

property owner to allow disturbance to that property or to allow the concentrated discharge of storm water across that property.

Since the applicant has not provided adequate documentation to demonstrate what the elevation of floodwaters will be and where the floodwaters will be directed in proposed conditions, the Department cannot conclude that the applicant satisfies the following requirements of the Flood Hazard Area Control Act Rules:

N.J.A.C. 7:13-2.13(a)3 which requires "All hospitals, clinics, nursing homes, schools of any sort, day care centers, hotels, private residences and similar buildings which are proposed in areas under the jurisdiction of this chapter shall be elevated so that the lowest floor, including any basement, is at or above the regulatory flood elevation. This requirement applies to buildings proposed to be located on lands previously in the flood plain but legally filled after January 31, 1980, and raised above the regulatory flood elevation".

N.J.A.C. 7:13-2.13(a)5 which requires "All proposed residential developments or subdivisions proposed to be built in, or which require access through, areas under the jurisdiction of this chapter and which create more than 1 new residence shall, where feasible, have at least one driveway or access route at or above the regulatory flood elevation. If such a route is not feasible, then all on-site roads, parking areas and driveways shall be constructed at or above the regulatory flood elevation to the extent possible.

Due to the proposed construction of the flume along the adjoining property and due to the discharge of floodwaters from the flume directly at the property line, and considering the applicant has not submitted written consent from the adjoining property owner, the Department cannot conclude that the applicant has satisfied the following requirements of the Flood Hazard Area Control Act Rules:

N.J.A.C. 7:13-2.18(a)2 and 3 which require "Unless the owners of property located either upstream and/or downstream of the project site accept liability for any damages or inconvenience that may occur as a result of the proposed project and written proof of such an agreement is presented to the Department, the applicant shall design and construct the project so that the following condition is satisfied:

2. No portion of the proposed project shall be located on property other than that owned by the applicant unless specific written consent from the property owner to perform the work and accepting liability for any damages or inconveniences that may occur as a result of the work is presented to the Department; and
3. The project is designed so that a concentrated flow of stormwater is not discharged across properties adjacent to those owned by the applicant.

Since the applicant has not provided any soil erosion and sediment control measures at the outlet from the flume or at the upstream property line where floodwaters where