

Architectural and Site Design Guidelines
Proposed Amendments Comments
May 16 - 30, 2018

The Mystic Shores Architectural Control Committee (“ACC”) and the Mystic Shores Board of Directors (“Board”) have proposed amendments to the Mystic Shores Architectural and Site Design Guidelines to establish (1) a builders deposits and fines process with respect to new homes being built in Mystic Shores and (2) construction hours for building projects requiring ACC approval in Mystic Shores. Comments on the proposed amendments were solicited from Mystic Shores property owners. The ACC and the Board appreciated receiving the comments below, which have been copied exactly as received. A response to each comment has been provided.

Comment 1:

Why not impose the builder deposit on every new application like the one imposed on the property owner. That would be more of an incentive for the builder to comply knowing that you already have his \$5000. Also knowing the the money will be refunded upon completion of a violation free project, I don't feel the most builders would have strong objection considering the amount profit involved in the build.

If a builder is willing to commit the violations in the first place why do you think he will willingly hand over \$5k knowing that he may not get it all back. This sounds like a potential for more litigation trying to enforce any after the fact deposit collections.

Response 1:

The ACC and Board does not want to penalize all builders when most of the violations are by a few builders. Also, the proposed builder fines and deposits process is designed to give all builders an opportunity to start with a “clean slate” and to try to avoid additional administrative work for MSPOA and the builders. A builder with a violation requiring a deposit will not be approved for that builder’s next project in Mystic Shores without submitting the required builder deposit.

Comment 2:

Dear ACC,

As a resident who built our own home here and plans to do so again, we respectfully and strongly disagree with the new proposed rules, deposits, and fines process.

First, the construction hours limitations are too restrictive. Why ban construction on Sundays? Why stop at 7pm? There is valuable daylight outside the proposed times and this restriction just makes builds take longer and time is money.

Second, the builder deposit amounts are too large and violations escalate too quickly. There is already a builder deposit for all at the beginning of construction. If the ACC is going to concede

this has been caused by just a few builders, then they need to make sure the new rules are fair for builders who are not experienced in this neighborhood and don't cause undo burden to everyone else for the violations of a few. Please reconsider a longer cure period, lower deposits, multiple violations being needed to require deposits, and shortening the tail from two years to one year.

One of the advantages this community has is the freedom to choose your own builder. These rules make that much more difficult. Further, it makes an already onerous and expensive process even more so. I do not believe the ACC has given fair consideration to how this will actually impact site logistics for builders, and potentially impact construction financing for owners. These kinds of rules shrink the pool of builders who will be able to work here. Do not punish everyone for the faults of a few.

Finally, do these kinds of changes not require approval of all property owners? We appreciate the chance to comment, but at this point it looks like everything has already been finalized and that this comment period is just a formality. I really hope this isn't the case.

Kind regards,

Response 2:

The ACC and Board considered the effects on builders when designing the proposed builder fines and deposits process. With the increasing number of residents in Mystic Shores and the significant increase in building activity, the ACC and Board believe it is time to put some reasonable restrictions on builder construction activity to protect the quality of life for Mystic Shores residents.

Current and recent builders in Mystic Shores will be notified of the new process. Builders without violations will not have a deposit requirement. Builders will receive a friendly reminder about a violation with an opportunity to cure the violation before a deposit is required.

The Mystic Shores governing documents specifically grant authority to the ACC and Board to amend the Mystic Shores Architectural and Site Design Guidelines. Comments from property owners were solicited to ensure the Mystic Shores community did not consider the proposed amendments unfair, unclear or misleading.

Comment 3:

I am commenting on the proposal to dictate the hours of exterior construction activities within MS. Is this being driven by the fact that builder's are not being considerate? And really, what does that mean? Rhetorically speaking, I don't really need an answer to this. I was fortunate enough to have our home built when there were no neighbors so there was nobody to complain about hammer pounding, music, workers singing, or the sound of power tools. Which means, I have gone thru everyone's construction around me. I know that the concrete pour is usually ONE day and it's early. The putting up of the frame of the house, maybe 3 days at the most. Everything else has been normal neighborhood noises – bob cats, weed-wackers, power tools. The hours are not outrageous but I think with everything else we have to deal with, we are going to have to define exterior construction activities. If I want to trim my trees on a Sunday, will that be considered a violation because someone has to hear a saw. Another point to consider is this: if I am getting my roof replaced, I don't want the workers to start on a Saturday and then have to

skip a day. When we had the hail storm a few years back, many homes here in MS were damaged and it was hard to find people to fix roofs in a timely manner due to the overwhelming damage. I think the act itself of being inconsiderate needs to be addressed and changing the hours won't fix the act.

Thank you for your time.

Response 3:

Complaints by Mystic Shores residents have increased over the past two years due to inconsiderate construction activities (e.g., construction on Thanksgiving Day). With the increasing number of residents in Mystic Shores and the significant increase in building activity, the ACC and Board believe it is time to put some reasonable restrictions on builder construction activities to protect the quality of life for Mystic Shores residents.

The construction hours limitations will apply only to construction activities on projects approved by the ACC (or which should have been approved by the ACC under the Mystic Shores DCCRs). Examples of projects affected would be new homes, outbuildings, pools, fences, new landscaping, etc. The construction hours limitations will be revised to make it clearer that maintenance activities by property owners are not prohibited at any time.

Comment 4:

I like the changes and would even go so far as 7 am to 5 pm (rather than to 7 pm).

I would love to add "turn off the music!" or use earbuds, like I made my contractors use during house add-ons. Us retired folks are sick of unavoidable music, even good music.

Also, I will add – please make stronger language for "dark skies" – folks around me seem to break all the outside lighting rules. I guess it's not your job, I am just venting...

Thanks for all your work in making our neighborhood better.

Response 4:

The ACC and Board have tried to strike a balance between protecting the quality of life for Mystic Shores residents and reasonable restrictions on builder construction activities.

Comment 5:

As a former Board Member and ACC Member I want to state that I am in full support of the implementation of Builder Deposits and Fines.

In the beginning, we had Builder Deposits. They were not effective because they were minimal cost, one-time fees and builders passed the cost on to the Property Owners. To combat this, we eliminated the Builder Deposit and instituted a Property Owner Deposit. The goal was to get the Property Owners attention regarding poor behavior by the Builder. "It was somewhat effective.

I think that, given the fact that we are seeing new builders that are showing disregard for the ACC Guidelines, a higher fine rate and repeatable fine rate for continued violation for Builders in addition to the Property Owner Deposit is merited and appropriate.

Sincerely,

Response 5:

The ACC and Board appreciate your comments and support.

Comment 6:

The violation process that you are proposing seems very thorough and would definitely get a problem builders attention.

I did look at the dollar amount of \$5000 and thought maybe this figure should be tied to a dollar amount based on the price of the home being built. My thought is the range of the price of homes is broad enough that the effectiveness of this amount could vary.

The fact that you have to do a violation before the fine process starts should not discourage the good builders, but hopefully get the attention of those builders cause problems.

One comment that was made is. that a few builders are the problem . Are we going to discourage some good builders because of a few problem builders? I don't think so, but wanted to mention it.

Have any other Developments had experience with Builder violation fines that we could research and maybe you have already done this?

It is concerning that the Home Owners arnt holding the Builders to a high level of accountability . Is it necessary to use the current Home Owner dollar figure as the minimum required and a increased figure for more expensive homes. You have probably thought about this and have a better answer to this than I have.

Respectfully Submitted

Response 6:

The ACC and Board have tried to strike a balance between encouraging compliance by builders with the Mystic Shores governing documents applying to construction activities and not discouraging "good" builders. Builders without violations will not be affected.

It would be very difficult to administer a deposit process based on the projected value of a new home.