

Building and Land Use in Lancaster County

What You Should Know

The purpose of this brochure is to provide information to prospective and current Lancaster County landowners about the permits required for building and land use, the process for obtaining those permits, and considerations in carrying out the permitted use. To that end, the best advice if one has access to the Internet is to go to the Lancaster County web site, www.lancova.com. The web site has hot links to the Code of Ordinances, Land Records Database, Public Hearing Schedule, Board of Supervisors Meeting Minutes, Board of Supervisors Meeting Agenda, Bid Advertisements, Employment Opportunities, County Officials Listing, and Public Notices. If your question is not answered by accessing the web site, or you prefer to talk to a person, call (804) 462-5220.

Most if not all the activities involving land use or building require a permit. Permits can be obtained at the Lancaster County Building and Land Use Office in the Lancaster County Administration Building between the hours of 9:00 a.m. and 5:00 p.m. weekdays. You may also obtain a permit application by downloading one from the web site or requesting that one be faxed or mailed to you. Completed applications can be mailed to the Building and Land Use Office along with the necessary fees. They will be processed and the completed permit will be mailed back. Property owners can obtain all permits in their name. Alternatively, property owners can have contractors obtain the permit. If contractors obtain the permit, the Building and Land Use Office will ensure that contractors have the necessary licenses; if the property owner obtains a permit, then responsibility for contractor qualification shifts to the property owner. Property owners are ultimately responsible for ensuring that permits are obtained. "After the fact" permits are double the normal fees and may involve civil or criminal action.

To save your time, here are some "dos" and "don'ts" and other important considerations relative to building and land use within Lancaster County. It is organized by activity so that you may select the activity pertaining to you:

Zoning

Zoning approval is required anytime the "footprint" of development changes on your property. This means the addition of a new building, addition to an existing building (including a deck), piers, bulkheads, and rip rap are all activities that require the issuance of a zoning permit. The cost of a zoning permit is \$50.

The main purpose of zoning is to document the location of your planned development on a plat of your property and to ensure that the location meets setback requirements from adjoining properties and road rights of way. You would normally file for a zoning permit at the same time that you come for a building permit or approval of a site plan. If you are not submitting a professionally prepared site plan, you are best served by bringing a plat of your property to the Building and Land Use Office with the planned development drawn on the plat, as carefully as possible to scale. The Zoning Officer will then work with you in documenting the distance to adjoining properties, road rights of way, or tidal waters. You need to know the distances prior to coming to the office. Once the distances have been documented on the drawing, both you, as the applicant, and the Zoning Officer will sign it. It then becomes a contract for that development. In that sense, you are bound to ensure that you measure the setback distances accurately. Failure to measure the distances accurately, as agreed upon in the zoning

permit could result in your having to tear out the building, addition, etc., or at the very least a costly trip, with no guarantees, to the Board of Zoning Appeals for an “after the fact” variance. To obtain setback distances, you are best served by going to the Code of Ordinances for the zoning district in which your property is located. Alternatively, you may call the Director, Planning and Land Use or the Zoning Officer for this information. There is some discussion as to setbacks in the following pages that will also be helpful.

New Construction/Additions

Building permits are required. The cost is calculated at the rate of \$.12 per square foot of new residential construction. Commercial construction permits cost more than residential construction permits and are listed on the fee schedule. If tree clearing and/or land disturbance is part of this effort, then you should refer to that section also. If plumbing, electric or the installation of heating and/or air conditioning (HVAC) is part of the effort, then separate permits must be obtained for each of these activities. The rate for residential plumbing, electric, and HVAC permits is \$50 each. Also, a building permit will not be issued until a septic system permit has been issued. This permit can be obtained from the Lancaster County Health Department located across from the Lancaster Post Office.

Zoning and the Chesapeake Bay Act are important considerations in planning the location of a home or addition to it. This is especially true for waterfront property. The Chesapeake Bay Act and state and local implementing laws restrict your use of it within the first 100 feet back from the edge of the wetlands. This area is referred to as the 100-foot protective buffer, and the intent is that no new impervious cover will be introduced into this area. Impervious cover consists of roofs, graveled driveways, decks, swimming pools, or any other cover that will cause storm water to run off rather than percolate into the ground. Redevelopment of existing impervious cover within the protective buffer can only be done with an approved site plan that contains Best Management Practices (BMPs) to mitigate the impact of storm water runoff. BMPs include vegetative plantings, structural dry wells, infiltration trenches and bio-retention basins dependent upon the amount of impervious cover on your site. A licensed surveyor and/or engineer with the necessary qualifications to recommend a best management practice must prepare your site plan. Any intrusion into the protective buffer requires contacting the Building and Land Use Office prior to having the site plan prepared to discuss any issues relative to your site.

Once you have obtained the building permit, you will be required to call for inspections at various points in the construction. Required inspections include footing, foundation, framing, plumbing, electrical, mechanical (heating and air conditioning), and final. Upon completion of a successful final inspection a Certificate of Occupancy will be issued. The Certificate of Occupancy serves as the authority for the property owner to begin use as planned.

Renovations

A building permit is required for renovations when it involves the movement of walls, new wiring, new plumbing or new heating and/or air conditioning. Permit fees are \$50 plus \$2 per \$1000 of cost of the residential project. Architectural drawings are not required, but a sketch of work to be done may be required when obtaining a permit.

Accessory Buildings

Accessory buildings include but are not limited to garages, guesthouses, sheds, and barns. A building permit is required for accessory storage buildings if they exceed 256 square feet. If included, electrical, plumbing and mechanical permits are required at the rate of \$50 each. Zoning is also required for the construction or placement of any accessory building to include small, pre-constructed storage sheds. One-story accessory buildings must be a minimum of 5' from any adjoining property line while accessory structures exceeding one-story must be a minimum of 20' from any adjoining property line and all must be a minimum of 50' from the edge of any road right of way. The fee for zoning is \$50. A zoning permit can be issued on the basis of a hand drawn sketch of the footprint of the building with stated distances relative to adjoining property lines and road rights of way. The property owner will sign the zoning permit and is bound to the setback distances set forth on it. A surveyor must verify any setbacks that are within two feet of the minimum, so it often behooves the property owner to adhere to setbacks that are at least two feet greater than the minimum if at all possible.

Manufactured Homes

A building permit is required for manufactured homes. The cost of the permit is \$200 for either a single wide or double wide. It is important for zoning purposes to distinguish between manufactured homes and industrialized homes or buildings. Manufactured homes are constructed to federal regulations (i.e. HUD) whereas industrialized homes are factory-built in compliance with the Virginia statewide building code-BOCA Code. Industrialized homes or buildings are permitted "by right" in agricultural and general residential zoning districts. Manufactured homes with a permanent foundation are permitted by right in the agricultural zoning districts, and double wide homes meeting certain criteria are allowed by right in the general residential zoning district; however, all single wide homes presently require a special exception in the general residential zoning district. There is no fee for processing of a special exception request, but at least one month must be allowed for processing since an advertised public hearing is held at a regularly scheduled Board of Supervisors meeting.

The owner of the manufactured home must also be the owner of the property on which the home will be placed and the person who applies for the permit in the residential zones. Additionally, a valid septic permit must be obtained from the Lancaster County Health Department prior to applying for a permit to place a manufactured home.

Bulkheads/Piers/Rip Rap/Groins

Each of these requires a permit from the County. The permit fee is \$200. The important thing to remember with bulkheads, piers, rip rap and groins is that you are, or may be, placing them in three different jurisdictional areas. Construction landward of Mean High Water (MHW) is in the jurisdiction of the Lancaster County Land Use Office; construction between MHW and Mean Low Water (MLW) is in the jurisdiction of the Lancaster County Wetlands Board; and, construction in the water, or beyond MLW is in the jurisdiction of the Virginia Marine Resources Commission (VRMC) or, possibly, the Army Corps of Engineers. Because of the multi- jurisdictional aspect of these activities, you will be required to file a Joint Permit Application. This application can be obtained from and will be processed by the Virginia Marine Resources Commission (VMRC). Your main responsibility will be the preparation of a complete and accurate application. You should be aware that applications for bulkheads, rip rap and groins must be heard by the Wetlands Board, so allow at least two months for the application to be processed and heard.

In designing a pier, you should know that it can only intrude ¼ of the way across the waterway on which it is located. Also, your pier must be a minimum of 5' from any adjoining property line. Your adjoining property owners and those across from you will be given an opportunity to provide comments on your design to VRMC. Your riparian rights are assured provided that they do not interfere with the rights of your neighbors. Coordinating your plans with them is a good idea, as it will save time in the long run.

Clearing of Trees

There is a distinction between clearing of trees on a piece of property to make that property more suitable for a given purpose and commercial logging. Lancaster County does not have jurisdiction over silvicultural operations (i.e. the harvesting of trees for commercial purposes). Such operations fall under the jurisdiction of the Commonwealth of Virginia Department of Forestry. Their local office is in Kilmarnock on Jessie DuPont Memorial Highway (VSH 200), and they can provide advice on the necessary plans required.

Clearing of trees other than commercial logging does fall under the jurisdiction of Lancaster County. Providing there is no land disturbance involved in the clearing of trees there are no requirements, permits or otherwise, for tree clearing **outside** a Resource Protected Area (RPA). Land disturbance, or land disturbing activity, is defined as “any land change which might result in soil erosion including, but not limited to, grading, excavating, and transporting and filling of land”. The RPA includes tidal wetlands; non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams; tidal shores; and, most significantly for the majority of property owners, a 100-foot vegetated buffer located adjacent to and landward of any of the previous components, and along both sides of any perennial streams.

If you wish to cut trees within any of the components of the RPA defined above, then there are some important rules to follow. Removal of vegetation within the RPA other than dead dying or diseased trees **must** be approved by a representative from the Planning and Land Use office who will visit the site. A follow-up letter will document the determination of the representative and identify replanting requirements, if any. If the trees to be cut are live, viable trees at the time they are cut, then replanting at the rate of two for every one tree cut is required. Replanted trees must be 2 ½” in diameter, measured six inches above the base of the tree. Replacement trees can be of any variety of the property owner's choosing and can be placed anywhere within the 100' protective buffer. However, please note that this is still a significant requirement since replacement trees of this size are expensive and difficult to obtain. Once the property owner commits to a given level of replacement, there is no relief for cost or difficulty in procurement (replacement trees of the size required can cost \$300 each or more and are carried by few nurseries). Additionally, the granting of any permit, such as a permit to place rip rap on a shoreline, does not automatically grant permission for the cutting of trees; if tree cutting is to be a part of the project then separate approval is required.

The Chesapeake Bay Act requires a vegetated buffer between tidal waters or wetlands and any man-made activity. All vegetation is protected regardless of size. Any approved clearing of small trees or brush should be done with an appreciation for potential impact. No clearing should be done that will result in the displacement of sediments or increased levels of pollutants into waterways.

Land Clearing

Virginia Law and the Lancaster County Erosion and Sediment Control Ordinance control land

clearing in Lancaster County. Land clearing, or land disturbance activity is defined as “any land change which might result in soil erosion including, but not limited to, grading, excavating, and transporting and filling of land”. If you intend to disturb more than 2500 square feet of land, then these laws affect you. Effective July 1, 2001, state law requires that you also be a certified Responsible Land Disturber (RLD). You may obtain this certification, or work with a contractor who is certified. Ultimately, you as the property owner are responsible for adhering to the laws dealing with erosion and sediment control.

You, or your designated RLD will be required to submit an erosion and sediment control plan for which the fee is \$100 for the first acre of land disturbance and \$50 for each additional acre or part thereof. For single family residences, an agreement-in-lieu-of plan may be applicable for which the fee is \$50. Either plan must have, as a minimum, delineation of the area to be cleared and the devices to be used to contain displaced soil. On the basis of an approved plan, an erosion and sediment control permit will be issued for a period of six months. This period can be extended at no extra charge with justification and a record of good administration during the first six months. You will be monitored until such point as you have re-stabilized all land that has been disturbed. Stabilization means that you have established a permanent grass or mulch cover over the disturbed land and that it is no more susceptible to erosion than when you disturbed it. You and/or your RLD will be monitored for adherence to all nineteen minimum standards set forth in Virginia law that apply to your project. The single most frequent violation is failure to clean out containment devices such as silt fences when they are half full or more.

Subdivision

A subdivision in Lancaster County is defined as “the separation in any manner of a parcel or tract of land into two or more lots for the purpose, either immediate or future, of transfer of ownership or of building or commercial land development”. All subdivisions must be documented by a surveyed plat showing the new property lines. The Subdivision Agent must approve the plat before it can be recorded with the Clerk of the Circuit Court. The fee for examination of the plat is \$50 plus \$20 per lot created.

If you are contemplating subdivision of your property, you are best advised to make an appointment with the Lancaster County Subdivision Agent, and bring to the meeting a copy of the plat of your property with a rough sketch as to how you would like to divide it. At this meeting, you will be given a complete subdivision application package including copies of the checklists that will be used to check your proposed subdivision. You will also be able to discuss area requirements for lots, lot widths, and other issues that will have an impact on the manner in which you can divide your property. While you will find most local surveyors very knowledgeable as to what will work and what won't, this meeting will help you avoid the unnecessary cost of redoing a plat that cannot be approved.

It is also worth noting that you will be required to show the location of both a primary and reserve drain field on each subdivided lot. If, due to the condition of the soil or other factors, you cannot locate a primary and reserve drain field on each lot, then you will be required to show an easement on one of the other lots, or other remote drain field site on the plat. You therefore need to contact the Lancaster County Health Department, 462-9919, early in the process to arrange for a soil test or obtain requirements for having a test done. The results of your soil test could very well affect how, or even whether you subdivide.

If you find that you require additional information, you may contact the Subdivision Agent at 462-5220 or go to the Code of Ordinances, which contains the Subdivision Ordinance.