

BEACH REGULATIONS WORKSHOP

BETHANY TOWN HALL

SEPTEMBER 26, 2015

Final Workshop

Presentations: Mike Powell and Jennifer Luoma

Q. Does that include sand/snow fences? No proposed change to that?

Jennifer - Sand/snow fences are covered under regular dune maintenance. If you are putting up sand fence to protect the dune that is exempted from getting formal approval because it is consider regular dune maintenance. That is addressed in the current regulations. No proposed change.

Q. Building Line. What would cause DNREC to change the building line? Sea Level?

Jennifer – If our building line no longer makes sense. For example an area in which so much erosion has occurred that our mapped building line (mapped in 1981) is now in the water.

Mike – Sea level has been rising. The re-definition of the building line would be more the result of the actual beach and dune system experiencing a permanent change. Rather than something like sea level rise that is already occurring throughout Delaware. But in many parts of Delaware through management we have actually held the beaches in their same location.

Q. If a home is destroyed by the storm and that community does not have beach replenishment, what would happen?

Jennifer – If the house had existed seaward of the DNREC Building Line, then the new house would have to be moved landward of the Building Line or go through the 4-step process to rebuild.

Q. Homes being destroyed and re-built and re-built each time and government monies is paying for it.

Mike – If a house is destroyed, hopefully the property has flood insurance and that is the only way the government may be paying for it.

Q. House burns down – 4 step process?

A. If the house exists on a beach that is not nourished by Federal or State funds and it is seaward of the building line, then yes, it would have to go through the 4-step process.

Q. Is the 4 step process now a policy? Question is policy verses regulation? Right now you can make exceptions to the policy but when you convert them to regulations the latitude is not available with through the regulations. Is this why you are moving policy to regulations?

Jennifer – Yes. The main reason is that we have been working with it for 20 years. It has worked and it is in the beach preservation act and should be regulation. But I would not say that we are necessarily doing that.

Dirk Durstein (Dept. of Justice) – As someone involved in the drafting of the regulations. We made an effort to incorporate the existing policy as much as we could. To put into words what had not always been in words. But with the varies exception and exclusions and wiggle room included in regulation. So our goals at any point was to narrow what could be done under the existing policy. It was to put the policy in writing. And this is an effort to make sure that what has happened the first 20 years would happen in the future. We felt is better to have a regulation in place harder to change that make that policy more predictable and harder to change. The theory of a regulation is not to change anything but to put it into words and make it more predictable and longer lasting. That was the goal.

Q. Do you know if the building line going to be altered in Broadkill Beach?

Jennifer -There is no plan for that.

Mike – The regulations for re-establishing the build line would require that there be a substantial long term natural change. The change at Broadkill is a man-made change.

Q. There is an exception for rebuilding where the building line can be modified based on the beach replenishment.

Jennifer – It would not change the building line it would change the ability for someone to build what they had before.

Q. How is the 50 percent 75 percent value established?

Jennifer – With the substantial damage which says 75% of the structure or 50% of the foundation pilings. We look at the cubic living space for that 75%. And for the 50% we look for the engineer to certify that these pilings are suitable.

Q. How would a fire be regarded?

Mike – The cause of the fire could make the difference on whether it was an act of God or not. It would be handled on a case by case basis determining the cause.

Q. Private property and municipality? Both receiving beach replenishment on both communities but her communities use the sand...the house is destroyed by a flood does she have to go through that same 4 step process?

Jennifer and Mike - Not state or federally funded – It has not come up to really examine that situation.

Q. Why is the 9' NAVD elevation contour used in the Coastal Engineering Standards of Storm Protection definition?

Mike - That definition was the criterial use to map the building line 35 years so that was the level of topography to establish a building line in the beginning. If the conditions have been enhanced by a state and federal project (enhanced and maintained) by not keep the same definition for that project as was used to establish the building line in the first place.

Q. Why regulations written on the value of the lot? It seems like a very severe penalty to the people who have bought the lot years and years ago as an investment and had a home there and maybe did not improve it. But now depends on its value being there because of where it is not how big the building is. I think we have gotten to the point where if something happens to that building you have taken the value right from up under it. If I have appraisers come and look at my home and they may say it has very little value only that thing that is worth anything is the land. I could not rebuild....you are saying I can only make a 50% improvement.

Jennifer – We did take that from the FEMA flood regulations. It is the same definition that the County's Floodplain Ordinance uses.

Q. I am mystified why homes are partially or totally seaward of the building line? So construction now that still allowed seaward line...nevertheless the dunes are being protected? Is there much of that....?

Mike – We established the building line in 1981 any house that was building prior to 1970's had no requirement along the oceans to be setback any distance from the dune. The entire oceanfront in South Bethany all of the lots were created right on top of the primary frontal dune so all the houses were built on top of the primary frontal dune. We have legacy of construction on the coast from 1970s and earlier that generally was not controlled by a dune setback line.

The 4 step process does allow enough construction seaward of the building line in the case where there is not enough room to locate a similarly size building to your neighbors landward of the building line. If your lot is in such a configuration with the building line that to build something that has a similar footprint to your neighboring houses as far back on the lot is possible is still over the building line we allow that. The questions does it have some potential to impact the dune....sure. In some situations this can impact the dune. There are still places along the coast that are doing through the 4 set process is having a negative impact on the dune...hopefully as little as possible.