

PUBLIC WORKSHOP  
REGULATORY BEACH REGS  
SLAUGHTER BEACH

OCTOBER 31, 2014

2-4 PM

Michael Powell – Moderator

**Comment/Question:** Your regulations should be in line with the regulations of the Federal flood insurance programs.

**Comment/Question:** If a current DNREC building line is shown on the deed and the building line was to change would that require a change on the legal document?

**DNREC:** I don't think (and I could be wrong because I have not looked at the plots in a long time) the building line is not on the plots. What is on the plots is the easement line. That easement line is based on if we were to do a project where we would need to start doing work on your property. The building line is based on topography. So they are 2 completely different things. So, your easement would never change because your easement would always be that area where we would need to do the work. And unless that project changes to the extent where the easement does not encompass the work that would be when we would change those easements.

**Comment/Question:** One of the things that was mentioned that the Building Line is going to move landward (in 1 case) and as a result 1 of us will be seaward of the building line. But it sounds like we would be grandfathered if we were to be forced to rebuild our home via an act of God.

**DNREC:** There is no proposal currently to reestablish the DNREC Building Line anywhere. (Reading from the Regulations) "The building line may be re-established when in the opinion of the Secretary storms or other natural phenomenon cause a substantial permanent change in the seaward contour used to establish the building line" The Division may following public hearing reestablish the building line for new information provided by topographical survey.

**DNREC:** The building line can be reestablished when the Secretary believes that storms or other natural phenomenon cause a substantial permanent change. In cases where there has been long term erosion those substantial long term changes could result in the contour lines moving landward and if the building line were to be reestablished it could move further landward on a property.

**Comment/Question:** Is my grandfathering assessment summary appropriate?

**DNREC:** It depends and that is where that coastal engineering standards and storm protection definition would come into play. If it is found that where your property is protected by coastal engineering standards and storm protection and your house is destroyed by an act of God then you would be able to have that same footprint.

**Comment** - One thought would be to link it with those that have signed easements in some ways that is not necessarily left up to subjectivity as to whether or not. There should be a connection between the easements and the location of the building line and being grandfathered in.

**DNREC:** We believe that a definition is needed for the term that is in the Act that says that coastal standards of engineering storm protection. We believe that is a term that needs to be defined.

**Comment/Question:** Regarding South Bethany explain the impact of moving that regulated area.

**DNREC:** South Bethany is a community that currently the regulated area extends to the first shore parallel road, which is Ocean Drive. The State legislature wrote language in the latest amendment to the Beach Preservation Act that redefines the regulated area as the third buildable lot back from the beach. That does not move the building line it just moves the areas of which are regulations apply.

**Comment/Question:** What activities require an approval from the Department?

**DNREC:** Any construction, grading and land altering activities that would affect beaches and dunes.

**Comment/Question:** Why are you suggesting moving the regulated area back?

**DNREC:** Because the State legislator wrote changes into the Beach Preservation Act calling the regulated back to the third lot. It was not a proposal from us.

**Question:** Why?

**DNREC:** I believe that one of the reasons was by going back all the way to Route 1 in areas like North Bethany, Dewey Beach and other towns were having the effect of requiring people to come to us for an approval all the way back to Route 1. Clearly there is not much likelihood of a house being built all the way back to the east side of Route 1 having an effect on beaches and dunes.

**Comment/Question:** When did the regulated area change?

**DNREC:** It was a 2006 act change but it has not been put in the Regulation yet to reflect the change in the act from 2006.

**Comment/Question:** Regulations regarding boats seaward of the DNREC Building Line. Storing a small boat on the beach during the summer.

**DNREC:** Under our current regulations if a boat were brought out through a public crossover and was not stored on the dunes where it would damage vegetation on a State maintained or owned dune, it would already be no problem. It is an issue where if the boat is brought out on the beach and stored in a way that it damaged State owned or maintain dunes then it becomes an issue.

**Comment/Question:** If the regulated area changes and goes back to the third buildable lot would there be additional permit fees?

**DNREC:** No, the building line would not move with the regulated area. The second and third row would require a Letter of Approval which is fee-exempt.

**Comment/Question:** Where would we be concerned about boats being stored in a way that would damage vegetation?

**DNREC: (Reading from the Regulations)** – “The following activities are prohibited: the damaging destruction or removal of any trees, shrubbery, beachgrass or other vegetation growing on any State owned or maintained beach seaward of the Building Line”.

**Comment/Question:** How can a person find out if they have easement on their property?

**DNREC:** Contact Jennifer Luoma and she would give owners a copy.  
([Jennifer.Luoma@state.de.us](mailto:Jennifer.Luoma@state.de.us))

**Comment/Question:** Does the change to the Beach Preservation Act that redefines the third buildable lot also affect the bay beach communities?

**DNREC:** Yes.

**Comment/Question:** If a Property is seaward of the building, can it be elevated and destroyed by man, not an act of God, and be grandfathered in its old footprint?

**DNREC:** – No it is not grandfathered. We have not defined an Act of God. But we would assume that voluntarily tearing down of a structure and replacement of that structure with a new one seaward of the building line would continue to be required to go through the four step process.

**Comment/Question:** Make the regulations more clear on hardening of beaches, riprap, revetments, and bulkheads. Making sure those buildings that currently exist will have allowances for strengthening them so that those don't fall and lessening the risk of that material going into the bay. Beach scraping - making sure communities know when the conditions are conducive for beach scraping.

**Comment/Question:** How is the average square footage calculated for someone building a new home seaward of building line looking at their neighbors?

**DNREC:** The train of thought when this was developed that this was allowing you something that is with in keeping with the neighborhood, allowing something similar to everyone around you.

**Comment/Question:** What if you wanted more because everything around you was outdated and small?

**DNREC:** Then you are limited.

**Comment/Question:** So are you saying you would take over what the zoning was in the town? You could dictate verse what is written on our zoning code?

**DNREC:** I don't believe so. I have never come in contact with conflict with zoning as far as square footage goes. We request that you go back to whatever setbacks that are required by the towns.

**Comment/Question:** Is a house less prone to damage by being built behind the dune line?

**DNREC:** In general as storms wash out the dune the more dune you have in front of you the less vulnerable your house is to storm damage.

**Comment/Question:** New definition of a dune line?

**DNREC:** No we have proposed no changes to definitions at this point.

**Comment/Question:** Should the building line ever change, who would be responsible for locating the new building line?

**DNREC:** It would be as it is currently. We would establish maps, they would be adopted, a public hearing, we would also have points similar to what we have now. You would have to hire a professional surveyor.

**Comment/Question:** South Bower jetty work?

**DNREC:** Tony Pratt will discuss off line. (Since this project is not the purpose of this workshop)

**Question:** Would a new dune effect the building line location?

**DNREC:** (Reading form the Regulations) The building line may be re-established when in the opinion of the Secretary storms are other natural phenomenon cause a substantial permanent change in the seaward contour used to establish the building line.

**Comment/Question:** It is not fair and equitable to take the average of square feet in one section of small cottages and then at another section 3000-4000 square homes. Where we would send comments?

**DNREC:** Email comments and questions to Jennifer Luoma

**Frank Piorko:** Thanks to Representative Kenton for coming. Acknowledge members of the Regulatory Advisory Committee.

**Comment/Question:** Who manages the section of Lewes Beach between in parking lot at the end of Savannah Road and the bay?

**DNREC:** Jointly DNREC and the City of Lewes.

**Comment/Question:** Can you provide a clearer definition of Acts of God?

**DNREC:** The actual language does say act of God or other accidental events. But we probably do need to also define other accidental events.

**Comment/Question:** Is there ability for DNREC to use judgment to have exceptions to some of these rules? (Comment made that they knew the question would not be answered there)

**Comment/Question:** Can someone lift the old cottage in its existing footprint to avoid paying the higher flood insurance premiums, would the regulations require them to go through the 4 step process?

**DNREC:** If you are not demolishing the existing structure beyond 75% then I would not think you can keep that footprint. And that is if you are keeping what is there and picking it up. If you are seaward of the building line already, we might require you to move back if you have land to move back.

**Comment/Question:** How will the dredging from the Delaware Bay effect the building line?

**DNREC:** I would not expect it to affect the building line because the Secretary is supposed to consider storms and other natural phenomena and related long term natural changes.

**Comment/Question:** A lot of sand being put at Broadkill Beach, should that effect the building line?

**DNREC:** The Act as written says no....the building line will not be remapped due to a dredge project.

**Comment/Question:** What is the timing of the main channel deepening sand going on Broadkill Beach?

**DNREC:** We are not here to talk about the timing of a Corps project and I don't know the answer.

**Comment/Question:** Thank DNREC for their dedication. It was a long time when this looked like this was not going to every get moving. Applause.....