

Tuesday, March 31, 2020

Town of Nags Head Planning Board
P.O. Box 99
Nags Head, NC 27959

Dear Chairman Vaughan and planning board members,

Thank you for your leadership as our community works to maximize its resilience by revising the Flood Damage Prevention Ordinance (FDPO) in preparation for the 2020 Flood Insurance Rate Map (FIRM)'s June 19 effective date. The over 500 members of the Outer Banks Home Builders Association (OBHBA) appreciate the complexity of the task before you and welcome the opportunity this process presents us to apply our professional knowledge in service to the town. We are thankful for planning staff's responsiveness to our members' recommendations as the ordinance has developed in recent months, and are confident the draft before you potentiates sound solutions to the challenges the 2020 FIRM poses for construction and development standards. We remain concerned, however, that the FDPO as currently written is problematic in two important and interrelated respects: its establishment of a 10-foot local elevation standard for areas west of NC HWY 12, and its restriction according to square footage of same-level lateral additions to nonconforming properties in X and Shaded X zones.

OBHBA members began working in early 2017 with the surveying and engineering community to assist local planning staff in designing new flood prevention measures to address an anticipated reduction in the 2006 FIRM's flood zone elevations in Dare County. Extensive consideration of historical flooding, previous FIRMs, and topographical data informed a consensus among county and municipal planning staff that administration of eight foot standards to a revised reference level, the bottom of the lowest floor or utility, would ensure adequate flood protection in X and Shaded X zones. Section 11.42.3.1.2. of Nags Head's draft ordinance proposes a 10 foot RFPE for properties west of NC HWY 12. While we recognize that each jurisdiction must determine RFPEs and other important planning objectives on localized bases, the OBHBA urges planning board members' attention to the potential consequences Nags Head's proposed ten foot RFPE poses in light of additional proposed restrictions on lateral additions.

Section 11.44.2.7.9.2. would require that lateral additions to nonconforming structures in X and Shaded X zones be elevated to the proposed ten foot RFPE if they would increase the square footage of the adjacent floor by 25% or more. This presents a problem for homeowners interested both in usably enlarging a floor that falls below the proposed RFPE and in maintaining a level floor. The OBHBA respectfully requests that you allow existing maximum lot coverage restrictions to regulate additions and remove the arbitrary 25% threshold. We believe that the category of possible lateral additions that would expand properties with a demonstrated flood history, that would conform to maximum lot coverage, and that would be large enough to constitute a compelling regulatory interest is almost vanishingly narrow. We believe that the size of lateral additions to the many moderately sized homes in Nags Head should not be rigorously constrained by a regulation with such a limited intended function.

Thank you again for participating in the Outer Banks community's cooperative endeavor to ensure sustainable building, and for your efforts to include stakeholders' concerns in your dialogue. Please address any questions to porter@obhomebuilders.org.

Regards,

Porter Graham

Government Affairs Director
Outer Banks Home Builders Association