



VILLAGE OF DOWNERS GROVE
Stormwater and Flood Plain Oversight Committee Meeting
July 20, 2016, 7:00 p.m.

Downers Grove Public Works Facility
5101 Walnut Avenue, Downers Grove, Illinois

I. CALL to ORDER

Chair Gorman called the meeting to order at 7:00 p.m. A roll call followed and a quorum was established.

II. ROLL CALL

Members Present: Chair Gorman, Mr. Civito, Mr. Crilly, Mr. Ruyle, Mr. Scacco, Mr. Schoenberg

Members Absent: Mr. Wicklander

Staff Present: Nan Newlon, Director of Public Works
Julie Lomax, Development Engineer
Kerry Behr, Development Engineer
Susan Quasney, Development Engineer

Public Present: Mr. Phillip Shaw, 5117 Brookbank, Downers Grove
Mr. Jim Boves, 1325 Gilbert, Downers Grove

III. APPROVAL of June 23, 2016 Minutes

Modifications to the minutes as follows:

Dan Schoenberg made motion to adjourn, Mr. Scacco made the second. Meeting adjourned at 9:30pm.

Modify that Committee members had engineering concerns with requiring top of foundation requirements.

Grammatical errors, page 7; second last paragraph, remove the work "is". Last page second paragraph, modify "look into required discharge points" to "look into requiring discharge points".

Spelling of Mr. Schoenberg's last name.

Mr. Crilly made a motion, seconded by Mr. Schoenberg, to approve the June 23, 2016 minutes as modified above. Motion carried by a voice vote 6-0.

IV. PUBLIC COMMENTS

None – except those as part of New Business, Public Hearing, Appeal below.

V. NEW BUSINESS

A. Public Hearing – Appeal of a Notice of Violation

Chair Gorman asked to begin with the Public Hearing for Appeal of a Notice of Violation at 5117 Brookbank.

Mr. Phillip Shaw of 5117 Brookbank explained the history of his property. In 1977, they built the home and developed the property. They had to obtain a topographic survey and soil borings. The Village had to give a permit. After he moved in final grading was approved. And for all this time, we've maintained the property pretty much as it is today; however, there's a lot of trees. We planted the lot of trees, and a lot of trees have just grown. And I've been very reluctant to cut trees down.

Mr. Shaw continued, when we did the final grading, we sloped the yard down to bank the creek, not into it, but in general along this line. And it worked pretty well for a few years, and then we got a series of very heavy rains flooding almost up to the house and a result a lot of silt. The flooding caused undercutting of the banks. As a result, in the late 80's I approached the village about putting in a retaining wall along our property. The village said you have to get a permit from the Corps. Obtained permit through the Corp and built the wall which has functioned very well. For all these years they have maintained the wall.

Mr. Shaw explained that as part of maintenance, they have also had to regrade the yard every 5-7 years due to siltation; not the entire yard, but wherever the silt builds up. The deposits of silt cause problems with mowing the lawn. For the service crew, 6-8" it was causing a safety issue of slipping into the creek. During the late 90's, we were getting ponding here, and it would last for days after a rain, and then it would last for weeks. So in 2004, needed to regrade again. He cut a ditch around the trees and brought it over to the low part of the headwall of the box culvert. The ditch worked very well. It was almost flat, but it worked. However, in two years, the ditch quit flowing. Now he explained the standing water was back. In 2010, we had to grade again, and I cut, re-cut the ditch. In under a year, the water quit flowing. When 2013 came, the ditch was gone. It wasn't just not there, you could not find the ditch. It was gone.

Mr. Shaw continued, in the fall of 2015, we had to regrade again. In order to access the property, because it bermed up around, they had to construct a access point so they regraded a portion of the yard. They also pulled out a lot of silt and dead grass. He explained that they also reestablished the slope of the yard here, and then we sodded it. It was during this time that Village staff informed Mr. Shaw you are doing development in the floodplain which requires a permit. Mr. Shaw explained, he was just doing maintenance under my agreement with the Corps of Engineers, as he will continue to do.

Mr. Shaw explained that he can't tell you how much fill he's put in because of the erosion behind the wall there, but it causing a problem with all the stone from the street getting washed downstream.

Chairman Gormas asked, have you not had anything trucked into your property; is that right?

Mr. Shaw stated, we do, on occasion.

Mr. Boves of 1325 Gilbert stated: My name is Jim Boves, and I live just north of the property. And rather than touch on the numerous inaccuracies that I've heard tonight, I will just touch on a couple that I think are maybe more appropriate to what you're dealing with. First of all, the ditch was covered over last year. Until then, it worked just fine. And now, when it retains all the water because the ditch is no longer in existence, and it was covered over with new dirt, it enters into my property.

Ms. Lomax explained, we have no problem with the maintenance that has been done. The issue is placing fill, whether it's silt or dirt that's brought in, within that ditch, which now creates a pool of water in the right-of-way. And that really is the issue. Ms. Behr said staff has received complaints from residents where the water is getting so deep, it's starting to come up over the road, and it's becoming a safety issue for residents who need to get through on this road. There is always maintenance that happens as part of living on a creek because of its dynamic, but there's a difference between maintenance and regrading your property.

Mr. Boves stated that he has lived there since 1974, and the recent work done has blocked drainage. He has lived there several years longer than Mr. Shaw has, and never seen the ditch silt up. Early last year Mr. Shaw's driveway was redone, and a pipe was put under it as a form of continuation for the ditch. And the pipe is where it was before, and the ditch was where it was before. He's just filled it in.

Ms. Behr explained, the violation sent out cited Section 26.504. which states, development shall not result in unreasonable new or additional expense to any person other than the developer for flood protection, stream uses, functions or attributes; nor unreasonably increase flood elevations or decrease flood conveyance upstream or downstream in the area. So that was what we had cited was the drainage issues.

Mr. Scacco asked if other solutions have been considered? Staff stated the possibility to convey flow within right-of-way, but homeowner did not want trees removed so this option was not a potential solutions in previous discussions.

Chairman Gorman stated, if that's the sole issue and it's in the village right-of-way, and it's somewhat related to a lack of maintenance on the ditch, and largely related to filling – regrading or pushing the silt, I think rather than a violation, we should be looking at maybe a village maintenance action also, as far as regrading the ditch, restoring the ditch. But I think

the violation comes into play certainly. It was regrading without a permit. It blocked the drainage, that's why it's sitting here with all this algae in there.

Mr. Shaw explained that the whole point of this is that since the late 90's, the water hasn't flowed, so he took it upon himself to dig a ditch.

Ms. Behr explained that drainage throughout the village is variable. Our ditches go within the right-of-way, then they go onto private property in some cases, as was here. Ms. Newlon stated, Denburn Woods is a very special kind of unique place in the village. It has limited right-of-way. The drainage kind of winds its way through. It's unique in that you have distinct private property and public property drainage with ditches and culverts. There's many properties where the homeowners maintain the ditches because they have special cobbles and walls and all kinds of unique features. And it does go in and out of private and public property because of the unique nature of the area. So we try to do our best to maintain the paths of drainage and respecting what private properties have graded as well, so it is a rather challenging and unique area.

Mr. Schoenberg felt it wasn't so much a floodplain issues, but a conveyance issues. This is kind of a special area where the rights-of-way have been treated casually, that the landscaping choices of the residents there have been pretty much allowed to expand around these rural-looking streets. So as a result, the drainage relies heavily on the wise landscaping choices of the residents. The drainage path that he saw did not look natural. Water wants to get to creek, but can't. I do think Mr. Shaw has some responsibilities for having made some of those choices in the past. This is part of the mix.

Mr. Schoenberg continued, I think there's a violation there. And, similarly, there's an obligation by the village that we'll keep our rights of way in good repair, too. Rather than pursue the violation in this specific case, and I do think there is a violation, I think it is more appropriate to negotiate some type of new conveyance path. Ideally, it would be in the public right-of-way where the village could then take over maintenance in the future. I do think the cost of this must be borne significantly by Mr. Shaw, because I think, again, some of his past choices have a direct bearing on what we have here today.

Mr. Scacco stated, Mr. Shaw created a problem here. Right now it's placing this dam basically in the creek, but at the same time, there's no real way for water to get back to where it wants to go.

Mr. Ruyle stated that he has a different take. A topographic survey would show where the ditch was located, but it has not been maintained by the village, regardless of the fact that he planted a tree on the property line. Mr. Shaw needs to be able to access the rear yard. Although he should have gotten a permit for the work done. He is going to have on-going maintenance and needs access. And the road is already higher than it was originally. With or without the fill, the water would not flow to the creek. If Mr. Shaw is willing to spend money, possibly on a cross culvert? Or relocating the trees, this could be a solution.

Mr. Ruyle stated we should work out a technique that is going to allow the village to have a ditch on its property and maintain it. He would like to see if Mr. Shaw would be willing to spend the money to take and have those two trees moved back onto his property, so as not to change the appearance of the entrance to Denburn Woods.

Chairman Gorman stated some issues are probably with the ditch not draining well to begin with. So it seems yes, the violation is valid. But also there's a need for village maintenance. A right-of-way permit could be issued for him to do the work, and be inspected and accepted by the village. I would like to see some sort of middle ground resolved.

Ms. Newlon stated it necessary to have some fallback for the village to negotiate with Mr. Shaw on a resolution, so perhaps maybe still have the violation, but in lieu of the daily penalty, would be to uphold the violation but in lieu of the fine or the fee, that the village work with Mr. Shaw to compensate the village for the cost of reestablishing the ditch in the right-of-way.

Chairman Gorman clarified, that the final solution would be to keep the temporary roadway with a culvert running along the drainage line to allow access for equipment for maintenance.

Staff expressed concerns that other residents have requested similar things and that we have denied such request and only allow access via a driveway.

Mr. Scacco made a motion that committee recommend to the Village Council that the appeal be granted with the following modification: Mr. Shaw will enter an agreement by September 1st with the village to restore the drainage in the right-of-way along Brookbank, with Mr. Shaw bearing all costs for the work, otherwise the appeal is denied. Seconded by Mr. Schoenberg. Motion carried by a voice vote 6-0.

VI. STAFF REPORT

Chair Gorman recommended that staff report and new business be tabled until next time.

VII. OLD BUSINESS

Mr. Ruyle made a motion, seconded by Mr. Crilly to adjourn the meeting at 9:24 p.m. Motion carried by voice vote of 6-0.