

Minutes OF THE LAND USE COMMITTEE MEETING 10-3-2022

The meeting was called for 7 pm on Zoom.

Chair Dedun Ingram called the meeting to order at 7:02 pm. Present were Dedun Ingram, Chair; Kathy Flaxman, Sybil Freedman, Eric Murtagh, Stuart Sessions, David Valenstein; and Rich Brancato, Council liaison. There was a round of introductions.

Dedun announced that the Council has asked the committee to look at the following this year:

- The Town stormwater regulations, with consideration of possible need for tweaking
- Revisions to the Town building code that might be needed if and when the County allows multi-family housing in R60 zones.

Stormwater regulations briefing:

Stuart presented an overview of the Town's current stormwater regulations. He suggested that committee members read through the regulations online and also the Town's guide to compliance with the regulations, which he said were helpful and readable.

In brief: Any project that increases impervious surface on a property by 700 square feet or more (with a 2-year look-back) must have a stormwater drainage plan. Requirement is to retain on the property a certain volume of rainfall. A 3-month storm is considered to be 1.25" of rain in 24 hours; a 10-year storm is 5.1". The regulations also require no increase in runoff over the pre-construction base. The approved stormwater management plan must be maintained in perpetuity; the Town does annual inspections. Public notice of the project to all neighbors is also required.

Other Town requirements that impact stormwater are the maximum 35% non-vegetative surface in the front yard (but no such requirement for the back) and also rules including the FAR, setbacks, and driveway width which all serve to limit impervious surfaces.

Stuart noted that the County stormwater regulations are different from the Town regulations:

- A sediment control permit is required for a new house or an addition of more than 400 sq ft on lots of less than 15,000 sq ft., or an addition on a single-family lot that disturbs more than 5000 sq ft of soil.
- There is specific reference to areas covered by roofs; the County does not count driveways, patios, etc.
- A different volume of rainfall is specified: 1.5" over 24 hours. Any increased runoff must be controlled or conveyed.

It was noted that the County frequently gives full or partial waivers of their requirements. A study by Dave Walton years ago found that for many projects the Town required more stormwater to be retained than the county did, while for others the county required more water to be retained. .

The County and State have a different goal than the Town does when seeking stormwater management. While the County (and State) focus is on the quality of water reaching the Chesapeake Bay, the Town's concern has been the effect on neighboring properties. Maryland Civil Law says of lot-to-lot surface drainage that natural flow is allowable, but not a material increase beyond the natural in terms of quality, quantity, or location. Interpretation and enforcement are via judicial proceedings, as opposed to a matter of regulation.

There are some shortcomings in the County regulations:

- They don't reflect climate change
- They don't apply to all the types and sizes of construction projects that could affect runoff
- They don't adequately address runoff from property to property
- They address only new construction, not current conditions
- The County frequently offer variances or waivers
- There is little budget for upgraded infrastructure.

Most local jurisdictions have had no regulations of their own but are now considering or have already adopted some. New ordinances include tighter triggers (in Somerset, an increase in impervious surfaces of 150 sq ft and the requirement that all new driveways be permeable). Somerset has a joint town/homeowner multi-property green infrastructure plan co-funded by the town and residents. Chevy Chase View is developing a town-wide stormwater infrastructure and management plan.

One member noted that he is currently doing a small addition and wondered why the Town doesn't give credit for removing existing impervious surfaces. Dedun said that it was a way of improving the baseline but also to be equivalent with requirements for teardown construction where you are not given credit for removal of the old house..

A member noted that with respect to "responsibility in perpetuity" for a stormwater plan, the ball often gets dropped when the property is sold. We need to develop some way to correct this. We also need to ensure that existing systems are working. Members wondered if the Town water engineer is still doing annual inspections as mandated.

A question was raised about swimming pools. They do collect water and so are considered pervious. But it was noted that they could affect the way that water moves underground.

The Town's 2-year lookback for monitoring new impervious surfaces (after 2 years a new count begins) was mentioned. It also was pointed out that there is no trigger for regulating new impervious surfaces unless a building permit is required, and that patios in particular do not require building permits but typically add considerable new impervious surface.

Some initial topics to explore:

- The Town ordinance is written in terms of 3 month and 10 year storms. Should we change this to use the measures the County uses? The associated water volumes for storms are updated periodically. Does this mean that over time our regulations require more or less water to be retained on a property?
- Look at other towns' regulations.
- Is there some measure other than 700 sq. ft that could be used to determine when a stormwater management plan should be required?
- What data would help us assess the Town regulations and how to modify them? Should we do a survey? What would we want to ask residents regarding water problems? Rich thought that a survey could be a good way to get a sense of whether we have a problem currently. Dedun suggested looking at the surveys used by Somerset and Chevy Chase View.

Stuart noted that this year requests for consults from the Town water engineer have doubled. Rich thought that this might be due to interest in the Rainscapes program.

Stormwater issues related to the 4-H property: Rich noted that these are referred to the County Director of Stormwater Management. The County's authority is delegated from the State. Storm drains in the Town are the responsibility of the County Department of Transportation (not WSSC). County calculations look at the flow of water off the property and are concerned with what gets to streams or into the storm system. On Meadow Lane there are three drains that go to Coquelin Run. One was designed to collect from underground streams; the other two collect from storm drains along the streets. Dave Walton has details of the pipes and locations. The storm that recently flooded Thornapple and Meadow drained within 15 minutes with no damage.

Follow up: Stuart will send around the Town's stormwater manual. Committee members should also look at the Town regulations online. Stuart will also send links to the Somerset and Chevy Chase View documents.

How to meet going forward? The consensus was to continue on Zoom for now.

The meeting adjourned at 8:30 pm.