

**COUNTY OF BRANT - COMMITTEE OF THE WHOLE**

**SPECIAL MEETING RE: COBBLESTONE DRIVE DRAINAGE CONCERNS**

Council Chambers, Paris  
Wednesday, December 16, 2009  
5:00 p.m.

**Present:** Mayor Eddy, Councillors Wheat, Schmitt, Simons, Haggart, Powell, Atfield, Chambers and Gatward.

**Regrets:** Councillors Hodge and Coleman

**Others:** Randy Drumm, Donna Larson, Brenda and Alan Wayne, Linda and Doug Davis, Joe Andrade and Tony Andrade, William Lane, Ralph and Heather Billing, Cathy Raycraft, James and Mary McLaren, and Kevin Fergin.

**Staff:** Glassford and Carman

Mayor Eddy in the Chair.

**APPROVAL OF AGENDA**

Moved by – Councillor Chambers  
Seconded by – Councillor Atfield

That the agenda for this meeting be approved as circulated, and this meeting go into Committee of the Whole for the consideration of this matter.

. Carried

The meeting moved into Committee of the Whole at 5:05 p.m.

**DELEGATIONS**

Randy Drumm, 29 Cobblestone Drive, explained that many residents had noted their concerns to him about the timing of this meeting at 5 p.m. so close to Christmas, although they are appreciative that the meeting is being held. He advised that he was disappointed in Mr. Glassford's report that the drainage concerns are the responsibility of the homeowners. He does not feel that any progress has been made after a year of working on this problem, noting that many of the questions raised have not been answered. He questioned changes that were made to Phase 2 to eliminate the infiltration galleries, as well as the statement that the soils were unsuitable for this purpose, without ever seeing anything in writing from a geotechnical engineer. Mr. Drumm advised that the Cobblestone homeowners with houses behind them in Phase 2 realize that they may have to make physical changes to their lots to resolve the drainage issues. However, he suggested that something needs to be done for the 18-20 houses that have no building behind them to ensure that the drainage issues are resolved.

It was pointed out that the County followed the process for approval of the subdivisions and entered into agreements with developers setting out the various requirements for the development of the subdivisions, including drainage. Changing the agreements at this time requires the willingness of both parties to agree to any changes, as the County cannot arbitrarily change agreements.

In response to a question, Mr. Drumm advised that at the present time, three homes are being affected by the drainage issues from the Phase 2 lots (29, 31 and 33 Cobblestone Drive). Cathy Raycraft, 31 Cobblestone Drive, explained that they were told that their lots were specifically graded to handle the drainage and that if they changed their lots, this would affect the approved grading. She noted that the homes on Cobblestone were built first, and the Phase 2 homes behind them should not have the right to dump their water on the Cobblestone properties. Mrs. Raycraft advised that the three affected homeowners have not been able to use their backyards due to the drainage problems.

Ralph Billing, 47 Cobblestone Drive, advised that although there is no building behind him at the present time, there is a 5 – 7' drop from the lot behind him to his property. He and the other eighteen homeowners want resolution to the drainage issues before the rest of the Phase 2 lots are built on. He suggested that the swales are not effective at draining the run-off water away from the centre of the lots.

Randy Drumm advised that he moved into his home in April of 2005. His purchase agreement sets out that he was not to make any changes in the grading, and accordingly, he has made no modifications to the grading on his property. He was never advised that run-off water from Phase 2 would be coming onto his property. He referred to a letter written by Dennis Hamilton, 67 Cobblestone Drive, which quotes Section 9.14.6.1 on the Ontario Building Code that building sites should be graded so that water will not adversely affect adjacent properties.

Alan Wayne, 55 Cobblestone Drive, explained that in a development experience he had in Cambridge, he was required to make corrections to an approved agreement to fix a problem that was identified by an adjoining neighbour. He suggested that it is common sense that the drainage issues need to be addressed by the County and corrected before these subdivisions progress any further. Even though there are signed agreements in place, things can be changed if there is a will to do so.

Randy Drumm questioned if there could be negotiations with the two developers and the County to resolve the drainage problems.

It was noted that Council has not yet made a decision on resolution of the drainage issues, and that this meeting had been arranged to allow an opportunity for the residents to provide input.

Tony Andrade, representing his father who lives at 35 Cobblestone Drive, questioned why an independent expert or engineer has not examined the drainage problems and prepared a report on solutions. He requested that an expert opinion be obtained so that the parties responsible for the drainage problems are required to correct them. Mr. Andrade noted that the Tarion Home Warranty Program has been contacted in regard to the grading and drainage issues.

Kevin Fergin, Professional Engineer with Stantec Consulting Ltd., advised that his company represents Activa Holdings Inc., who is the developer of Phase 2 of the Grandville Subdivision. He noted that he had made previous reports to Council and reaffirmed his agreement with the reports that have been submitted by County Engineering staff on the drainage issues. His firm reviewed the grading and other topographic elevations when they were first contacted in the Spring of 2009. They agree with County staff, a landscape contractor

retained by some of the owners and Mr. Drumm that internal grading issues were causing the problems, be it from settlement or alterations to the grading by the homeowners. Since grading is a condition that is registered on title for each homeowner, they are responsible for the minor settlement on their lots. He suggested that the typical rear to front draining lots, like those on Cobblestone, should be able to convey some drainage from abutting lots if they are graded appropriately. The drainage from the abutting Phase 2 lots is minimal, as the roof leaders from those homes direct the roof drainage to the front of the Phase 2 lots. He noted that the original drainage pattern for the Grandville development indicates that the drainage from both Phases 1 and 2 was to drain northwest across the Phase 1 lots. He suggested that the developer of Phase 1 raised the grade of that phase, which blocked the existing drainage pattern and compromised the riparian right of the drainage that existed. Phase 2 was engineered to be as flat as possible, with minimal drainage onto the Cobblestone lots, even though they had a historical right to drainage across the Phase 1 lots. Mr. Fergin clarified that infiltration galleries have not been installed in the Phase 2 lots that abut Phase 1, as a geotechnical consultant has determined through soil testing that these specific lots do not contain soils conducive for the purposes of infiltration. He suggested that the soil in the subject Phase 1 lots is not conducive for infiltration purposes, since no testing has been done by a geotechnical consultant to ensure its suitability. With the significant amount of precipitation this year, infiltration galleries have the potential to act like bathtubs by containing the water and causing it to percolate towards the surface, potentially causing dampness in the back yards. This may also have caused preferential migration of the subsoil fines along the storm drainage connection to the infiltration gallery or in the gallery itself, which could lead to possible settlement in the rear lots of the subject lots. Settlement may also have occurred because the Cobblestone lots were filled substantially above the original topography. In response to a question, Mr. Fergin advised that it is possible that the substantial amount of fill in Phase 1 is not native to the site, and silt or clay will limit the proper functioning of the infiltration galleries.

In response to questions, Mr. Fergin provided the following information:

- back to back to front drainage is a common practice in the building industry
- process for grading involves the lot being graded by the builder according to the grading plan, which is then inspected and if approved by the engineer of record, a grading certificate is issued
- settlement can occur in the soil around the home through natural settlement, sodding, changes by the homeowner (building a fence, creating new gardens, etc.) which will affect the drainage on a lot
- developers and builders are required to follow the Building Code so that water will not accumulate at or near the building and will not adversely affect adjacent properties.

Although he does not feel that engineering changes are required to the Phase 2 lots, he noted that the ultimate decision lies with Activa on whether or not they want the grades for the Phase 2 lots to be revised. In response to a question, Mr. Fergin advised that Activa would be prepared to discuss the drainage concerns further. He also noted that they are willing to undergo a peer review of the engineering for Phase 2 by an independent engineering group.

Joe Andrade, speaking on behalf of the owner of 35 Cobblestone Drive, questioned if the proper process had been followed when the Phase 2 homes were allowed to be built at a higher elevation than the Phase 1 homes. Mr. Fergin responded that the approved subdivision plan indicates that the Phase 2 lands would be higher than Phase 1, and that they would drain across the Phase 1 lots. Since Phase 1 was built higher than the original topography, the grading on Marriott was raised to meet the grading plans, although it was built somewhat flatter than the plans called for.

Randy Drumm reiterated that the Cobblestone homeowners realize that there is an issue with the grading on their properties and they are willing to rectify the settlement issues. However, they have a letter from the engineering consultant for Phase 1 that states that those lots were not engineered to receive water from the Phase 2 lots. He also noted that the engineering plans for Phase 1 show an arrow on the back of the properties that indicates that future drainage was to go away from the lot, not across it. Mr. Fergin advised that he is aware of the letter, but would need more details to substantiate the claims that the letter is making. He is not aware of the plan that Mr. Drumm referred to, but explained that Phase 1 was filled higher than the existing topography. As a result, the developers for Phase 2 had to increase their fill to match the grades of the abutting Phase 1 streets, it being noted that the streets were designed to run at a minimum grade. The grading for the rear yards of Phase 2 was done in accordance with the approved grading plans, on the expectation that the grades in Phase 1 had been adhered to. The original subdivision agreement allowed for drainage from Phase 2 lots over the Phase 1 lots, and if the Cobblestone lots were graded according to the grading plan, there should be no problems.

In response to questions from Brenda Wayne, Mr. Fergin advised that a geotechnical report on the soil conditions is a requirement for the subdivision agreement. He noted however, that this testing is done through bore holes and test digs over the entire acreage of the subject lands. On the basis of the information from the testing, the consultant would make an assertion that the soils are generally conducive to the installation of infiltration galleries. Mr. Fergin advised that he did not know if the individual lots on Cobblestone Drive were tested by the geotechnical consultant prior to the installation of the infiltration galleries to ensure that they were suitable. Randy Drumm questioned whether there had been testing of the individual lots in Phase 1, and noting that this testing would provide additional information to the property owners,

Moved by – Councillor Haggart  
Seconded by – Councillor Wheat

That the Committee of the Whole meeting be adjourned, and that the meeting return to an Open Session of Brant County Council.

. Carried

It was agreed that County staff would arrange another meeting of Council with the residents of Cobblestone Drive to further discuss the drainage issues, and that the residents would be notified accordingly.

The meeting adjourned at 6:50 p.m.

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Mayor

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Clerk