

Ken Richards with the Division of Coastal Management will be presenting remotely to discuss potential rule amendments on how to measure oceanfront setbacks. Specifically, discussing rule amendments with Development Line, Static Line Exception Rule and Grandfathering.

2009 Static Line Exception

In 2009 CAMA adopted new rules for ocean front setback with the introduction of graduated setbacks based off the size of structures measured from the static vegetation line. The following setbacks would apply.

Structure Size	Setback From the Static Vegetation Line
< 5,000 sq ft	60'
≥ 5,000 sq ft	120'
≥ 10,000 sq ft	130'
≥ 20,000 sq ft	140'
≥ 40,000 sq ft	150'
≥ 60,000 sq ft	160'
≥ 80,000 sq ft	170'
≥ 100,000 sq ft	180'

CAMA did want to recognize local government efforts and long-term commitments to managing oceanfront erosion by creating the Static Vegetation Line Exception rules, which would exempt oceanfront communities from the graduated setbacks. To be eligible for this exception, a community must petition the Coastal Resource Commission by providing a beach management plan that describes the project area and design; identify sediment sources; identify funding sources to maintain the initial large-scale project; and, provide an update on project effectiveness and how it will continue to be maintained. The plan must be updated and presented to the CRC every five years for reauthorization.

The Town was granted a static line exception in 2009 after presenting the Beach Plan Report. The reason the town applied for the exception was not to allow for development to move more seaward, rather the concern that the rule establishing graduated setback requirements for structures based on size could render many oceanfront structures non-conforming based on the present location of the static line and not be able to rebuild following major damage resulting from a weather related event. The Town wanted to prevent more structures becoming non-conforming with the new rule. The existing non-conforming structures were 64 buildings and over 800 units.

The approval of the static line exception did allow some development to be measured from the natural vegetation line rather than the static line under the following conditions.

- Development meet the minimum setback of 60 feet or 30 times the erosion rate, whichever is greater, as measured from the vegetation line;
- Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- Total floor area of a building is no greater than 2,500 sq. ft.

- No portion of a building or structure, including roof overhangs and elevated portions that cantilevered, knee braced or otherwise extended beyond the support of pilings or footings extends oceanward of the landward-most adjacent building or structure; and
- Swimming pools are not allowed oceanward of the static vegetation line.

Since the town was granted the 2009 static line exception the CRC has reauthorized the town in 2015 and 2020 after staff provided the following

- Design changes to the initial large-scale beach fill project
- Design changes to the location and volume of compatible sediment necessary to construct and maintain the large-scale beach fill project.
- Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project.

Based on the Static Vegetation Line current rules 12 structures are considered non-conforming and would not be able to be rebuilt in the current setback requirements.

#### 2016 Development Line

Prior to 2016 Staff was notified by the real estate industry that many “non-conforming” units were not able to secure financing because of new lending procedures. The town met with lenders and real-estate professionals with CAMA discussing the state and local non-conforming regulations. The town’s non-conforming regulations allow a building to be rebuilt in the same footprint if it is destroyed by fire, wind, flood or other catastrophic event. The CAMA regulations were more restrictive, if a structure is destroyed more than 50% then it shall meet current setbacks regardless of how it was destroyed. This is problematic for many non-conforming structures since the setback places them near or completely in the street. In these cases, if the setback were measured from the current vegetation line rather than the static vegetation line then it could be rebuilt in the same footprint. The issue was brought to the Coastal Resource Commission. Commission found that some communities had demonstrated a long-term commitment to beach nourishment and maintenance of their nourished beaches. Due to this long-term commitment, the vegetation had become stable and migrated oceanward of the static line. To recognize local government efforts to address erosion through long-term beach nourishment and offer relief from the Static Vegetation Line requirements, the CRC adopted the “Development Line” option. A development line is an established line adopted by the local government that represents where structures can build up to, as long as the structure meets the setbacks utilizing the vegetation line when measuring oceanfront setbacks.

The Town was approved for a development line by the CRC, which utilized the 1963 Building Line as the Development line. This abled the majority of the oceanfront buildings to be rebuilt in its current footprint. The only area that does not benefit from the rules are the nonconforming homes located along the rock revetment because of the limited vegetation.

Based on utilizing only the current Development Line 23 structures would t be non-conforming and not be allowed to be rebuilt in its current setback.

#### 2016 Amended Non-conforming Regulations

CAMA amended the non-conforming regulations that allowed structures to be rebuilt that are below 10,000 sq. ft. if they meet the 60' setback from the natural stable vegetation line or the middle of the rocks where the rock revetment is located. There several structures that are adjacent to the rocks that would still not be able to be rebuilt.

#### 2016 Amended the Static Line Exception Rule

Removed the condition that limited development to 2,500 sq. ft. in order to utilize the exception.