

Beach Regulatory Advisory Committee Meeting  
DNREC/Shoreline and Waterway Services Facility  
March 11, 2015

Begin at 9:15 am

Committee Members Present:

M. Powell  
J. Luoma  
T. Pratt  
J. Healy  
J. Bailey  
J. Schulties  
B. Boution  
E. Maurmeyer  
D. Durstein  
P. McDaniel  
D. Morris  
S. Lynn  
G. Hastings

Committee Members Not Present:

Chuck Coltman  
Bryan Elliott  
William Lucks  
Susan Love  
Connie Holland  
Patrick Cooper

Others:

D. Warga  
K. McKenna

Welcome & Agenda Overview - Powell

Review of Draft Regulations – Luoma

(for copy of slide presentation see <http://www.dnrec.delaware.gov/swc/Shoreline/Pages/Beach-Regulatory-Advisory-Committee.aspx>)

Discussion of the following definitions:

*Accidental event* (initiated from 2006 act change);

*Emergency* (defined in act)

*Natural or unnatural causes*

PM: unbalanced statement, natural causes are defined but not unnatural

MP: people want to know the exceptions to the regulations, defining things can limit what people can do with their property

DD: unnatural is cumbersome, intent is not clear in language, could editorialize it in the regulations

EM: intent of the regulations is to make it clear to public, should delete unnatural (how is it defined?)

MP: e.g. beach erosion that is a direct result of a nearby structure

JL: in the regulations it is found under emergency action

TP: Referring to regulation 2.6.2.4, the use of the term falls under the actions that can be taken following an emergency (e.g. if there is a threat to a property, an owner could protect themselves against the storm), the term fits application of the regulations

DD: the regulations should not allow anyone to create their own emergency

EM: delete natural from last part of definition (simpler is better)

*Improve*

JL: will modify definition based upon written comments

GH: In the definition of Porch – would it include patios?

JL: In the regulations, Porch refers to cantilevered decks

TP: Add clarification for foundation in definition

*Smallest Subset of Lots*

JL: The internal discussion removed “public walkways,” typo error submitted to RAC, should read “roads or subdivision boundaries”

MP: this is the section that compares adjacent structures, can include houses beyond public walkways in the determination

*Temporary Structure*

JL: typo in RAC submission, should read not permanent or non-habitable structure

*Update*

JL: language from the BPA

MP: DNREC cannot deter anyone from modernizing or improving their homes (impactful language); this requires special attention from the RAC to the words used in the definition

JS: the building code should cover this

MP: requested section of building code for reference

TP: provided suggested wording for “Act of god” definition

Discussion of individual sections in the regulations

TP: Section 2.5.1 regarding prior approvals (e.g. in 1981 building line that was mapped and 6 subdivisions that had previous approvals to modify the dunes, building allowed homes to be built to the new toe) need to add date of effective regulations to make language technically accurate

JL: there are two unbuilt lots that would fall under this regulation

MP: for houses built to a community building line, this would allow a house to be rebuilt to the exact footprint?

JL: all of these homes fall in areas without a state or federal beach fill and the regulations address that

MP: just add the August 13, 1981 date

DD: more comfortable with regulations “promulgated in August 1981”

JL: Section 3.1.1.3, referring to deck or porch language

MP: the regulations say that cantilevered deck can extend out over the building line to the average of smallest subset of lots; this allows a person to calculate the number of feet over the building line for 6 adjacent structures

PM: This shouldn't cause due burden on a homeowner to do this

JL: DNREC shares the as-built surveys with adjacent homeowners

PM: people that are the outliers will benefit

JL: yes, if the deck will be modernized, or an improvement

PM: (e.g. a non-conforming deck) if the deck burns down, what happens then?

MP: follow the city code, the state goes with the more restrictive regulation, someone can replace their deck in the same footprint if it was constructed lawfully in the first place

GH: by taking the average, prevents someone from constructing a new deck to the seaward location of adjacent properties

DD: counterintuitive for many homeowners, people expect a uniform block and don't understand the intent, RAC should consider this understanding

MP: might have been done before decks were state regulated

JL: for a previous home that is a tear down, the local regulations apply

DD: both are legally defensible, may increase costs of surveying, should educate public and local governments

GH: South Bethany is more restrictive when it comes to what homeowners are allowed to do, 4 step process makes sense

GH: are cantilevered screened porches illegal?

JL: these are now included in the proposed revisions to the regulations and will be subject of discussion at the workshops, not sure when changes will go in effect

DD: In effect after hearings, sign-off by Secretary, 60-day public review, the process could take 6 months

JL: Section 3.3.1 State Maintained and prohibited activities – clarify wording

JL: Section 3.4.1 internal debate on setting the timeframe for temporary structures, would be confusing as some things are out for hours while others can be seasonal (short-term, non-permanent) and will be included in the application

JB: Aren't you creating a lot of work for yourself?, or that some won't apply?

MP: this is not new, now someone has to come to the state for approval, trying to reduce the public's paperwork, make easier to get state approval

JH: In Bethany Beach, weddings on the beach are approved by the town manager but the approval doesn't consider tents, the town does not ask the types of amenities

MP: the state only regulates structures, will develop a pamphlet that describes the regulations

EM: should we consider commercial activities here?

DD: see 3.4.1.1 that allows flexibility for receiving a permit, state still needs to know about the activity

JH: the towns will need to know the response from the state

MP: towns are always cc'd on the approvals, but not on the waivers, DNREC will educate the towns on how the process works

#### Discussion on Workshops

MP: Proposed schedule for the workshops is in April and May, requested thoughts from RAC with respect to the schedule of the General Assembly

JB: for bay communities should be mid-April or early May (General agreement by the RAC for that timeframe)

MP: venues and day of week suggestions?

Carlisle Fire Station in Milford for the bay beach communities, ocean coast location will be based on availability (new Rehoboth Fire Hall on Route 1 a possibility)

2p-4p Friday (bay), 10a-noon Saturday (ocean)

May 15-16 latest dates

EM: What is going on about the recent sledding on the dunes incident?

JL: Authorities made contact with the parents. Something is being done. Follow-up newspaper article discussed why it was wrong and that the activity violated park rules. Enforcement is an issue at that location.

#### Public comments:

None

Adjourn 10:30 am

Next RAC meeting - tentative April 15, 2015, Shoreline and Waterway Bldg.