

RMSN-G1301

March 21, 2013

Via First Class Mail and Email ([rulemakingcomments@dep.state.nj.us](mailto:rulemakingcomments@dep.state.nj.us))

Gary J. Bower, Esq.  
Attention: DEP Docket No. 01-13-01  
New Jersey Department of Environmental Protection  
401 East State Street, 4<sup>th</sup> Floor  
Mail Code 401-04L  
PO Box 402  
Trenton, NJ 08625-0402

**Re: Borough of Rumson  
Monmouth County  
Advisory Base Flood Elevation Map Comments**

Dear Mr. Bower:

On behalf of the Mayor and Council of the Borough of Rumson, I offer our comments as they relate to the adoption of the Advisory Base Flood Elevation Maps and the Flood Hazard Control Act Rules, and data gathered during Hurricane Sandy with the Borough of Rumson. The following documents have been reviewed:

- **Tropical Cyclone Report Hurricane Sandy** prepared by Eric S. Blake, Todd B. Kimberlain, Robert J. Berg, John P. Cangialosi, and John L. Beven II, of the National Hurricane Center, dated February 12, 2013
- **Governor Christie's Adoption of the Advisory Base Flood Elevations** issued by The New Jersey Department of Environmental Protection, January 24, 2013
- **Flood Elevation FAQ: New Jersey's Emergency Flood Elevation Rule's**, updated February 12, 2013
- **FEMA Advisory Base Flood Elevations Maps**
- **New Jersey Flood Hazard Emergency Rule**

Based on our review of the above documents, we offer the following comments for your consideration:

- 1) The emergency regulation adopted by the State on January 24, 2013 requires new building elevations to be in accordance with the best available flood mapping. The New Jersey Department of Environmental Protection (NJDEP) has deemed the recently released Advisory Base Flood Elevations (ABFE's), issued by the Federal Emergency Management Agency (FEMA) in December 2012, the best available flood mapping. Additionally, the Flood Hazard Area Act Rules, established in 2007, requires the lowest floor of each building in a flood hazard area to be at least 1 foot above this elevation.



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- 2) The ABFE maps also get specific limits for V Zone Areas, which occur within tidal floodplains and are expected to experience storm-induced waves with heights greater than 3 feet. These areas are considered high risk areas; therefore, the construction standards for buildings within V Zones are more stringent. The ABFE maps further designate specific limits for Coastal A Zone Areas which are areas that are expected to experience moderate wave action where the storm-induced wave heights are between 1.5 and 3 feet. However, the Borough has limited evidence of wave zone action within these newly developed Coastal A & V Zone areas. It should be noted that some structures on Barley Point Island did experience wave action.
- 3) The Borough of Rumson did adopt the recommended Flood Damage Prevention Ordinance as transmitted by the NJDEP in order to maintain compliance with the National Flood Insurance Program. However, the Borough does not agree with the V Zone limits as identified on the ABFE Maps. Significant portions of the Borough are now within designated Coastal A & V Zones, but did not experience wave zone action during Hurricane Sandy. Generally, the Borough objects to the V Zone designation along the south shoreline of Rumson on the Shrewsbury River around the peninsula to Barley Point Island.
- 4) The Emergency Rule states that the amendments will have an overall positive economic impact because they will reduce the long term economic cost from flood damage. There will, however, be a short term economic impact increasing the initial cost of construction to meet the new standards. There are many homes that were constructed using conventional construction methods that are within the newly created and expanded V Zones or Coastal A Zones. Since these homes have typical concrete block foundations, they cannot simply be raised in place to meet the new higher flood elevation. In order to install the required pilings, the dwelling must be temporarily set aside or relocated (if there is sufficient room on the lot). Within the Borough of Rumson, the majority of impacted properties do not have sufficient space to permit the relocation process while driving piles. This results in added cost to the homeowners, or in many cases, prohibits the raising of the home and requires complete demolition of the existing structure and total reconstruction. Therefore, these proposed rules are far too onerous and are in many cases cost prohibitive, particularly since wave action was not experienced on the riverfront properties.
- 5) Increased Cost of Compliance Program allows homeowners to submit a claim through their flood insurance provider to obtain up to \$30,000 towards raising their homes. This claim is included within the \$250,000 flood insurance cap. Also, we have observed that the average cost to raise homes in this area is usually more than 2 to 3 times this amount if completed by private contractors not obligated to pay prevailing wages (Davis-Bason Act), which are required if the work was subject to Local Public Contracts Law. This requires residents to seek additional funding sources and loans causing a hardship to many residents.
- 6) The economic impact analysis assumes that the increased cost of compliance will be offset by lower flood insurance premiums. However, the Biggert Waters Flood Insurance Reform

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Act will likely increase flood insurance premiums significantly above their current level. Therefore, there still is likely to be a negative economic impact. Additionally, these regulations could penalize many residents that have not had a claim in a V-Zone through high insurance premiums. The risk of a property must be considered and adjusted based on prior claims (or the lack thereof) not just based on the construction methods.

- 7) There does not appear to be any relief for residents that cannot afford to raise their home or who will be priced out of their home when faced with higher insurance rates. A demographic change might occur as lower income families and seniors are financially impacted and are replaced by higher income families who can afford these impacts or as rental properties.
- 8) The Emergency Rule adoption states that in the majority of the cases the advisory flood maps indicate that the 100 year flood elevation is higher than shown on the existing department delineation. However, there are many areas within the Borough where the Base Flood Elevations on the ABFE maps are actually 1 or 2 feet lower than the Base Flood Elevations shown on the 2009 Flood Insurance Rate Maps.
- 9) Although single-family homes generally do not require compliance with ADA handicapped accessibility regulations, raising of the dwellings presents an issue for residents with disabilities or older residents who require ramp access. Although the Borough has amended its Bulk Zoning Ordinance to allow for the construction new steps into a structure, the construction of an accessible ramp requires significantly more length than steps and will result in significant additional costs to residents or in some cases require the construction of a chair lift due to limited space and site constraints. Also, it is our understanding that elevators located below the ABFE could result in additional insurance premiums.
- 10) Since the ABFE is advisory, some changes are anticipated to the map elevations and zones. Updated flood maps are anticipated to be presented and subjected to public comment in the next six months. However, the advisory maps are intended as a precursor to final flood maps, which are anticipated to be formally and finally adopted in approximately two years. There is also a question as to the impacts on insurance rates, in the event, the elevations on the final adjusted maps are higher than the elevations shown on the advisory maps.
- 11) In the revised Flood Hazard Rules, the definition of substantial improvement has been modified to be 50% or more of "market" value of a property, where the prior rules defined substantial improvement as 50% of "replacement" value. In a depressed real estate market, replacement value is generally much higher than market value.
- 12) While it is understood the ABFE Maps are advisory in nature, it is my recommendation that the ABFE Zones be re-evaluated with better modeling to account for various flood mitigation structures, such as flood walls and bulkheads that may alleviate the need to



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reconstruct homes to V Zone criteria. The ABFE's could have a severe impact on the municipality, and will be costly for all of the residents. The Borough requests that the FEMA Region II subcontracted engineer from URS/Dewberry visit the area with Borough representatives to review the measures not accounted for in the computer modeling process and their potential to mitigate wave action.

- 13) It appears that the Permit by Rule only applies to structures that were substantially damaged by flood. Clarification is required as to why a reconstruction after a casualty requires a general permit and why a voluntary reconstruction is a permit-by-rule.

Very truly yours,

T&M ASSOCIATES

*David M. Marks*

DAVID M. MARKS, P.E., C.M.E.  
BOROUGH OF RUMSON ENGINEER

DMM:

c: Mayor & Council  
Thomas S. Rogers, Borough Administrator  
Marty Barger, Borough Attorney  
Lori Buckelew, Senior Legislative Analysts  
NJ League of Municipalities ([lbuckelew@njslom.com](mailto:lbuckelew@njslom.com))