

**TOWN OF SOUTH BETHANY
TOWN COUNCIL PUBLIC HEARING MINUTES
ORDINANCE 172-14
FRIDAY, JULY 11, 2014**

ATTENDANCE

PRESENT: Council Members Sue Callaway, Tony Caputo, Jim Gross, George Junkin, Al Rae, Tim Saxton, and Mayor Pat Voveris; Town Manager Melvin Cusick; and Administrative Assistant Pam Smith

PUBLIC HEARING CALLED TO ORDER

Pursuant to Section 145-65 of the Town Code, Mayor Voveris called the July 11, 2014, Public Hearing on Ordinance 172-14 to order at 7:00 p.m.

The purpose of the Public Hearing was to receive public input regarding Ordinance 172-14, amending the Code of the Town of South Bethany, Chapter 145, Zoning, to increase the maximum house height allowed where freeboard is provided.

Councilman Gross, one of the sponsors of the ordinance, made the following comments regarding the proposed code changes:

- The intent is to permit people to have higher houses in order to accommodate additional freeboard. Freeboard is the distance above the base flood elevation to the bottom of the house.
- A number of definitions have been added in order to implement this ordinance.
- Currently the Town's building code requires the permissible height of houses to be 32 feet above the center line of the road. The proposed ordinance raises that so people voluntarily have the option to raise their house or build new houses to accommodate two feet of freeboard above the current requirement.
- Councilman Gross read the proposed change to § 145-35J(2): " Notwithstanding § 145-35J(1) above, where the principal building has a freeboard equal to or greater than two (2) feet above the Base Flood Elevation (BFE), the principal building maximum height may be the higher of thirty-four (34) feet measured from center line of the street or thirty-eight (38) feet based on NAVD 88." Councilman Gross explained that NAVD 88 is a baseline datum that is used for control of elevations and it is used throughout the town now and in the Town Code. Councilman Gross added that the 38 feet is proposed in order to accommodate property owners with very low lying lots.

Ed Nazarian (20 Peterson Dr.) – Asked how many lots are in town that could be raised to 38 feet. Councilman Gross stated that he did not know the number but it is a substantial number.

Dennis Roberts (107 Canal Dr.) – Expressed concern about property owners being allowed to raise their lots which he believes will cause water from those lots to be pushed on other lots that are not raised. Councilman Gross stated that property owners can raise their lots now with the current code. Councilman Junkin stated that the proposed changes are only talking about the maximum height of the house and has nothing to do with how high a lot is.

Jack Whitney (105 Boone Rd.) – Stated that he wants to be on the positive side and give recommendations that will simplify and solve the issue for everybody. Because of the requirement by FEMA that you can't have a house lower than the Base Flood Elevation (BFE), Mr. Whitney believes the reference of height to the center line of road is an archaic reference.

Mr. Whitney gave the following PowerPoint Presentation to explain his recommendation:

**Recommendations for Changes to
Draft Ordinance 172-14**

**South Bethany Town Council
Meeting**

July 11, 2014

Draft Ordinance 172-14

- This recommendation is for changes to the current South Bethany Code to:
 - Simplify and establish a single, fair and equitable building height limit above a recognized elevation datum level, and
 - Encourage building construction to be higher than the minimum level (by providing a non-punitive optional freeboard allowance).

The simplified revised Code would be applicable to all residential buildings in South Bethany.

Draft Ordinance 172-1

This recommendation accomplishes the following:

- Establishes a maximum building construction height limit of 31 feet measured above BFE or Center Line of road (whichever elevation is higher) for all areas of South Bethany.
- Establishes, for all areas of South Bethany, an optional allowance for freeboard of up to 3 feet above BFE or centerline of road (applied on a foot by foot basis without penalty) allowing for additional building construction height.
- Establishes the bottom elevation of a residential building to be at the soffit (lowest elevation) of lowest horizontal structural member of the building structure.

Draft Ordinance 172-1

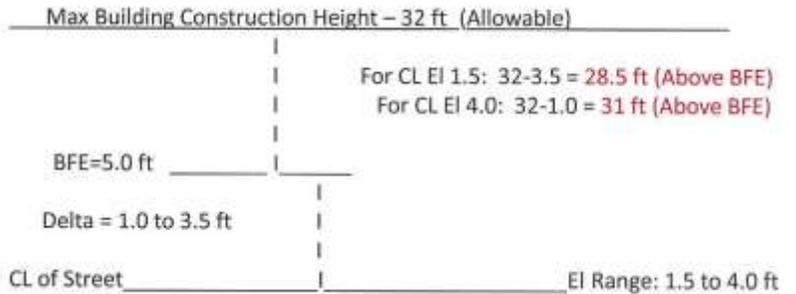
- The recommended maximum building construction height limit of 31 feet is the same as allowed by Bethany Beach, DE (see Appendix 3 of the Town of Bethany Beach Zoning Code).

Draft Ordinance 172-1

- The below diagrams are a demonstration of the inequities in the existing Code and in the original draft Ordinance. The last 2 diagrams indicate the results of these recommended changes.
- These diagrams are based on locations West of Ocean Highway.
- Simplified language changes for the existing Code (for Draft Ordinance 172-14) are also attached.

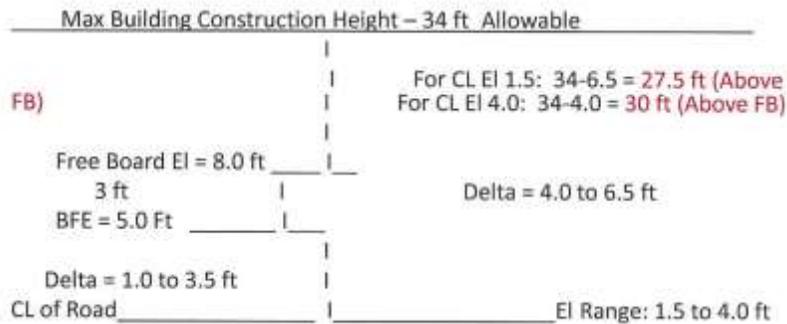
Draft Ordinance 172-14

As Drafted: Clause 145-35, J. (1), Principle Building
For 32 Feet Above Center Line (CL) of Road



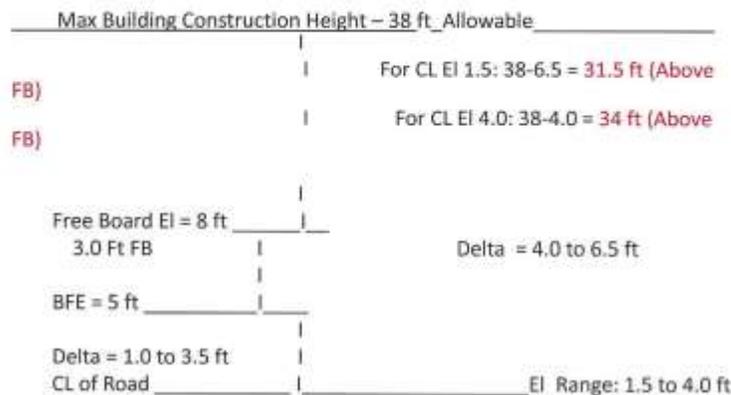
Draft Ordinance 172-14

As Drafted: SubPara (2) – Option 1, For Plus 3 Ft Free Board (FB)



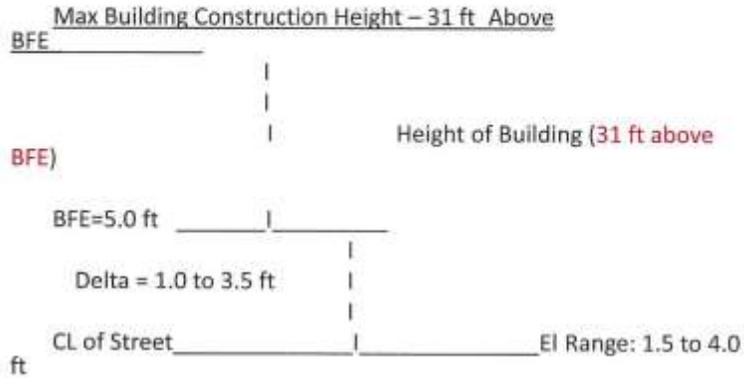
Draft Ordinance 172-14

As Drafted: Option 2 – For Plus 3 Ft Free Board



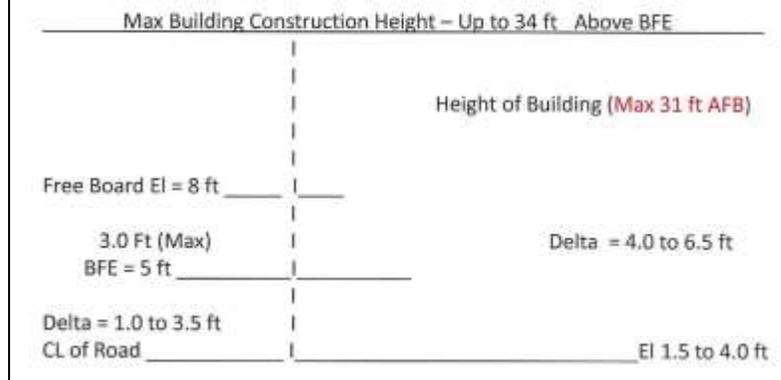
Draft Ordinance 172-14

A. Recommended - Without Free Board



Draft Ordinance 172-14

B. Recommended - With Free Board



Draft Ordinance 172-14

RECOMMENDED Changes to Draft Ordinance 172-14

§ 145-35. R-1 Single-Family Dwelling District. [Amended 5-10-1996 by Ord. No. 52-96; 3-9-2001 by Ord. No. 95-00; 3-12-2004 by Ord. No. 122-03]

J. Maximum building height:

~~main:~~ For Principle Buildings, the building height shall not exceed 31 feet measured above the soffit of the lowest horizontal member of the structure, which shall be no lower than Base Flood Elevation (BFE) as defined by FEMA or center line of road (whichever is higher); Accessory buildings: *fifteen (15)* feet, measured from center line of street, except as provided in § 145-38E(2). Minimum roof pitch: 4/12.

*(1) Notwithstanding the above, where the principal building has a freeboard above BFE, the principal building maximum height may be **raised** up to a maximum of the freeboard or three feet higher, which ever is less. Minimum roof pitch: 4/12*

Mr. Whitney said that he is submitting his recommendation to the Council for their consideration.

Mayor Voveris asked for questions. There were no other questions or comments.

Mayor Voveris closed the Public Hearing at 7:25 p.m.

PHS:Public Hearing Minutes Ord. 172-14 7 11 14 Adopted 8 28 14