



PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY PLANNING COMMISSION ON MAY 23, 2023

WAYNE TOWNSHIP CASE WTZC-2023-001

APPLICANT: Wayne Township Zoning Commission
6320 SR 133
Wayne Township OH 45122

REQUEST: Modifications to the Wayne Township Zoning Resolution as follows:
Article 18, Section 18.12 (C)
Article 2, Definitions
Article 26, Section 26.5, Administrative Process - (3.A),(3.B),(3.C)
Article 18, Section 18.26

PROPOSED TEXT AMENDMENTS: See attached Exhibit A.

STAFF ANALYSIS:

On April 25, 2023, the Wayne Township Zoning Commission passed a motion to initiate a text Amendment to the Wayne Township Zoning Resolution that includes:

Modify Article 18, Section 18.12 (C) with reference to added language concerning Pool Covers.

Modify Article 2, Definition that more fully describes Accessory Building with reference to description of materials and description of how it is installed.

Modify Article 26, Administrative Process. Sections 26.5 (3.A), (3.B), (3.C)
Article 26, Section 26.5, (3.A) modified to note violation process.
Article 26, Section 26.5, (3.B) modified to note compliance process.
Article 26, Section 26.5, (3.C) will be removed.

Modify Article 18, Section 18.26 to replace 1200 square feet to with eight hundred (800) square feet.

The proposed text amendments appear not to be in conflict with the provisions established in Section 519.12 of the Ohio Revised Code relative to the Township Zoning Authority and are consistent with actions meant to protect and preserve public health and safety. The Clermont County Office of the Prosecuting Attorney, Civil Division has no objection to the proposed text amendments.

RECOMMENDATION:

Staff recommends a motion to **RECOMMEND APPROVAL** of Wayne Township Text Amendment Case WTZC-2023-001 as initiated by the Wayne Township Zoning Commission.

**Wayne Township Zoning Commission
Emergency Meeting
4/25/2023**

Roll call John Pringle, George Anderson, Merri Lou Abney, Sue Allen
Noah Pennington(Absent)

Old Business

1. Text amendments. Each member will have a copy of all changes. Look over them and discuss. If all are in favor, there must be a Proposed Motion made.
2. Motion will be made on the following: Zoning Resolution Text Amendments.
3. Motion will made as follows:
 - A) Motion to recommend approval on the Wayne Township Zoning Resolution to be forwarded to the Wayne Township Trustees.
 - B) Modify **Article 18. Section 18.12 (C)** with reference to added language concerning Pool Covers.
 - C) Modify **Article 2.** Definition describing **Accessory Building** with reference to description of materials and description of how it is installed.
 - D) **Article 26. Administrative Process.** Section 26.5
 - E) **Article 26, Section 26.5, (3.A)** to be **Rewritten.**
Article 26, Section 26.5, (3.B) to be **Removed and Rewritten.**
Article 26, Section 26.5, (3.C) to be **Removed.**
 - F) Modify **Article 18, Section 18.26.** Replace (1200) square feet to read as **eight hundred (800) square feet.**
4. Motion made by Merrie Lou Abney, 2nd by George Anderson.
Vote: Pringle Yes, Anderson Yes, Abney Yes, Allen Yes

Submitted by:

Allen R. Carrier
Wayne Township Zoning Administrator

- C. When visible from the public right-of-way, the enclosure shall be provided with a gate to fully screen the containers.

Section 18.12 Private Swimming Pools

All private swimming pools shall be regulated by the Clermont County Health Department; the International One and Two Family Dwelling Code, Swimming Pools, Spas and Hot Tubs; and as established below. Any property owner seeking a swimming pool shall obtain a Zoning Certificate from the Wayne Township Zoning Department for a swimming pool. A fee, as established by the Township Trustees, shall be submitted with the application.

A private swimming pool, as regulated herein, shall be any indoor or outdoor structure, chamber, or tank containing a body of water, deeper than eighteen (18) inches, for swimming, diving, or bathing that is intended to be used collectively for swimming, diving, or bathing. A private swimming pool shall NOT include the following: inflatable pools, ponds that fall into the category of aquatic gardens, landscaping ponds or animal water tanks or bodies of water accessory to or used for agricultural purposes.

No such swimming pool shall be permitted in any District except as an accessory use and unless it complies with the following conditions and requirements:

- A. The pool is intended and is to be used solely for the enjoyment of the occupants and/or guests of the principal use of the property on which it is located.
- B. In "RHD" Residential High Density Districts, the pool may not be located closer than fifteen (15) feet to any property line of the property on which it is located. In no case shall a private swimming pool be located beyond the front building line of the principal structure.
- C. The swimming pool, or the entire property on which the pool is located, shall be fenced so as to prevent uncontrolled access. Such fence shall not be less than four (4) feet high and a minimum of five (5) feet from the edge of the pool, except for above ground pools with fencing that meets the provisions of this Section and defined in Section 18.12 D.
- D. The fence or wall shall not be less than four (4) feet in height. If the wall of an above ground pool is a minimum of four (4) feet in height then the requirement for a four (4) foot fence or wall is fulfilled. The wall or fence must be solidly constructed, consist of a substantial material permanently affixed to the ground or a solid foundation, contain openings of six (6) inches or less, be a minimum of five (5) feet from the edge of the pool walls, and shall be maintained in good condition with a gate and lock.
- E. All pool access points are to be provided with a lockable fence gate and removable or retractable ladders to prohibit access to the pool when not in use.
- F. All pool service structures, including but not limited to pumping equipment, and filtering equipment shall be screened from view of adjacent properties to the maximum height of the unit. Setbacks shall be followed per Section 18.23.

- C. When visible from the public right-of-way, the enclosure shall be provided with a gate to fully screen the containers.

Section 18.12 Private Swimming Pools

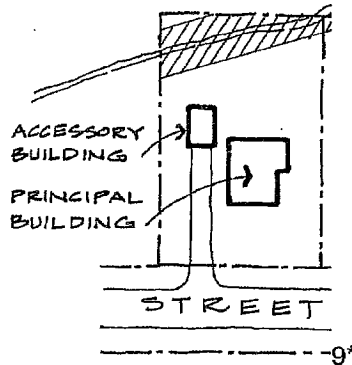
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- A. The pool is intended and is to be used solely for the enjoyment of the occupants and/or guests of the principal use of the property on which it is located.
- B. In "RHD" Residential High Density Districts, the pool may not be located closer than fifteen (15) feet to any property line of the property on which it is located. In no case shall a private swimming pool be located beyond the front building line of the principal structure.
- C. The swimming pool, or the entire property on which the pool is located, shall be fenced so as to prevent uncontrolled access. Such fence shall not be less than four (4) feet high and a minimum of five (5) feet from the edge of the pool, except for above ground pools with fencing that meets the provisions of this Section and defined in Section 18.12 D. **Pool covers of any type do not meet fencing requirements.**
- D. The fence or wall shall not be less than four (4) feet in height. If the wall of an above ground pool is a minimum of four (4) feet in height then the requirement for a four (4) foot fence or wall is fulfilled. The wall or fence must be solidly constructed, consist of a substantial material permanently affixed to the ground or a solid foundation, contain openings of six (6) inches or less, be a minimum of five (5) feet from the edge of the pool walls, and shall be maintained in good condition with a gate and lock.
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Accessory Building - A subordinate building or structure, the use of which is incidental to and customary in connection with the main building or to the use of the premises.



Accessory Use - See "Use, Accessory".

Acre – A measure of land area containing 43,560 square feet.

Adjacent - See "Abutting".

Agriculture - The use of land for agricultural purposes including: farming; ranching; aquiculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops (including those for bio diesel/ethanol production), tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

Agricultural Structure – Any structure or building accessory to the principal agricultural use of the land. Farm dwellings, however, are principal buildings.

Alley - A public thoroughfare which affords only a secondary means of access to abutting property.

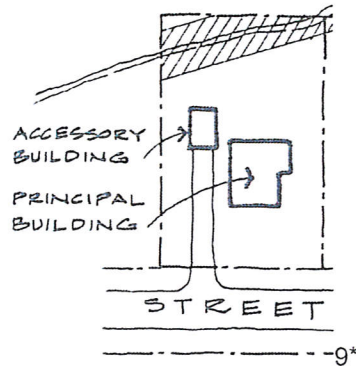
Alteration – Any change or addition to the supporting members or foundation of a building or structure.

Animal Hospital or Veterinarian Clinic - A place, licensed by the State of Ohio, used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation.

Antenna - The physical device through which telecommunications, radio, or television signals are transmitted or received.

Automobile Repair Garage - A business conducting general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including but not limited to: body work, frame work, welding and painting.

Accessory Building - A subordinate building or structure, either affixed or movable, located on the same lot as the primary structure or use which is customary and incidental to the primary use or structure.



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Section 26.4 Remedies

In case any building is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of any regulation, provision, amendment or supplement of this Zoning Resolution, the Board of Township Trustees, the Zoning Department, the County Prosecutor or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change maintenance or use.

Section 26.5 Administrative Process

The Zoning Department may employ various means of communications to alleged or confirmed non-complaint entities including but limited to verbal, letters, electronic media, or other forms of communicating the violations to the Wayne Township Zoning Resolution. The Zoning Department will adhere to the most effective processes similar to those listed below may be followed:

1. **Violation or non-complaint activity observed, reported, or otherwise brought to the attention of Wayne Township.**
2. **Zoning Department attempts to make contact with parcel owner, resident, or other reasonable point of contact to confirm or refuse claim of violation.**
3. **If violation confirmed:**
 - A. **Initial communication made with parcel owner with notification of 15 days to respond in order to reach a remedy.**
 - B. **Second communication made with parcel owner with notification of 15 to 30 days at the discretion of the Zoning Inspector in order to reach a remedy.**
 - C. **Final Notice sent to parcel owner with notification of additional steps for abatement.**

The Zoning Department may notify the Wayne Township Fire Department, Fire Inspector, or another appropriate official when properties are perceived to have safety concerns. The regulations and authority of the Ohio Fire Code may be applied in parallel with guidelines set in the Wayne Township Resolution.

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1. **Violation or non-complaint activity observed, reported, or otherwise brought to the attention of Wayne Township.**
2. **Zoning Department attempts to make contact with parcel owner, resident, or other reasonable point of contact to confirm or refuse claim of violation.**
3. **If violation confirmed:**
 - A. **Initial notice of violation issued by Zoning Inspector with a description of the violation, a time frame of 20 days to correct the violation and notice of appeals rights.**
 - B. **If compliance is not achieved, a final notice of violation will be sent to property owner and the matter may be referred to the County Prosecuting Attorney for further action.**

The Zoning Department may notify the Wayne Township Fire Department, Fire Inspector, or another appropriate official when properties are perceived to have safety concerns. The regulations and authority of the Ohio Fire Code may be applied in parallel with guidelines set in the Wayne Township Resolution.

Section 18.23 Accessory Buildings, Structures and Uses in Residential Districts

Accessory buildings, structures and uses, except roadside stands, school bus shelters for children and temporary buildings which are not part of the main building, shall be built in the side or rear yard, behind the front building line. An accessory building or structure which is not part of the main building shall not occupy more than thirty (30) percent of the required side or rear yard and shall be setback from the rear and side property line as follows:

Lot Size	Minimum Setback from Side and Rear Property Line
Less than one-half (½) acre	Five (5) feet
One-half (½) acre to less than one (1) acre	Ten (10) feet
One (1) acre and larger	Fifteen (15) feet

Section 18.24 Accessory Buildings and Uses in a Commercial or Industrial District

In a Commercial or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use, and which complies to the applicable standards of the District in which it is located, is permitted.

Section 18.25 Height Modifications

- A. Public, semi-public or public service buildings, hospitals, religious places of worship, or educational institutions may be erected to a height not exceeding sixty (60) feet if the building is set back from the property line at least two (2) feet for each foot of building height.
- B. Church spires, domes, flagpoles, aerials, windmills, fire towers, belfries, monuments, tanks (water), watch towers, silos, farm buildings or necessary mechanical appurtenances (HVAC, vents, elevator shafts, etc.) may be erected to any lawful and safe height as established by any Federal, State or local regulations.

Section 18.26 Minimum Floor Area

The minimum usable living floor area of a permanently sited dwelling shall not be less than one thousand two hundred (1200) square feet.

Section 18.27 Projections

Open structures such as porches, canopies, decks, bay windows, flues, chimneys, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard setbacks.

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Section 18.26 Minimum Floor Area

The minimum usable living floor area of a permanently sited dwelling shall not be less than **eight hundred (800)** square feet.

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