

# Merle Thorpe Architects



## RECENT ZONING AMENDMENTS INCREASE SCRUTINY OF PROPOSED ALTERATIONS INSIDE 100 FOOT BUFFER



In June 2009, the Talbot County Office of Planning and Zoning substantially revised its Zoning Ordinance in ways that increase the level of review and alter the approval process for construction activities related to structures within the 100 foot Shoreline Development Buffer. Certain structures that existed within the Buffer before 1989 are deemed to be legal (or grandfathered) non-conforming structures, but may be expanded only after compliance with local and state regulations applicable to activities within the Buffer and only after review by appropriate staff official or administrative agency (depending upon the size and location of the proposed expansion). While all expansions of structure inside the Buffer previously required approval, the revised Zoning Ordinance may alter the level of review and approval process for particular types of expansions.



In addition to the zoning amendments, the application for administrative variances in Talbot County was revised in September 2009, and interpretations by the zoning staff for fulfilling the requirements continue to develop. In some instances, applications for building projects that actually reduce the lot coverage of grandfathered conditions within the Buffer are being construed as expansions that require heightened administrative review.



In our practice, we have observed that obtaining a variance from the Board of Appeals has become increasingly difficult because of a tightened standard of review. Administrative variances approved by the Planning Commission are not automatic, but may be easier to obtain if the more objective required standards can be met. Proper planning and design can help to keep a project within the scope of review where approval may be more likely.



We recommend that all owners of waterfront property review their future building projects, and consider moving forward with the zoning and permitting process perhaps a bit sooner than originally planned. This will not mean that homeowners necessarily need to begin construction any sooner than planned. Variances and permits each are approved with lead times that can be extended. As a consequence, construction starts can be planned a few years in advance.



Another reason to be proactive is that the State of Maryland's Critical Area Commission, which issues land use guidelines to local jurisdictions to protect Critical Areas and Buffers within the Chesapeake watershed, issued proposed guidelines in November 2009, and are expected to issue additional guidelines in the future. As a result, other local jurisdictions around the Bay are likely to revisit their zoning ordinances in the near future and perhaps implement even more restrictive requirements for development within Buffer zones to bring them into compliance with new Critical Area Commission guidelines.



For more information, please contact Merle Thorpe  
Email: [Merle@MerleThorpeArchitects.com](mailto:Merle@MerleThorpeArchitects.com)

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