

Supporting Documentation, Item K. Existing Pool Structures

The code is not clear regarding how existing pool structures are to be regulated. The confusion starts with the definition of Structure which clearly includes pools as a structure. However, the last sentence of the definition is:

"For floodplain management purposes, a "structure or building" shall mean a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home."

The sentence alone is odd, but how does it apply to pools or other structures?

There is no definition for "nonconforming structures." Only Nonconforming Buildings and Nonconforming Uses are defined. Pools are permitted accessory uses. If a pool extends into set back areas or does not conform to a requirement that was established after the pool was constructed, does that make the pool a nonconforming use?

Because a pool is included as a structure, it would seem to be subject to the "substantial improvement" requirements, so that if repairs and improvements total 50% of the market value of the pool, it would have to comply with all code requirements. I don't see anything in the code assuring that a substantially damaged or improved pool could be rebuilt in the same location and footprint if it does not comply with all zoning requirements.

Hi Town Manager & Solicitor,

We are requesting clarification and written assurance regarding the impact of the Town's recent restriction on pools, specifically as it relates to our ability to repair, replace, or rebuild the existing structure located on our Delaware property. We appreciate the verbal representations made by the Assistant Town Manager and the Town Solicitor during the hearing that our pool is considered a lawful pre-existing, nonconforming (grandfathered) structure. Given the significance of this designation under Delaware law and local land-use authority, we respectfully request written confirmation and clarification of how that status applies in practice.

In particular, we request confirmation of the following:

- That the pool is formally recognized as a lawful, pre-existing, nonconforming structure under the Town Code and applicable Delaware land-use principles.

- How the Town distinguishes between permitted “repair” and a “replacement,” “reconstruction,” or “substantial improvement” that could trigger compliance with current code requirements.
- What thresholds, conditions, or definitions (e.g., percentage of structural damage, valuation thresholds, or “substantial damage” criteria) would require the pool to be brought into compliance with current regulations.
- Whether the pool may be rebuilt in its existing location and footprint if damage, deterioration, or failure occurs, and whether such rebuilding would be treated as continuation of a lawful nonconforming structure.

Because this issue directly affects our property rights, maintenance planning, and future investment decisions, we request a clear written response, including citations to any applicable provisions of the Town Code, Delaware statutes, administrative interpretations, or policies the Town is relying upon.

We also note that other properties in Town—such as the Cove’s tennis courts—have been recognized and protected as pre-existing structures. We expect consistent treatment of similarly situated properties.

Thank you for your attention to this matter. We look forward to your clarification.

Thanks,

SeaBreeze Village Executive Board

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