

## Carol Collins

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**From:** Chris McCall <cmccall@villagebhi.org>  
**Sent:** Wednesday, April 20, 2022 4:39 PM  
**To:** Carol Collins  
**Cc:** Peter Quinn  
**Subject:** DCM CAMA Requirements/Ocean Hazard AEC & Erosion Rate Setbacks...  
**Attachments:** Village ADA Beach Access CAMA Permit\_5 AUG 2021.pdf; 15A NCAC 07H 0309 DCM Rule\_COPY\_20 APR 2022.pdf; 15A NCAC 07K 0207 DCM Rule\_COPY\_20 APR 2022.pdf

Carol – In response to the e-mail regarding DCM CAMA requirements for development meeting oceanfront setbacks I would offer the following;

1. The application of the erosion rate setbacks referenced in the e-mail is specific to the development/construction of single-family residential homes that are required to meet the applicable oceanfront setback as referenced on DCM's Erosion Rate Maps. They are correct that in this location the erosion rate is 3' feet per year factored by 30 which equates to a 90' foot setback from the First Line of Stable Vegetation ("FLSV"). So, in theory, if a home were built in this location the owner would have to get a CAMA Minor Permit and show that the structure could meet the required 90' setback from the vegetation line.
2. However, specific to beach accesses (both public & private), in certain instances they are exempt from having to meet the applicable erosion rate if they meet the exemption design criteria per 15A NCAC 07H.0309 (referenced below/full document attached).

### **15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS**

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

3. Furthermore, 15A NCAC 07K.207 provides specific guidance for construction of structural accessways over frontal dunes (exempted) as referenced below..., attached is the full document.

DCM/CAMA  
Beach Accesses:

**15A NCAC 07K .0207 STRUCTURAL ACCESSWAYS OVER FRONTAL DUNES EXEMPTED**

(a) The N.C. Coastal Resources Commission hereby exempts from the CAMA permit requirement all structural pedestrian accessways over frontal dunes which can be shown to meet the following criteria:

- (1) The accessway must not exceed six feet in width and must be for private residential or for public access to an ocean beach. This exemption does not apply to accessways for commercial use or for motor-powered vehicular use.
  - (2) The accessway must be constructed so as to make no alterations to the frontal dunes that are not necessary to construct the accessway. This means that wherever possible the accessway must be constructed over the frontal dune without any alteration of the dunes. In no case shall the dune be altered so as to significantly diminish its capacity as a protective barrier against flooding and erosion. Driving of pilings into the dune shall not be considered an alteration of a frontal dune for the purposes of this Rule.
  - (3) The accessway shall conform with any applicable local or state building code standards.
- (b) Before beginning any work under this exemption the CAMA local permit officer or Department of Environment, Health and Natural Resources representative must be notified of the proposed activity to allow on-site review of the proposed accessway. Notification can be by telephone, in person, or in writing and must include:
- (1) name, address, and telephone number of landowner and location of work including county and near community;
  - (2) the dimensions of the proposed structural accessway.

*History Note: Authority G.S. 113A-103(5) c;  
Eff. November 1, 1984;  
Amended Eff. December 1, 1991; May 1, 1990.*

4. I would note that if the strict application of the erosion rate setback requirements of single-family residential homes were applicable to beach access structures then in theory one could not build any beach accesses to get to the beach..., this is why DCM has included beach accesses as an exemption. DCM coastal policy promotes the use of beach accesses to get to the beach as they minimize the negative impacts to dunes by walking on the dune. Again, I have included from my March 24<sup>th</sup> memo the photo below of a portion of the beach where beach accesses fall short of the vegetation line and you can see where the footpaths have created cut throughs in the dune – not good for the dune!

Example of not adequately maintaining beach accesses as primary dune growth occurs over them. Beach accesses/boardwalks offer public access to the beach and if properly maintained allow growth of the dune system.



5. Having said, with the Village's plan to construct an ADA beach access and parking area that it exceeded the exemption design guidelines referenced above so the Village submitted an application for a CAMA Minor Permit which it did receive approval of DCM (July 29<sup>th</sup>, 2021). Attached is a copy of the CAMA Minor Permit and by virtue of DCM issuing the Village that permit it is consistent with DCM coastal management policy and meets the requirements for permitting of the State.

Regards,

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