

## Dana Nichols

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**From:** Diane Bilderback <ddbilderback@gmail.com> on behalf of Diane Bilderback  
**Sent:** Monday, May 2, 2022 9:07 AM  
**To:** Planning@cityofbandon.org  
**Subject:** 2nd Testimony for Public Hearing Before the City of Bandon Hearings Officer, Application Number 22-001  
**Attachments:** Application Appeal 22-001 page 26.pdf  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear City of Bandon Hearings Officer:

Thank you for the opportunity to provide additional testimony relating to the appeal before the City of Bandon Appeals Officer regarding **Application # 22-001** for construction located at **4000 Beach Loop Drive SW**.

On March 23, 2022, the City of Bandon Planning Department issued a decision denying Planning Action 22-001 and provided information concerning a possible appeal before a hearings officer. The denial was based on a viewline drawn from the northwestern deck of the northern adjacent property to the westernmost corner of the southern adjacent property. The use of a deck as an anchoring point for the viewline is based on the interpretation of the Planning Department as presented by Ms. Nichols in an email dated February 15, 2022 (see page 18, Application Appeal 22-001): "On the viewline front, I started thinking about the interpretation and I'll amend my conclusion that the viewline should be measured from the westernmost point of the wall *of a structure*. So, that gives you the benefit of any decks or structures beyond the actual dwelling. This makes sense to me because we allow you to build decks, etc. up to a viewline, so the viewline should be measured from there." However, a Planning Department email dated January 20, 2022 (see page 26, Application Appeal 22-001), shared an archived email dated May 18, 2021, that stated that: "Upon further research, we've found that in 2005(ish) the City Council made the interpretation that view lines are determined from the western most points of surrounding dwellings (wall, not eaves). Existing accessory structures (decks, hot tubes, fences, etc.) are not used to determine a view line and are considered nonconforming." The accompanying graphic (see attached) showed a viewline drawn along the ridgeline of the residence located at 4000 Beach Loop Drive SW. One half of the residence was in nonconformity with the City Council's interpretation! Apparently, the primacy of that property was not considered. The residence at 4000 Beach Loop Drive SW was built before the adjacent residences and therefore, established the westernmost point beyond which no construction can occur. The adjacent secondary structures are setback back from that westernmost point established by the primary structure.

After viewing the accompanying graphic more closely and checking the anchor points for the viewline with a GPS, it was found that the southernmost anchor point is not on the westernmost point of the structure. The westernmost point is the southwest corner of the south adjacent property.

No matter where a viewline is drawn between two secondary setback structures, the viewline will cross a primary structure unless the secondary structures are directly on the viewline established by the westernmost point of the primary structure. The owners of the primary structure can not be expected to modify or move their residence so that the residents of a secondary setback structure can enjoy the full viewscape. The residence of the primary property should not be labelled as being in nonconformity. Designation of a property as being in nonconformity may actually reduce the value of that property.

There appears to be at least two ways or perhaps three ways of defining a viewline: a westernmost deck of an adjacent property, the westernmost points of adjacent residences and apparently, a westernmost longitudinal meridian established by the oldest structure. An interpretation of City Council appears to carry the same weight as a defining

component of the building code. Why wasn't the interpretation included within the building code? Was the interpretation subjected to public scrutiny with public hearings and testimonies? It seems to be an undue burden on the Planning Department, architects, contractors, and individual citizens to have to search the email archives and City Council minutes to locate an interpretation of a building code.

It seems inappropriate that the homeowners' residence is placed in nonconformity with the building code and the homeowners cannot build low, nonobstructive decks because their residence was the first to be built in the neighborhood.

Thank you for your consideration.

Best regards,  
Dave Bilderback  
Diane Bilderback  
3830 Beach Loop DR SW  
Bandon, OR 97411



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**From:** Eric Montes <emontes@ci.bandon.or.us>  
**Sent:** Thursday, January 20, 2022 1:54 PM  
**To:** info@waywardstudio.com <info@waywardstudio.com>  
**Subject:** Notice of Complete Application: 22-001 4000 Beach Loop Drive SW

Hey Dave,

Please find attached a completeness review form and a notice of complete application letter for 4000 Beach Loop Drive SW. Megan will be back tomorrow, so I think she will be the lead on this application. We will be in touch!

Best,  
Eric Montes  
Planning Technician

Megan Lawrence <mlawrence@ci.bandon.or.us>  
Tue 5/18/2021 10:25 AM  
Hi Dave!

Upon further research, we've found that in 2005(ish) the City Council made the interpretation that view lines are determined from the western most points of surrounding dwellings (wall, not eaves). Existing accessory structures (decks, hot tubs, fences, etc) are not used to determine a view line and are considered non-conforming. Below is an updated graphic (not to scale) showing the viewline for 4000 Beach Loop Drive in Red. Our previous interpretation from yesterday is shown in yellow.

Megan Lawrence <mlawrence@ci.bandon.or.us>  
Mon 5/17/2021 2:21 PM  
See attached.



Megan Lawrence  
City Planner