

BUILDING HEIGHT AND FILL REQUIREMENTS

Comments – John Finelli 7/22/19

I agree with the following comments that were made at the meeting by PB Members or during Public Comment:

- Keep fill regulations separate from height.
- Get rid of top plate requirement.
- Use same height definition in all districts.
- Expand the 1:3 slope requirement to include rear yards, as suggested by Andy.

Whenever possible, ordinances should be specific and not rely on the judgement of the Zoning Administrator. It's not fair to the Administrator, and such judgements are often challenged by attorneys as "arbitrary and capricious" (arbitrary and unpredictable).

Original Grade – needs a definition, one that incorporates a date.

Examples:

the topographic characteristics of the lot, tract or parcel that existed when the Town was incorporated.

(1) natural ground elevations, or (2) unnatural ground elevations created by excavation or the placement of fill material on a site prior to _____ (date).

If grading is (was) done in conjunction with a subdivision, then the resulting grade would be considered the "original grade."

Fill Requirements

Sometimes 1 or 2 feet of fill can make all the difference in keeping water out of a garage or protecting a house, particularly the water front properties on Currituck Sound or the north end of Jean Guite Creek where wave action can increase the water level above those properties which only experience rising flood waters. (March '91 storm, Hurricanes Flood, Fran, Irene and TS Michael). As such, I think property owners should be allowed to place 2 feet of fill on their lots even if it takes the finished grade above 7 feet above msl. This can be done with the 1:3 slope requirement and not affect aesthetics with a "doming" effect. This will also satisfy the concern expressed by Mark Martin at the PB meeting when he referenced a septic system on a lot which has a very high water table.

Retaining walls for the exclusive purpose of retaining fill material above naturally occurring grades are not to exceed two feet in height. (I have no problem with 30 in., but 2' appears most often in ordinances.)

Retaining walls used on fill slopes shall not be tiered

Fill materials shall be of substantially similar composition to the soils present on the lot being filled and shall not include debris or be finished with soils or materials that will adversely affect the absorption of storm water.

Height Calculation

... maximum building height shall be 35 feet measured from the average of the corners using original grade **or finished grade, whichever is lower**. Comment: This keeps an owner from topping a hill and then building a structure > 35 feet based on original grade.

Basements or enclosed foundations shall not be used in the determination of building height and shall be defined as the lowest story of a building located below the natural ground level. All sides shall be located below the natural ground level to qualify as a basement.

General Commercial District – Height - For Bank Use

4 years ago, I conducted a survey of the Commercial Property Owners in the Martin's Point ETJ, the results of which were forwarded to the Southern Shores Planning Staff and Town Council. 80% of the Owners responded and 100% of them expressed their desire to eliminate the special treatment of banks pertaining to height. The Martin's Point HOA expressed the same opinion. There is no reason to allow a structure next to a residential lot in which part of the roof can be 50 high when the additional 15 feet in height is not required for structural integrity or function.

I would like to see the Ordinance amended such that the additional 15 feet in height for a bank cupola cannot be applied in the ETJ. There are several ways to do this. The one that I think is most beneficial to Southern Shores is to amend the Ordinance such that the additional height would only apply to properties that have road frontage on Hwy 158. This will protect homes and residential lots that border the commercial properties on Juniper Trail and elsewhere, at the same time, keep Towne Bank as a conforming structure.