MINUTES OF THE LAND USE COMMITTEE MEETING 1-9-2023

The meeting was called for 7 pm on Zoom. Present were Dedun Ingram, chair; Kathy Flaxman, Eric Murtagh, Joe Rubin, Stuart Sessions; Rich Brancato, Council liaison; Dave Walton, Town staff (7:11); and Lance Ball, Town Water Engineer (7:13).

Chair Dedun Ingram called the meeting to order at 7:04.

Minutes of the December meeting: Eric moved to accept as distributed. Seconded, passed.

Dedun reported that she and Stuart had met briefly with Dave Walton earlier in the day and discussed some of the issues involved in meeting both Town and County stormwater requirements.

Several days before the meeting, Dave Walton provided for the Committee: 1) A list of the significant differences/conflicts between the Town and County Ordinances, and 2) A table summarizing storage volumes required by the Town and County for projects in the Town since FY 2018 that required a water drainage plan. The Committee appreciated receiving this material. The table showed that often the Town requires more water to be retained than the county does. Often this is because the Town requires treatment of run-off from impervious surfaces (e.g., patios, driveways) that the County does not consider. Dave noted that homeowners are often not happy to hear that the Town requires more stormwater be retained than the county does.

There was some discussion aimed at understanding the details of the materials from Dave Walton:

There was discussion about one property that involved only at-grade improvements totaling much less square footage than the County threshold. Dave explained that the original drainage plan was from 2007. A new house was built in 2016. They kept the front drywell, then redid the driveway within the Town's 2-year lookback period and added a pool which interfered with existing County drywells which were then removed/relocated. Lance explained that on properties with an existing County drainage plan, if changes are proposed in a subsequent project that affect stormwater management measures that were required under that plan, the County re-reviews stormwater management on the property even if the changes are otherwise not big enough in themselves to trigger a plan. This happened at a second property in the table.

Questions relating to Dave's description of the County's volume requirements were discussed:

(1) Is (a – Drainage Plan) more stringent than (b – engineered Sediment Control Plan or Stormwater Management Plan)? Dave: Not really.
(2) If the project exceeds the threshold requirements for both (a) and (b), what happens? Dave: Both requirements can apply, but the ESD required by (b) will usually be required.

(3) Regarding (b), how does disturbed area for an addition compare to the actual footprint? A lot bigger? Lance: It is a smaller percentage of bigger projects. Disturbed area includes graded area, excavation for foundations, truck access etc. Dave: Generally it is earth disturbance that triggers (b) and the need for SCP or SWM: 100 cubic yards or 5000 square feet. This then triggers the ESD requirement in (b), versus a simple drainage plan based on roof area x 1.5" of rainfall as under (a).

Maintenance of drainage systems.

The County now requires a recorded easement for entry to inspect drainage systems when there is on-site stormwater management. For sites with a drainage plan, the Town records an easement on the deed as a maintenance agreement, but does not record the whole drainage plan.

When a house is sold, the new owners may not be aware of the recorded maintenance agreement, though it should show up in the title search. Unfortunately, this is not a detail that new owners focus on. They likely will not know that their property has a drainage plan and what it requires (e.g., maintenance of the SWM measures, prohibition of changes to grading or the drainage system without approval, etc.). There is no mechanism to provide this information to new owners. Resales do require disclosure of existing conditions, but it's not clear that existence of a drainage plan is a required disclosure. New houses are exempt. There is no way for a buyer to know about a drainage plan for the property and responsibility to maintain the system.

Q: What could the Town do to make sure that new owners are aware of drainage plans?
For new houses, notification of new owners could be a condition of the building permit. Notification is problematic for resale of houses because the Town is not notified about property transfers. It was suggested that perhaps the Town might send a postcard annually to properties with drainage plans, reminding/informing owners about required maintenance. It was also suggested that when a system is inspected and passes, the Town might issue a sticker that could go on the electric panel or somewhere similarly conspicuous, that subsequent buyers could see.

Q: How is the requirement for maintenance of drainage systems working in the Town?
A: Not well. The Town has no mechanism to enforce fixing of nonfunctioning or poorly functioning drainage systems despite the requirement that systems be maintained. Further, the Town is having difficulty getting some residents to agree to an inspection even though [an easement for] access to the property to inspect the system is recorded on the deed.. And Town staff are not comfortable requiring maintenance from those cooperating but not from those who are not cooperating. Also, now that there are 120 drainage systems in Town it is has been difficult, particularly during the pandemic, to perform the required annual inspections. There was then discussion about how often inspections might be needed as a practical matter. Dave and Lance reported that the dry wells do not clog all that quickly as a general rule. It was suggested that perhaps it is not necessary to require annual inspections – that an inspection every 3 years might suffice, and this would be more doable. A three-year interval between

inspections would be too long to reveal and respond to a situation where a connection (e.g., downspout and pipe) from an impervious surface to a dry well, but a three-year interval would probably work well for clogging. It was suggested that the Town could get better compliance if it levied a fee on the property which was then refunded when an inspection and any maintenance work is completed.

Q: what does maintenance of gravel wells involve?
A: There is a perforated stand-pipe that extends to the bottom of the drywell. An inspection involves measuring how much sediment has accumulated in the stand-pipe and if there is a significant amount, vacuuming it out. The gravel drywells are surrounded top, bottom, and sides by filter fabric (with 1-3 feet of fill on top) which keeps sediment from entering the gravel. Eventually sediment does accumulate in the gravel. But County drywells are often oversized compared to Town requirements so even with some sediment in the gravel, they still have sufficient capacity. The biggest problem is finding people to do the cleanout job. Installers don't want to do it.

Q: If a drywell gets clogged; won't water puddle on the surface and run off? Wouldn't the homeowner be aware?
A: Clogging of a dry well happens slowly over time. Owners may not be aware.

Q: Does failing to clean gutters result in faster clogging?
A: The debris might not get to the drywell because most systems have gutter guards which keeps debris out of the gutters. Also, organic matter that gets into the drywell breaks down so accumulates slowly. A more likely source of material clogging a dry well is surface runoff, which is more likely to have silt in it, which is why the County does not allow impervious surfaces to be tied into drywells.

Q: The Town and County have different setback requirements for drywells. Could Town setback requirements be changed to agree with County setbacks?
A: When the Town required setbacks are smaller than the County setbacks, aligning the Town setbacks with the County setbacks makes sense. But sometimes, the Town setback is larger than the County setback. For example, the required setback from a neighbor's basement is 15' for the County but 20' for the Town. We might not want to reduce the Town setback in this case because water in the basement is a big issue in Town and the foundations of our older houses tend to be terra cotta blocks which are more prone to leakage than the newer concrete foundations. Note that the Town setback is 10' from one's own basement but 20' from a neighbor's. The County setback was 20' for both until recently (2020? 2021?) when it was reduced to 15'. Generally, the difference in the Town and County required setbacks has not been an issue and has been solvable.

Q: Why do homeowners sometimes have to install more dry well capacity than either the Town or County requires?
A: The County does not allow run-off from surfaces like driveways and patios to drain into their required dry wells. Thus, additional drywells can be needed to meet Town requirements. If an

ADU of less than 700 square feet is being constructed, the Town would not require a dry well but the County would.

Q: Regarding permeable pavement: As part of a County drainage plan, cannot have a downspout draining onto permeable pavement. But is piping a downspout to permeable pavement OK if not part of a required County plan?
A: Yes. Though, the Town does not always allow it either. A new house had a Town drainage plan that included a downspout onto permeable pavement. It had sufficient capacity, but the neighbors appealed and the Water Board ruled that flow from the roof had to be treated differently and could not be run onto permeable pavement.

Q: The County apparently doesn't give credit for storage under permeable pavement if the pavement slope is greater than 5%. We have been considering permeable pavement on a 7-8% slope driveway and the County Rainscapes people are okay with that. Why the apparent difference between the County's permitting and Rainscapes staffs?
A: The Rainscapes program seems to have a disconnect if a permit from the County is not required.

Q: In one of the Water Engineer's reports: Someone is claiming a lot of run-off into his back yard because a neighbor turned his back yard into a parking pad. Was no drainage plan required? Is this because the parking pad was less than 700 square feet?
A: Yes, the Town has no limits on impervious surfaces in the back yard and the added impervious surface was less than 700 sq. ft. It was noted that this will be an increasing issue if multi-family units are allowed because it may well lead to parking pads in rear yards.

Stuart: Reported that he has sent the committee a draft one-page template that he proposes to use in reviewing the Water Engineer reports. The review is intended to get information about how common in Town are neighbor-to-neighbor drainage problems, how often they may be construction-related, and whether Rainscapes projects (which the Town is encouraging by supplementing the County's cost-share) might perhaps ameliorate some of these situations .He would be interested in others' thoughts.

Dave shared a chart prepared by CAS engineering. Eric noted that Jeff Robertson had generated the CAS Engineering chart that Dave shared with the committee and suggested that perhaps we could get him to consult. He also has experience and perhaps suggestions on how to mesh County regulations with local ones.

The meeting adjourned at 8:50 pm.

Next meeting is Monday, February 6.