

DOVER TOWNSHIP
BOARD OF SUPERVISORS
WORK SESSION MINUTES
May 9TH, 2022

The Dover Township Board of Supervisors Work Session for Monday, May 9th, 2022, was called to order at 6:35 PM by Chairperson Stephen Stefanowicz in the Dover Township Board of Supervisors meeting room. Supervisors present were Stephen Parthree, Rob Stone, and Michael Cashman. Charles Richards was absent with prior notification. Other Township Representatives in attendance were Laurel Oswalt, Township Manager; Charles Rausch, Township Solicitor; Terry Myers, Township Engineer; Corey McCoy, CS Davidson; Michael Fleming, Public Works Director and John McLucas, Zoning Officer.

This meeting is being recorded for the purpose of minutes only.

Presentation and Discussion of the draft Stormwater Ordinance

T. Myers stated the reason for updating the stormwater management ordinance is that the Department of Environmental Protection is requiring an ordinance update in compliance with the Township's MS4 Permit renewal this Fall. The past ordinance was developed in compliance with the York County Act 167 Plan. Since York County has not updated their Act 167, the Township ordinance must follow the Department of Environmental Protection's model ordinance. The Department of Environmental Protection recognizes that it does not control anything over one acre of disturbance. CS Davidson Staff took the model DEP ordinance and made changes they felt were practical. This draft ordinance was reviewed with Township Staff and the Township Solicitor to address their concerns and comments. The new ordinance must be adopted by September of 2022 to correspond with the Township's NPDES Permit renewal under the MS4 Program. The current ordinance was based on the York County 167 Plan and the plan required more regulations on smaller projects. However, there still needs to be regulations in place for the smaller lots, especially in areas where a resident is on a quarter acre lot or smaller, and they add impervious coverage which could adversely impact the downstream property owners.

S. Stefanowicz questioned whether the ordinance had to be so technical in language.

T. Myers stated that for larger projects it has to be technical because there are certain accepted engineering practices for stormwater management, and that is what is incorporated in the new ordinance. The new ordinance is allowing smaller projects to be easier to complete under the Small Project Guide which can be reviewed by staff.

R. Stone questioned if there was anyway to make the square footage larger.

J. McLucas stated they would have to qualify for disconnected impervious area.

T. Myers stated the ordinance that is in place now, requires that anything under 1,000 square feet is exempt from rate control and engineered plan preparation. This means the plans need to have a disconnected impervious area or it needs to follow the small project guide, which is approved at the staff level. At the 1,000 square feet up to 5,000 square feet there has to be an engineer

involved to create the design, but they are exempt from rate control. Above 5,000 square feet has to have an engineer plan along with volume and rate control. With a disconnected impervious area, the methodology allows for each downspout to be split to drain 500 square feet of runoff spread in different directions in conjunction with having at least 75 feet of flow path through a vegetated area with a slope of less than 5%. The new draft ordinance is proposing to take anything under 500 square feet and require only the payment of a fee a stormwater management fee.

S. Stefanowicz questioned how a 20 x 20 garage on a 40 x 20 area would be managed.

T. Myers stated there still are requirements even though it is exempt from the stormwater, it is not exempt from meeting the requirements of the one design section which states you can not discharge within 10 feet of a property line. Regardless of what is decided and what exemptions are in place, you can not impact the down stream property owners.

R. Stone questioned where the 500 and the 2,000 square footage number is coming from. He also noted that the language should say less than or equal to 500 feet.

J. McLucas stated it the average when you look at different municipalities.

T. Myer stated we have the benefit of having a bunch of different stormwater management ordinances that are in place to look at and these numbers seem like a good breaking point.

J. McLucas stated the biggest project that upsets your average resident is getting a typical 30 x 40 pole barn and they spend more money on the stormwater management portion than the building itself.

T. Myers stated at the 2,000 square feet point there is still an allowance for only volume control. The disconnected impervious area could go above the 5,000 square feet for the lots that are larger. In these cases, the proposal is that the disconnected impervious areas could go above the 5,000 threshold if the new impervious area does not exceed 5% of the lot area. On a 2.5-acre lot, 5000 square feet would be 5% of lot coverage. It would allow you to follow the disconnected impervious area requirements It was noted that the location of the building in reference to its proximity to the property line, needs to be reviewed in this process. CS Davidson will collaborate with staff to help give them the knowledge to deal with these situations in house.

M. Cashman questioned if there was something that residents could print off the internet that would show the contour and flow path distance.

C. McCoy stated the State has a GIS program that shows all that information.

J. McLucas stated that the Township public zoning map has the option to overlay contours.

C. Rausch questioned if the 5,000 square feet or 5% section should be amended to add "whichever one is greater."

T. Myers stated APPENDIX B has the actual wording: "A rooftop is considered to be completely or partially disconnected if it meets the requirements listed below: proposed disconnection does not total an amount greater than 5,000 square feet or does not exceed 5% of the tract area...". T. Myers asked if he should add "whichever is greater."

C. Rausch agreed with that addition. He also questioned the wording “cumulative total.”

J. McLucas stated the impervious area will be tracked over time to ensure the total amount of impervious is not exceeded.

C. Rausch questioned the legal foundation for regulating areas under 1 acre.

T. Myers noted the regulations from the 1970’s do not permit you to adversely impact your downstream neighbors. Therefore, these regulations for smaller projects are trying to guard against that adverse impact potential.

C. McCoy stated this is really an opportunity to help the smaller projects get completed at a reduced cost. Larger subdivisions will see little change in how they are regulated under the new ordinance.

S. Stefanowicz questioned where re-building a structure would fall within these regulations.

T. Myers commented that if the building is rebuilt at the same exact size there is no increase to the impervious area.

C. McCoy remarked that there is a timeframe within which the structure must be rebuilt.

C. Rausch asked about the point behind the fee in lieu of for the 500 square feet or less projects.

J. McLucas stated these fees are intended to be used toward Township infrastructure improvements over time.

C. McCoy added that the fees will need to be amended to comply with the new thresholds for improvements in the new ordinance.

L. Oswalt supplemented that the Township does have to pay over \$200,000 annually into the York County Consortium Stormwater Fund for projects to reduce pollutants to the Chesapeake Bay as well. We have been successful at getting that money back for projects in our community, but the monies are still required to be submitted.

C. Rausch questioned whether the fee is paid at all levels.

L. Oswalt stated it is paid at all levels, although there is a scale that reduces the fee charge as the size of the impervious area increases.

S. Parthree noted the fee was changed a few years ago when the Thornton Chevrolet Project was completed.

J. McLucas stated with these changes we may hear from the public that they have to pay to do something and in previous years their neighbor was not required to do so. He wanted to make the Board aware of this difference.

T. Myers reviewed the exemptions under the new ordinance. They consisted of agricultural activities such as change in land contours; forest and timber operations; and use of land for domestic gardening and landscaping. However, you still are prohibited from adversely impacting

the neighbors. If we receive a complaint, the exemption can be revoked and imposition of these regulations can be implemented.

T. Myers remarked the next section to review involves volume controls. This must be reviewed by an engineer. Once the project exceeds 20,000 square feet, then both volume and rate controls are applied.

T. Myers commented that the current ordinance has nothing in it about riparian buffers. The new ordinance can cover them and require that a stretch of land along streams cannot be improved. Not mowing, as the Township has been doing along streams, can slow down the flow of water and allow it to infiltrate. This improves water quality. This is strongly suggested by DEP.

C. McCoy stated the draft includes the requirement, but it is only recommended by DEP to be included.

At this time there was discussion about the 100-year floodplain and the impact of this requirement on properties within these areas. There were concerns over having a defined easement for these areas. It was determined that this would be applied on land development or subdivision plans as easement areas. These areas would need to be returned to a natural state. This will impact some properties significantly, especially some of the farms along the Conewago Creek, when they would pursue a subdivision or land development. Township Staff has actually recently met with York County Conservation District (YCCD) Staff about conducting agricultural outreach regarding MS4. There are several goals with the outreach: 1.) to try to gain information from the farmers that have manure management and conservation plans to use toward the County's Nutrient Reduction requirements, 2.) to aid those without plans in getting them assistance from YCCD, and 3.) to determine if there is an opportunity to establish these riparian buffers along their properties to aid with the Nutrient Reduction requirements. It was determined that T. Myers should check to see if the riparian buffer language is required by DEP. If it is not required, the Board would like to keep the language but only require it within the MS4 area.

T. Myers reviewed some aspects of the design criteria in the ordinance. Roof drains and sump pumps are required to discharge to infiltration or vegetative best management practices (BMPs) to the maximum extent practicable.

C. Rausch questioned what happens if this not possible.

M. Fleming stated that we get complaints about this often. The only regulation we have states that the discharge needs to occur halfway between the house and the street to avoid putting the water on the street surface. When the pump discharges to the side yard and causes issues for the neighbor, we advise that they may need to take legal action against their neighbor because we have no way to resolve the situation.

J. McLucas commented there is a 10-foot side setback in most developments. The building code requires that the discharge be 5 feet from the foundation.

T. Myers stated there is a general requirement that you cannot discharge stormwater closer than 10 feet from the property line. In most of those cases, there are swales that the stormwater is

discharging toward. This language is in the current ordinance. It is for new facilities, not existing.

T. Myers continued by detailing that the ordinance has tightened up the standards for infiltration including testing to ensure that the facilities function better.

L. Oswalt requested that consideration be given for CS Davidson to provide a fact sheet that could be used by property owners to inspect and maintain the facilities. Although it is noted in their Operations and Maintenance Agreements, it would be great to pair that down to some simple instructions for property owners that can be placed on our website, in our newsletter, and social media. People really are not following through with this maintenance, and it does result in complaints that need staff time and attention to address.

It was agreed that this would be a worthwhile item to aid the property owners with avoiding these maintenance issues.

M. Cashman mentioned that he felt that BMPs should have a drain with a valve, so that in the event it does not drain the water can be dissipated.

J. McLucas questioned how this would be monitored.

M. Cashman stated that the swarms of mosquitoes that accumulate can be a threat to health and safety due the standing water.

S. Stefanowicz questioned whether fencing was going to be required.

R. Stone was not in agreement with requiring a fence.

J. McLucas would like to see some alternatives to the chain link fence language. He would like to see some more attractive options.

C. Rausch stated that if the ponds are not owned by the Township, it is not a liability issue for the Township. You could require them at a certain depth of pond, but it really is a judgement call. There was discussion about the difference between a retention and detention pond.

Consensus was that the fencing requirements would be removed.

T. Myers stated for M. Fleming's benefit that the requirement to add a summary table during the plan process was added per his request.

M. Cashman questioned page 21 and the language that trails in the riparian buffer areas be for non-motorized use.

T. Myers stated the intent is to protect the plant growth from deterioration.

T. Myers pointed out that the prohibited discharge and connection section was a portion he felt the Board should note. After some discussion about this section, it was decided that there were no edits to make.

T. Myers stated that the penalties section was reviewed and amended by C. Rausch to ensure the legalities of the ordinance were in place.

S. Stefanowicz remarked that he personally did not believe that a stone area should be included as impervious in the calculations.

J. McLucas stated that compaction plays a part in that discussion. If it does not infiltrate the soil, it is impervious.

T. Myers commented the Operations and Maintenance agreement in the ordinance was not revised with this new draft.

J. McLucas mentioned that he would like to see provisions that would allow residents to use BMPs that are reuse options in their projects.

L. Oswalt stated that a rain barrel could be removed with little difficulty.

C. McCoy commented it is not a permanent facility either. It may be that a discount could be offered for rain barrels to be used, instead of counting toward their BMP requirements.

S. Stefanowicz stated he felt this concept should be incorporated into the ordinance.

T. Myers offered language that states "alternative methods included in the DEP BMP Manual will be considered in coordination with more detailed requirements."

Consensus was to develop language to allow for these alternative BMPs as part of the requirements.

S. Parthree asked whether swimming pools are considered impervious.

J. McLucas stated that Dover Township looks at pools as pervious, but the decking and steps are impervious. However, the pool does count towards your total lot coverage under the zoning regulations.

T. Myers asked what the next steps were to move forward.

L. Oswalt replied that T. Myers should make the changes and the Board can then authorize its advertisement for a future meeting's adoption.

M. Cashman requested the ordinance be added to the website.

L. Oswalt stated the draft reviewed this evening is on the website. When revised and advertised, the website will be updated.

With no further discussion on this matter, Chairperson Stefanowicz adjourned the Work Session at 8:57 PM into an Executive Session on the Potential Sale of Real Estate involving the Glen Gery land.

Respectfully submitted by: Brooke Searce

Brooke Searce, Recording Secretary