

BEACH REGULATIONS WORKSHOP

MILTON LIBRARY

SEPTEMBER 25, 2015

Final Workshop

Presentations: Mike Powell and Jennifer Luoma

Mike - We are covering the things that are mandated by law. Law changes, changes required because the law changed and changes that the DNREC staff, property owners or the regulatory advisory committee.

Q. What is not clear to me is the marked up version. Where is the opportunity to talk about the new language?

Mike - At the end of the presentation.

Q. What if the storm wipes out the house and wipes out the dune then there is not 9 foot elevation?

Jennifer – Then this beach would not meet the coastal engineering standards.

Q. Then you could not rebuild?

Jennifer – Yes you could rebuild but you would not be able to rebuild in the same footprint. You have to move landward of the building line or go through the 4-step process.

Q. The building is a static line?

Jennifer – The building is not changing.

Q. The 100 foot setback from the building line is the static line?

Jennifer – It would not be a setback. What that would mean is if this dune was 100 feet wide. The house would have the ability to be built in the same footprint.

Q. Would this transfer to anybody that owned your property?

Jennifer – Yes.

Q. Explain the contour?

Jennifer – The seaward most 9 foot elevation contour is what we are regarding as the seaward toe of the primary dune. In order to achieve a certain extent of dune protection we would want that

dune to be 100 feet wide. So we would find that seaward toe of the dune and measure which ever distance based on the beach landward. So that would be 9 foot elevation contour on the oceanfront and on the bay coast we go to 6 foot elevation contour.

Q. Would it be the owner responsibility to establish the 9 foot contour?

Mike – Currently the building line is established by the local surveyors.

Q. Would the property owner have to move the house back 100 feet from the 9 foot elevation?

Jennifer – If they wanted to rebuild they would have to build landward of the building line or go through the 4 step process.

Dirk Durstein (Dept. of Justice) - Could be a dynamic situation...you had a storm and aftermath of the storm the General Assembly is intending to replenish the beach. Depending on what plans where to reestablish the beach therefore reestablish that blue line that would certainly effort the home owners plans and ability where they could rebuild and how they can build. The law is intended to be flexible because we don't know where or how or when beach replenishment would take place. But the General Assembly has said that if beach replenishment takes place nourishment is ongoing...this applies. What I think happens in the aftermath of a storm and these homeowners are affected and there has been erosion there is tremendous pressure to rebuild that beach. If it happens then we go back to these rules. If it can't or doesn't happen then the new standards apply. It depends a lot on the nature of the storm and the immediate aftermath what the ongoing beach nourishment practices is going to be. No one can predicate that at this point.

Q. Is that 9 foot elevation on your maps? So you need to change all your maps?

Jennifer – It is not because our building line maps actually use 10 foot NGVD because when they were surveyed.

Mike – I don't picture it working that way. I don't picture constantly establishing that 9 foot contour line every year through additional surveys to replace would be that helpful. This section of the regulation is about rebuilding after a storm that happens this year or 5 years from now. It is more critical where that 9 foot contour line is in the future when someone's house is destroyed by an act of God.

Q. What is the length of the extensions?

Jennifer – It depends on the approval if it is for bring in sand, fill or beach scraping it is 2 years permits. And if extended it is 2 years. If it is for construction they have 1 year to start construction and 2 years from the date of the permit to complete. If they don't, we will extend 1 year at a time.

Q. Are you intended to identify the crossovers and specify how many individuals can use those? Or is this a self-implementing thing where a neighbor says to another neighbor you want to share this?

Jennifer – In more recent subdivisions, when communities have subdivided they have provided easements between properties for dune crossovers. So for two property owners that wants to share one. And that isrecorded subdivision lot. In some of the private communities we have counted the number of houses that we think uses these community crossovers...divided by the number of crossovers they have in the community.

Q. Broadkill Beach...Again, is this a self-implementing thing?

Jennifer – For Broadkill Beach we will be building those crossover on newly constructed dunes. This rule applies to those who are coming to us for approval of dune crossovers.

Q. Cantilevered deck is not seaward but landward is there any regulation on that?

Jennifer – There would be no length requirement.

Q. Is it the right of the owner to have a boat on the beach?

Jennifer – You can have a boat on the beach.

Q. I understand the plan. Section 3.7.1.1 – If you can get to the beach without going over the dune then you can drive freely anywhere and anytime and that is problematic. That does not make good policy sense.

Jennifer – Driving on the beach has always been regulated by municipalities or parks. That is one of things we want to work with Broadkill on.

(Conversation regarding driving on the dune – not relevant to proposed regulations)

Q.. Consideration with Broadkill with private owners to have the ability to submit comments. Not advised of the Advisory Committee?

Dirk Durstein (Dept. of Justice) - Public hearing and public comment hearing will happen at the end and then reconsideration of the regulations for a final congregation. That is at the end of the process which will happen soon. The ability to come to a public hearing and speak and/or submit written comments which will be reviewed. This is middle part of the process where we have the workshops and this is an informal to and fro. We are not taking down verbatim what people say but we are hearing and sharing it. Before this process there was about a year of regulatory advisory commission, which was intended to bring in all communities, developers, DNREC and others to just generally consider all of these issues. I don't recall a lot of conversation regarding vehicles on the beach during those meetings. So, I think it is fair to say

that it is something that has not been considered probably because Broadkill replenishment had been in place yet. Clearing as the lawyer I can say that DNREC has the authority to step out and do that. DNREC as not before this time in part because most of the incorporated areas have done it on their own. But you are right Broadkill is not incorporated to my knowledge and there would not be any structural or political way to do that. And so it is something that will be considered by the committee.

Q. Request for additional workshop.

Mike – We have had 5 workshops and have a 6th tomorrow morning.

Q. What is the notification requirement for a change in the regulations?

Dirk – Postings, publications and emails and website. DNREC maintains a list of interested parties.

Jennifer – If you are on the interested persons list, you should have gotten an email directly from me regarding this workshop and the others we have had.

29. Are you open to a meeting with DNREC and Broadkill?

Mike – Absolutely.