

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2014 Legislative Session**

Bill No. CB-64-2014
Chapter No. 50
Proposed and Presented by The Chairman (by request – Planning Board)
Introduced by Council Member Franklin
Co-Sponsors _____
Date of Introduction September 30, 2014

ZONING BILL

1 AN ORDINANCE concerning
2 Chesapeake Bay Critical Area Variances and the Board of Zoning Appeals and Grandfathering
3 of Affected Property

4 For the purpose of providing specific authority to the Board of Zoning Appeals to grant
5 variances from the requirements of this subtitle for property located within the Chesapeake Bay
6 Critical Area of the County, providing certain procedural requirements for the exercise of said
7 power and duty by the Board of Zoning Appeals, making certain clarifying amendments relating
8 to variances for property located within the Chesapeake Bay Critical Area of the County, and for
9 the purpose of providing the appropriate grandfathering provisions for property impacted by the
10 Chesapeake Bay Critical Area Sectional Map Amendment.

11 BY repealing and reenacting with amendments:

12 Sections 27-229, 27-230, 27-239.04, and 27-548.10,
13 The Zoning Ordinance of Prince George's County, Maryland,
14 being also
15 SUBTITLE 27. ZONING.
16 The Prince George's County Code
17 (2011 Edition; 2013 Supplement).

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
20 District in Prince George's County, Maryland, that Sections 27-229, 27-230, 27-239.04, and

1 27-548.10 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27
2 of the Prince George's County Code, be and the same are hereby repealed and reenacted with the
3 following amendments:

4 **SUBTITLE 27. ZONING.**

5 **PART 3. ADMINISTRATION.**

6 **DIVISION 5. APPEALS AND VARIANCES.**

7 **Subdivision 2. BOARD OF ZONING APPEALS.**

8 **Sec. 27-229. Powers and duties.**

9 * * * * *

10 (b) The Board of Zoning Appeals shall not have the power or duty to:

11 * * * * *

12 (22) Grant a variance from any of the requirements [applicable within the Chesapeake Bay
13 Critical Area;] of Subtitle 5B of the County Code;

14 (23) Except where provided in this Code, [H]hear and decide upon an appeal from any
15 determination regarding a Conservation Plan, a Conservation Agreement, Subtitle 5B, or from
16 the provisions of this Subtitle for property located within the Chesapeake Bay Critical Area
17 Overlay Zones;

18 * * * * *

19 **Sec. 27-230. Criteria for granting appeals involving variances.**

20 * * * * *

21 (b) Variances [may only be granted by the Planning Board] from the [provisions]
22 requirements of [this Subtitle or] Subtitle 5B of this Code for property located within the
23 Chesapeake Bay Critical Area Overlay Zones shall only be approved by the Planning Board
24 where an appellant demonstrates that provisions have been made to minimize any adverse
25 environmental impact of the variance and where the Prince George's County Planning Board [(or
26 its authorized representative)] has found, in addition to the findings set forth in Subsection (a),
27 that:

28 * * * * *

29 **SUBTITLE 27. ZONING.**

30 **PART 3. ADMINISTRATION.**

31 **DIVISION 5. APPEALS AND VARIANCES.**

Subdivision 6. VARIANCES IN CONJUNCTION WITH OTHER APPROVALS.

Sec. 27-239.04. Procedures.

(a) Applicants for a zoning case, site plan, or other request that requires a Variance, shall submit a written request with the Planning Board[.] or the Board of Zoning Appeals, as appropriate.

(b) The Planning Board or the Board of Zoning Appeals, as appropriate, shall determine the contents of the application form.

* * * * *

(f) For properties within the Critical Area, the Chesapeake and Coastal Bay Critical Area Commission recommendations must be made part of the record[.] prior to, or as part of, the Planning Board public hearing on the application requiring a variance. Within 10 working days after a written decision regarding a variance application is issued, the Chesapeake and Coast Bay Critical Area Commission shall be sent a copy of the final decision. A permit may not be issued for an activity that was the subject of a variance [application] approval until [a 30 day appeal period to] 30 days after the final decision on the application by the Planning Board in order to allow the Chesapeake and Coastal Bay Critical Area Commission [has elapsed and the plans are formally stamped and approved by Planning Department staff.] an opportunity to appeal.

SUBTITLE 27. ZONING.

PART 10A. OVERLAY ZONES.

DIVISION 2. CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONES.

Subdivision 1. GENERAL.

Sec. 27-548.10. Introduction.

* * * * *

(c) Grandfathering.

* * * * *

(3) All properties affected by the 2014 Critical Area Overlay Zone Sectional Map Amendment shall be grandfathered with respect to legally existing buildings and impervious surfaces as of the effective date of the Sectional Map Amendment.

[(3)] (4) All grandfathered lots shall be brought into conformance with the Critical Area regulations insofar as possible at the time of development.

[(4)] (5) The lot size, frontage, and vehicular access are in accordance with the

1 requirements of the underlying zone. Development of these lots shall not count towards the
2 growth allocation of the applicable Overlay Zone.

3 * * * * *

4 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
5 (45) calendar days after its adoption.

Adopted this 28th day of October, 2014.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.