

LAWS OF THE LAND

Attorneys **Denise Schoen** and **Adam Miller** of the Adam Miller Group discuss how zoning and land use in the Hamptons are of increasing concern to homeowners.

PURIST: How has the real estate market changed?

ADAM MILLER: The global pandemic changed everything, of course. Many people purchased houses out East, and more homeowners were able to work from home. This meant not only a tidal wave of activity for everyone in real estate, but an increase in renovations, and the

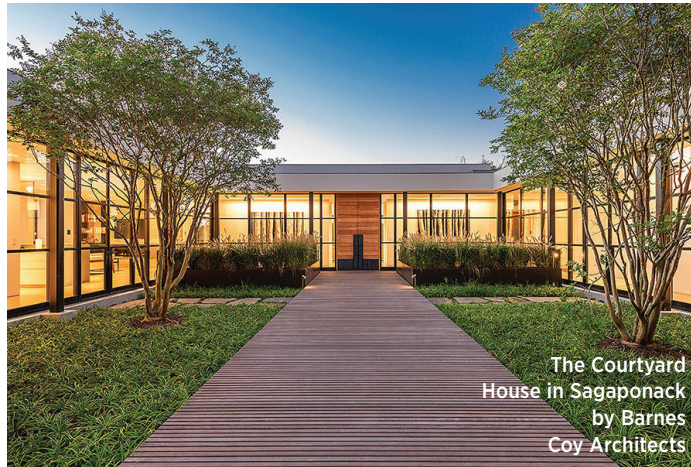
way people wanted to use their homes. More recently, given the increase in mortgage rates and the fact that inventory remains low in our area, there have been fewer transactions. As a result, there's been an increase in homeowners taking a harder look at their homes to make strategic changes and improvements. Many of these desires lead to work for our land use department.

PURIST: With over 40 years of combined local experience, you shed light on critical, often misunderstood aspects of local laws and the impact of how properties can and cannot be developed. What are the most common local zoning issues?

DENISE SCHOEN: More and more people have populated this area—and as vacant land diminishes and people continue to want to build, reconstruct and enhance existing properties, they can discover that they are somewhat constrained. We're fortunate that the CPF (Community Preservation Fund) has protected so much land. But because so many homes exist, and so much land is protected, parcels available are often restrained by three things: presence of wetlands or other natural features, existing zoning laws/basic regulations, or Suffolk County Health Department laws, like the nitrogen-reducing septic systems.

This is all great for the environment, but for an applicant it can create challenges when redeveloping property. It also means that it's really important to work with a law firm that understands those three constraints. Upzoning, another issue, occurs when a municipality adopts an amended or new plan, which may include revised zoning. People who had been dreaming of changing something on their property suddenly discover they no longer can.

PURIST: Other examples of potential obstacles?



DS: Common zoning problems vary. In Sag Harbor, people often face challenges, because in the historic district, developing accessory structures is challenging—lot sizes are small and setbacks are limited. In East Hampton, a common issue folks face is needing to get a natural resources special permit or variance in order to develop properties on or near water or

wetlands. People are often surprised that wetlands can exist in the middle of the woods. Before purchasing a property, it's important to know the property's encumbrances. What's more, an adjoining lot that's within 200 feet of your property may have wetlands that prevent you from developing your property, and you're hampered without knowing it.

PURIST: Is it true you wrote some of the local zoning laws?

DS: Yes, I wrote many of the local laws, so I have a deep and personal understanding of the law and the reasons for the law. That knowledge informs my understanding of how to apply the law. For example: a client in Southampton owns a modest house close to the road, but the property is a through lot (running from one street through to another). They loved the property because of the large yard and dreamed of a pool. Because they have "two front yards," they're not permitted to have an accessory structure; meaning no pool, pool house, shed—all because the applicant (and his attorney) didn't know about the code provision prohibiting structures in front yards. Fortunately, we applied and obtained a variance for them to install a pool, but at an expense to the applicant that could have been avoided.

PURIST: How do you see the real estate market evolving in the next 12 months?

AM: While the East End cannot be compared to the real estate market in general, I do see an upward trend in transactions over the next year. I say this because there may be circumstances where people simply cannot afford an asset as their interest rates reset. Further, I see the volatility in the stock market attracting people to invest in real estate, which is less volatile and can be used and enjoyed during its ownership. adammillergroup.com 🌸