

Town of North Topsail Beach

Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Don Harte
Connie Plett
Bob Swantek



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

Planning Board

Program for Public Information (PPI) Committee

Regular Meeting Draft Minutes

Thursday, July 14, 2022, at 5:00 PM

2008 Loggerhead Court, North Topsail Beach NC 28460

Present: Hanna McCloud – Chair, Paul Dorazio – Vice Chair, Pat Stigall, Fred Fontana, Lisa Brown, Susan Meyer, Deborah Hill – Planning Director, Kate Winzler – Clerk to the Planning Board, Town Manager Alice Derian, Building Codes Administrator Ralph Allen.

Absent: Gunnar Mathews, Scott Morse, Stu Harness.

CALL TO ORDER Mrs. McCloud called the meeting to order at 5:00 p.m.

ADOPTION OF THE AGENDA Mr. Dorazio made a motion to adopt the agenda. Mr. Fontana seconded. The motion passed unanimously, 6-0.

ANNOUNCEMENTS Planning Director Hill announced her enthusiasm to work with the new Town Clerk, Melinda Mier to the Planning Board. Director Hill welcomed Building Codes Administrator Ralph Allen and Town Manager Alice Derian to the meeting. She congratulated Kate Winzler, the Clerk to the Planning Board, for achieving the designation of Certified Municipal Clerk, awarded by the International Institute of Municipal Clerks.

OATH OF OFFICE Clerk Winzler administered the Oath of Office to Lisa Brown for appointment to the Planning Board.

Planning Director Hill introduced Scotty Everett and Wayne Padgett of Sneads Ferry LP Gas Co., Mitch Rose of Holtzman Propane, Billy and John Lenfestey of Beachside Custom Homes, Jason Dorazio of Dora J Development, Paul Dorazio of Maebilt Construction, and Charles Riggs of Charles F. Riggs and Associates.

MR. RICHARD FREDENBURG, LP-GAS ENGINEER NC DEPARTMENT OF AGRICULTURE

Planning Director Hill introduced Mr. Fredenburg. Mr. Richard Fredenburg explained that his department has been wrestling with elevating LP tanks placed in flood-prone areas for years. He stated that he has been in this position for twenty-seven years, and the rules they follow for the LP gas code are that tanks in flood-prone areas must be secured, either by burying and tying them to an underground slab or using an anchor, typically a mobile home auger-type anchor, to secure the tank to the ground. Several examples are illustrated in the "Presentation for the Planning Board of the Town of North Topsail Beach" by Richard Fredenburg, LP-Gas Engineer, North Carolina Department of Agriculture and Consumer Services July 14, 2002" attached.

Mr. Fredenburg noted several months ago Onslow County adopted a new ordinance and notified an applicant that his propane dispenser must be elevated five to six feet above the ground. The applicant thought this was not feasible or safe. The County Board of Adjustment held a public hearing, and ultimately sided with the applicant. Because the tank was not attached to a structure requiring a building license, it did not have to conform with any North Carolina Building Code, so the County ordinance did not apply to it. The applicant was granted permission to install the tank on the ground, anchored to the ground.

Mr. Fredenburg stated that he enforces NFPA 58, the LP-Gas Code from the National Fire Protection Association which contains several requirements for installing propane containers (see attachment). He noted the committee that wrote the LP gas code intentionally left some things vague so that the local jurisdictions may decide how to implement them. Conditions vary widely, and floodplains do too. Mr. Fredenburg reviewed several FEMA rules as well as North Carolina General Statute § 119-55, LP-Gas Law (see attachment). Mr. Fredenburg offered that propane tanks are easily wet floodproofed because they are pressure vessels with approximately one hundred to one hundred-fifty pounds of pressure within. If a valve is opened, it will begin to blow propane out and no water will get in. Mr. Fredenburg believes that a county cannot adopt rules which are more stringent or less stringent than the LP-Gas Code, a county must conform to the requirements of the LP-Gas Code, although he admitted that his legal department has not set their position on this matter.

Ms. Stigall asked if the FEMA rules are in effect now- to which Mr. Fredenburg confirmed. Ms. Stigall continued by asking what has changed? Why are we here discussing this?

Mr. Fredenburg answered that the Onslow County recent ordinance change departed from the State's emergency management model ordinance, and it contains contradictions.

Planning Director Hill offered a point of clarification to Mr. Fredenburg, that North Topsail Beach has its own ordinances, and the Unified Development Ordinance language is different from Onslow County. North Topsail Beach has adopted both AE and VE zones as coastal high hazard areas, and has had higher construction standards for twenty-two years. North Topsail Beach has its own Building Codes Administrator responsible for administering the North Carolina Building Code, and Planning Director Hill is responsible for administering the North Topsail Beach Flood Ordinance. Any changes to the North Topsail Beach Unified Development Ordinance or Flood Ordinance begin with a recommendation from the Planning Board, which is then brought to the Board of Aldermen for consideration. Onslow County's ordinances have no jurisdiction in North Topsail Beach. Mr. Fredenburg explained that his jurisdiction is limited and stops at the outlet of the first stage regulator, the first time the pressure is reduced, and then it becomes the jurisdiction of the Building Code and local codes. He does not like the confusion caused by the different ordinances that are seen to apply to tanks. Planning Director Hill explained that was why stake holders were invited to this meeting, to receive the information straight from Mr. Fredenburg.

There was discussion including those in attendance relating to LP gas tanks.

Ms. Hill stated that propane may not be suitable for every property. The engineer certifies the V-Zone certification, however specific environments, soil conditions, erosion, and/or escarpment may not make that location feasible for propane. The propane requirements originated in the Building Code and are also part of the Flood Code.

Mr. Fredenburg stated that the EPA does not consider propane to be a groundwater contaminant; it lifts out of the ground and disperses, and therefore is not an environmental hazard. An above ground propane tank lasts about a year, whereas an underground propane tank with cathodic protection can last an estimated twenty-five years as long as the electrical connection is checked and maintained every three years to ensure it meets the required voltage level.

Building Codes Administrator Ralph Allen asked who inspects the anode on underground propane tanks, to which Mr. Fredenburg answered the owner of the tank is responsible for the maintenance. A propane

company should ask for the date of the last test, and not deliver to a tank that is not inspected. There is a ten-foot minimum setback from a buried tank to the edge of a building. If a building is elevated without a ground-floor enclosure, and the tank is less than one hundred twenty-five gallons, the buried tank may be located outside of the footprint of the structure. There is also a ten-foot setback from a property line which may be built on.

PUBLIC COMMENT No one came forward to speak.

OLD BUSINESS

RULES OF PROCEDURE

Planning Director Hill reviewed several modifications to the Rules of Procedure and invited the Board to review the document and make recommendations prior to the August Planning Board meeting. Ms. McCloud requested the topic be continued at the next Planning Board meeting and asked the Board members to send Ms. Hill their corrections.

G. DEARBORN REQUEST TO MODIFY SUP-19-01 (NO UPDATE PROVIDED AS OF 7/8/22)

Planning Director Hill reviewed the request which the Planning Board had deferred the decision on at the last Planning Board meeting. There were no updates on the status of the litigation. She noted that Mr. Lassiter, the gentleman who lodged a complaint, attended this meeting. Since the lot is under litigation, it was determined that the special use permit is not in place, so the notice of violation issued against that special use permit is not valid. Ms. Hill noted that Mr. Dearborn's property has become indiscernible from Rogers Bay Campground. An expansion of an existing travel trailer park is prohibited pursuant to the State Building Code Section G 601.1 as amended in section 9.0101 of the Unified Development Ordinance (UDO). Unless Mr. Dearborn has an approved special use permit from the Board of Aldermen that allows him to have his personal recreational vehicle located there, he is not in compliance with the regulations. He cannot be in violation of something he does not have. Once the litigation is resolved, Ms. Hill presumes the special use permit will be in effect, with the conditionally permitting cars and trailers, and prohibiting recreational vehicles. There was Board discussion. No action was taken.

NEW BUSINESS

LAND USE PLANNING: BALANCING CONSERVATION & DEVELOPMENT

Planning Director Hill requested that the Planning Board consider balancing conservation and development. Ms. McCloud asked why the CAMA Land Use Plans (CAMA LUP) given to the Board were dated 2019. Ms. Hill replied that the certification and adopted dates are listed in the binders as 2021. She invited the Board to consider minimum standards and higher standards. The North Carolina Building Code consists of minimum standards. Through the Unified Development Ordinance (UDO) and the CAMA Land Use Plan the Town has the option of adopting higher standards. Ms. Hill invited the Planning Board to utilize the CAMA Land Use Plan as a resource to allow for addressing development concerns within North Topsail Beach. It may be possible to amend the CAMA Land Use Plan policy statements, which are enforceable. There is no variance or appeal from a CAMA Land Use Plan policy statement. She recommended looking at impervious surface and wetlands. The Town has the ability to set the bar on the balance between development and conservation.

Planning Director Hill explained that insufficient documentation submitted for applications has been very difficult, and it causes significant backlogs on application reviews. How can you determine if proposed development meets the requirements if the documentation is missing dune profiles, elevations, approximate mean high-water line, and basic characteristics of a site plan required for that determination? Developers, contractors, surveyors, and engineers have been provided a checklist for

the site-plan, foundation plan, elevation certificate, and the V-Zone certificate, and yet are submitting deficient applications. Those standards must be upheld for quality of development as well as conservation efforts. She asked the Board to use the CAMA Land Use Plan as an on-going review item. Ms. Stigall asked if an entity applies with insufficient information, what happens to that application? Ms. Hill answered that the application is placed on hold, and when the information is submitted, the application is placed back in the queue for review. Ms. Stigall asked if that holds up other complete applications? Ms. Hill responded yes. Ms. Stigall asked what is the consequence for chronic deficient application submission? Ms. Hill feels that it is part of the job, especially given the current occurrence of notably high development. She has been doing this for sixteen years and has never seen the lack of attention to detail on documents submitted. Mr. Fontana asked for clarification on the CAMA Land Use Plan task. Ms. Hill responded to use it as a guideline, especially when considering the different CAMA Areas of Environmental Concern (AECs): Ocean Hazard Area, Estuarine, Outstanding Resource Water, and Inlet Hazard Area. Ms. Meyer asked if the new Inlet Hazard Area had been adopted? Ms. Hill replied to the best of her knowledge, no. When thinking about concerns regarding development, environment, and everything else, find a place in the CAMA Land Use Plan where that document can address those concerns.

Ms. Hill explained that the new seating arrangement in the meeting is a visual representation of the distinction between the Planning Board and Town Staff. Staff is present to serve and assist the Planning Board, so the Board may do the work and make recommendations for the Board of Aldermen and the citizens of the town.

DISCUSSION:

Ms. Hill updated the Planning Board that the RCCP phase three storm water project is being funded for North Topsail Beach, Surf City, and Topsail Beach. At the NCDOT bi-weekly meeting on July 13th Ms. Hill reviewed LaCosta, which was approved in 1992. Ms. Hill is still working on the CRS recertification and the UDO code scan. Ms. Hill is exploring the placement for the Dark Sky Ordinance, like the beach equipment in the UDO, making it easier to separate and enforce. She is still working on updating the zoning map.

ADJOURNMENT Mr. Dorazio made a motion to adjourn. Mrs. Stigall seconded. Motion passed unanimously, 6-0.

The Planning Board meeting adjourned at 6:33 p.m.

APPROVED

This 11th day of August 2022



Hanna McCloud
Chair

CERTIFIED

This 11th day of August 2022



Kate Winzler
Clerk

Presentation for the Planning Board of the Town of North Topsail Beach

Richard Fredenburg, LP-Gas Engineer

North Carolina Department of Agriculture and Consumer Services

July 14, 2002

NFPA 58, the *LP-Gas Code*

6.8.1.5 Containers shall be installed so that all container operating appurtenances are accessible.

6.8.1.6 Where necessary to prevent flotation due to possible high flood waters around aboveground or mounded containers, or high water table for those underground and partially underground, containers shall be securely anchored.

NFPA 58, the *LP-Gas Code*

6.8.3 Installation of Horizontal Aboveground ASME Containers.

6.8.3.1 Horizontal ASME containers designed for permanent installation in stationary aboveground service shall be placed on masonry or other noncombustible structural supports located on concrete or masonry foundations with the container supports.

NFPA 58, the *LP-Gas Code*

(E) Containers of 4000 gal (15.2 m³) water capacity or less and equipped with attached supports complying with Table 6.8.3.2(A) shall be installed on a fire-resistive foundation if the bottoms of the horizontal members of the container saddles, runners, or skids are more than 12 in. (300 mm) above grade.

(F) Containers of 4000 gal (15.2 m³) water capacity or less installed with combined container-pump assemblies on a common base complying with Table 6.8.3.2(A) shall be placed either on paved surfaces or on concrete pads at ground level within 4 in. (100 mm) of ground level.

NFPA 58, the LP-Gas Code

(B) Steel supports shall be protected against fire exposure with a material having a fire resistance rating of at least 2 hours if the height limits specified in Table 6.8.3.2(A) are exceeded.

Table 6.8.3.2(A) Installation of Permanently Installed Horizontal ASME Containers with Attached Supports

Container Size		Attached Support	Height of Container Bottom
gal	m ³		
≥4000	≥15.2	Non-fireproofed steel on flat-topped concrete foundations	6 in. (150 mm) maximum above concrete foundations
≤4000	≤15.2	Non-fireproofed steel on masonry or concrete foundations more than 12 in. (300 mm) above the ground	2 in. to 12 in. (51 mm to 300 mm) above concrete foundation
≤4000	≤15.2	Non-fireproofed steel on paved surfaces or concrete pads within 4 in. (100 mm) of the ground	24 in. (610 mm) maximum above paved surface or top of concrete pads
≤4000	≤15.2	Foundations or supports for horizontal LP-Gas containers per 6.8.3.2(B)	24 in. (610 mm) maximum above paved surface

FEMA Rules

FEMA Floodplain Management Bulletin P-2140

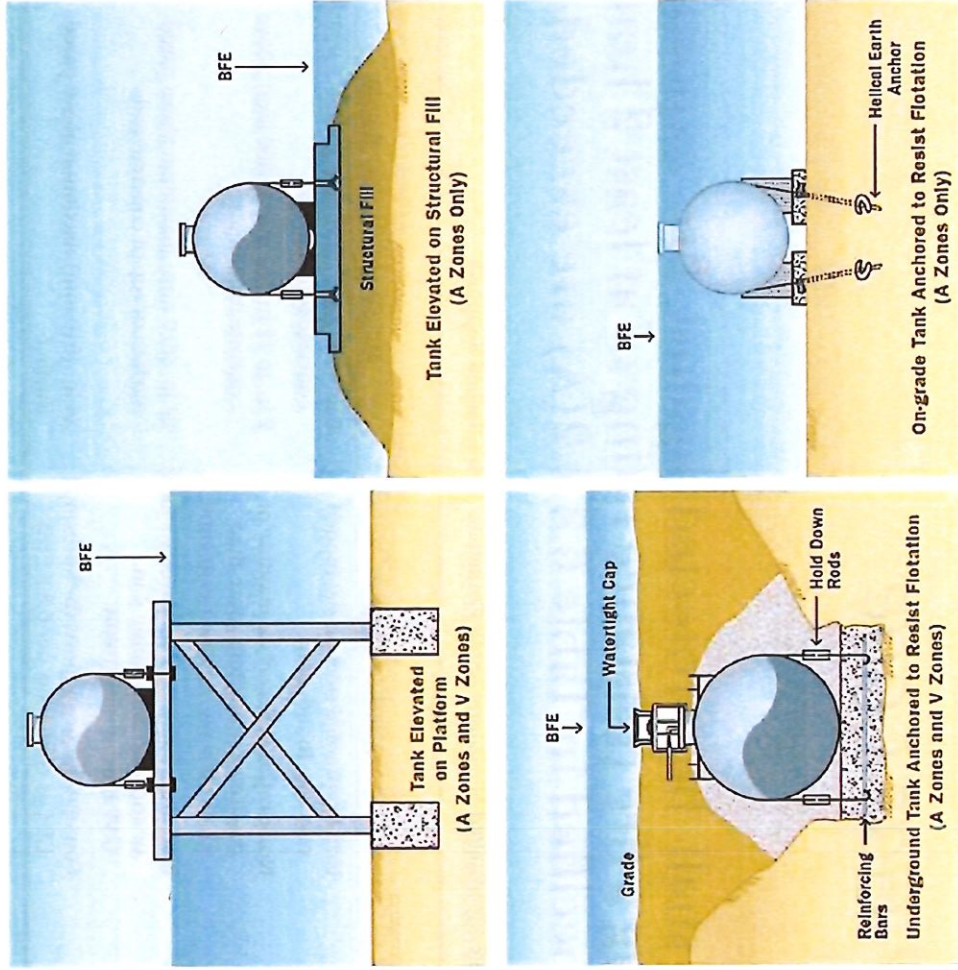


Figure 23: Options to Install Tanks Above and Below Grade

FEMA P-348 Protecting Building Utility Systems From Flood Damage

2.1 NFIP Regulations for Building Systems/Utilities

The NFIP's minimum requirements for new construction and Substantially Improved buildings may be found in 44 CFR §60.3(a)(3). Communities are required to:

“Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. **If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.**” *[emphasis added]*

Protection methods described in Chapter 3 of this publication, such as elevation and relocation (Section 3.1) and component protections (Section 3.2), may be used to satisfy NFIP requirements. These methods, along with other measures that provide partial protection (Section 3.3), should be considered even when compliance is not required. Additional details regarding protection of utility systems and equipment for dwellings and other occupancies may be found in Chapter 4 (one- and two-family dwellings) and Chapter 5 (non-residential and multi-family buildings).

Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures (Third Edition) FEMA P-259 / January 2012

5W.14 Construction/Implementation

The retrofitting of utility systems, both elevating and protecting in place, must conform to the requirements set forth in local and state building codes, standards, floodplain ordinances, and equipment manufacturer's installation instructions. Building codes may include reference codes and standards. These reference codes typically address electrical, plumbing, and other utility items of work. It is important to verify compliance with each of these reference codes during the design phase and into the construction phase. For material or equipment substitutions, the technical bulletins, FEMA publications, and ASCE 24 referenced in this chapter should be consulted. All applicable permits and inspections should be completed prior to beginning the next phase of the construction. The successful construction and implementation of wet floodproofing measures should include the use of flood-resistant materials and consider operations and preparedness planning in Section 5W.3.

North Carolina General Statute § 119-55, LP-Gas Law

Power of Board of Agriculture to set minimum standards; regulation by political subdivisions. This is a General Statute, a law, that takes precedence over regulations and ordinances.

- The Board shall have the power and authority to set minimum standards and promulgate rules and regulations for the design, construction, location, installation, and operation of equipment and facilities used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gas.
- Any municipality or political subdivision may adopt and enforce a safety code dealing with the handling of liquefied petroleum gas which conforms with the regulations adopted by the Board, and the inspection service rendered by such municipality or political subdivision shall conform to the requirements of the inspection service rendered by the Board in the enforcement of this Article.

Contact Information

Richard Fredenburg, LP-G Engineer
North Carolina Department of Agriculture and Consumer Services
Standards Division
4400 Reedy Creek Road
1050 Mail Service Center
Raleigh, NC 27699-1050
Phone: 984-236-4752
Email: richard.fredenburg@ncagr.gov