

Water Resources Advisory Committee
Minutes of Meeting
November 17, 2010
Town Hall Room 121

Present: Ron Beck (chair), Jeff Clymer, Matt Mostoller, Helen Probst, Barry Rosen, Carol Holley (clerk), Janet Adachi (Selectmen's liaison), Justin Snair (staff)

The meeting opened at 7:54 p.m.

The minutes of the prior meeting were reviewed and corrected. Ms Probst moved to accept the minutes as corrected, Mr. Rosen seconded, and all voted in favor.

Mr. Rosen gave an account of his excursion to the Assessor's office to try to determine how many additions had reached or exceeded a 5,000 sq ft threshold, but their database was not set up to easily find this information. He related that he then went to the Building Dept. and he and Frank Ramsbottom, the Building Commissioner, spent some time reviewing permit records for the last three years – their records for the last few months are in a spreadsheet. Prior to that, records are "hard copy" paper only. Mr. Ramsbottom would like to move to a reliable data base. Mr. Rosen noted the presence of a few "gotchas"; among the biggest things that creates impervious areas are driveways and patios, but they do not require a permit and don't show up on any records except when a driveway would meet a public way and require a curb cut, and then only the width of the cut is recorded. However, if the paving touches a structure, then it is recorded. Mr. Snair observed that if a property is nonconforming according to zoning, they have to go through a zoning exercise, and those can be tracked if they render the property more nonconforming. Mr. Rosen noted that if you put a paved area in your back yard, it doesn't need a permit now, and there is no record of it. There have been about 90-100 building permits issued per year over the past three years, and most are less than 5,000 square feet. Mr. Rosen also noted that decks are not considered impervious surfaces, as they aren't roofed and there is room for water to drain between boards. He further noted that a lot of the smaller scale permits were issued for additions and finishing off of unfinished areas, like basements and attics. The process got very complex, trying to break those out. Mr. Rosen recommended dropping our limit to below 5,000 square feet, but not down to Sudbury's 200 square feet. If you drop down to 3,500 square feet, you would be getting almost all appropriate building permits.

Mr. Snair noted that you have to be prepared for what will happen at Town Meeting. Mr. Rosen observed that the vast majority of permits affected pre-existing buildings. Mr. Snair asked, what was the rationale behind the association of existing structures with what is happening here (with this bylaw in process)? He noted that other by-laws discuss disturbed land. Ms Probst indicated that some towns exempt single family homes. Mr. Snair noted that 800 square feet is the size of a minimal leaching field – do we want to capture those? Ms Probst observed that mounded systems can change topography; Mr. Snair related that the 2% slope required by Title 5 also changes the surface of the land. Mr. Snair felt it was really the slope that had the impact. Ms Holley observed that there seemed to be three parameters – size, imperviousness, and slope.

Mr. Rosen explained that the original purpose of his exploration was to find out how many properties would be affected if the threshold is dropped below 5,000 square feet of additional impervious surface. Mr. Clymer asked, is there any way that this result will give us insight into the size – will the final product help us determine the size we want this process to apply to? Mr. Snair said that what he needed to see

is, what is the disturbance area that 5,000 square feet changes? Mr. Rosen noted that in other towns, you could put in something that is 4,000 square feet, but could disturb 6,000 square feet to do that – when somebody pulls a permit for x square feet, they will be actually disturbing x + something.

Mr. Beck asked if there is a lot of land with a slope of higher than 1% in town. Ms Probst noted that there are references to slopes in the CWRMP Phase I document, and that could be referenced.

Mr. Beck felt that there are areas where massive cumulative effects happen; this is particularly true in the village areas. Mr. Beck would like to establish zones of concern, including special protection for stream buffers. Mr. Clymer asked, is there a level where you could supply information, and another level where you would need a permit? Then somebody can go back and have data. Mr. Beck felt that there should be a town-wide model. There could be a cumulative impact clause – the wetlands by-law has cumulative effect, but nobody does anything with it. Mr. Clymer reiterated that you could have a situation where you don't need a permit, but you have to submit a form.

Mr. Beck noted that the model ordinance references a manual. Mr. Rosen thought the New York State manual was a good model. Ms Probst noted that the committee had also liked a document prepared by Horsley Whitten that talks about how you judge compliance. Mr. Beck observed that, when defining stressed areas, parameters could be defined and certain BMP's encouraged to ensure things are not made any worse. Mr. Snair asked, how about making it better? Mr. Rosen noted that his dream would be doing this in such a way as to create credits. You could take existing properties with a big parking lot, fix that, then you could do something in a different area, like off-site mitigation. Instead of giving away stormwater, redevelop. You could also require financial contributions in lieu of strict compliance.

Mr. Beck brought up Section 4.9 of the model by-law, which discusses compliance through off-site mitigation or watershed projects. He asked if this was something that people would like to explore. Mr. Snair felt absolutely yes, and Mr. Mostoller noted that this is the next thing coming down from the State of Massachusetts. What are the hurdles to this – are there really that many hurdles other than money?

Mr. Beck related that certain things that people do – they are proposing projects and doing a laundry list to get approval, like putting in stormceptors – these things can be pointless. Mr. Snair added that there usually isn't language to ensure maintenance of these BMPs, and he was concerned about adding on great ideas with mechanisms for enforcing compliance.

Mr. Beck asked, how do we make progress as a committee? Mr. Snair felt exploring minimum square footage was an issue, and Mr. Beck agreed that was one activity, noting that Mr. Rosen's activity was very useful, because now we have a parameter around that. Now we have to do some research – why did Sudbury do what they did? We are sort of theorizing on this without setting up something concrete.

Mr. Clymer noted that last meeting, the committee discussed getting a consultant to come in and tell us what we should be thinking about. Ms Probst added that a lot of what we have been talking about is at the bottom of the decision table at the front of the model by-law.

Mr. Beck enumerated three basic criteria – size, developed area, impervious threshold. What Mr. Rosen has discovered is that at 5,000 square feet you capture a little less than half the projects, and almost all new constructions. Mr. Rosen noted that you are still missing all the non-permitted increases of impervious area. There could be a smaller building with a large impervious surface. Sudbury put a much

lower threshold for commercial than for residential. Mr. Beck felt that the impervious threshold was more pertinent.

Mr. Beck made a list of homework assignments to be emailed to the committee to work on before the December meeting, one of which was to research the origin of the 5,000 square foot limit and its rationale, and finding out why Sudbury did what they did.

Ms Probst thought that the idea was to have no increase in impervious surface. Mr. Snair added, zero balance or encourage reversal in certain areas.

Mr. Beck related that last time, the group talked about having a consultant come in. Is this something you still want to do? Ms Probst noted that everyone had thought it was a good idea, but there were some models to look at also – she felt it would be good to have consultant come in and talk about post construction performance. Mr. Beck observed that Ms Rosenzweig-Morton had been very supportive about getting a consultant; we might not be at this stage for six months. Mr. Clymer felt that the right way to go about this was to get a consultant in to give a little something of value to help the group – consultants do this to try to develop a client. He would do this right away, as we are going to have to prepare a proposal – we can ask a consultant, where should we be using you? What key decisions do we need to make? Mr. Beck observed that one of the challenges is setting up performance criteria – that is an area where it would be good to have a consultant. Mr. Beck will contact a couple of consultants to see if they are interesting in coming in to meet with the committee.

Regarding getting money to pay a consultant, Ms Adachi observed that the Board of Selectmen and Town Manager are aware of this. It was noted that this project is an issue of compliance with a federal permit. Mr. Snair suggested that the chair contact the town manager as soon as possible and discuss any money required for a consultant, as a request for money needs to be in the proposed budget for FY 12. After some discussion, it was decided that Ms Adachi will talk to Ms Rosenzweig-Morton and Mr. Ledoux to find out how to go about the funding request, since this request was for policy-making and not operations-related funding.

Ms Holley moved to adjourn, Mr. Clymer seconded, and all voted in favor. Meeting adjourned at 8:41 p.m.

Respectfully submitted,

Carol Holley
Clerk