (2) No more than 25% of a rear yard shall be occupied by accessory structures.
- (3) Accessory structures located on a corner lot shall be set back from any street line a distance equal to or greater than that required of the principal structure.
- (4) Except for structures used for agricultural purposes as defined by MGL c. 40A, § 3, the footprint of the accessory structure shall not be greater than that of the principal structure.

# Corner lot

|   |       |   |
|---|-------|---|
| ✓ | ✓     | ✗ |
| ✓ | house | ✗ |
| ✗ | ✗     | ✗ |
| ✓ | ✓     | ✓ |
| ✗ | house | ✗ |
| ✗ | ✗     | ✗ |

Street

Street

**Non-corner lot**

Street