

NEW JERSEY SITE IMPROVEMENT ADVISORY BOARD

Meeting Minutes of June 16, 2022

Online Virtual Teams Meeting
Department of Community Affairs
101 South Broad Street
Trenton, New Jersey

ATTENDANCE

Board Members:

Valerie Hrabal, Chair
Janice Talley, Vice Chair
Kevin Luckie
Timothy Kernan
Thomas Olenik
Thomas O'Shea
Jason Kasler

DCA Staff:

Marie Daniels
John Lago

Guests: (need to update from TEAMS)

Alex Ambrose	ANJEC
Lori Buckelew	NJLM
Kelley Curran	NJ Highlands Council
Michele Donato	NJPO
Amy Goldsmith	NJ Clean Water Action
Jeff Kolakowski	NJ Builders
Grant Lucking	NJ Builders
Vincent Mazzei	NJDEP
Jack McCausland	Pinelands Alliance
Swarna Mathukrishnan	NJ Clean Ocean Action
Mike Pisauro	Watershed Institute
Susan Weber	NJ DOT

CALL TO ORDER

Ms. Valerie Hrabal, chair of the Site Improvement Advisory Board, called the meeting to order at 10:00 a.m.

OPEN PUBLIC MEETINGS ACT

In accordance with the Open Public Meetings Act (P.L. 1975, chapter 231), notice of the time, date, and place of this meeting was given to the Secretary of State of New Jersey, The Star-Ledger of Newark, The Asbury Park Press, The Press of Atlantic City, and The Courier-Post of Camden.

ROLL CALL

The roll was called and attendance noted for the record.

APPROVAL OF MINUTES

Chairwoman Hrabal asked for corrections to the minutes of the March 17th, 2022. There were none. The minutes were approved.

OLD BUSINESS

Parking Standards / Electric Vehicle Supply Equipment (EVSE) / Spaces

The Site Improvement Advisory Board (SIAB) approved a draft proposal to clarify table 4.4 of the Residential Site Improvement Standards (RSIS), which specifies parking requirements for new, residential development. The number of parking spaces is based on the number, type, and size of housing. The rules recognize other factors affect parking and must be considered. The proposed changes say the parking standard are maximum requirements and local reviewers can agree to fewer parking spaces without going through the de minimis exception process in chapter 3.

The proposed changes also include language to support the installation of (EV) charging stations to comply with P.L. 2021, c. 171. The proposal is expected to be approved by the Governor's office for publication in the *New Jersey Register* and adopted formally as rule.

Stormwater

SIAB's stormwater committee agreed to a draft rule proposal to reference stormwater rules adopted by the New Jersey Department of Environmental Protection (DEP). The proposal would refer to the DEP stormwater standards as maximum requirements that municipalities can exceed, but only by going through the variation processes in chapter 3 of the RSIS.

At the March meeting, concerns were raised about the need for municipalities to have more flexibility over stormwater. What works in one area, doesn't always work in another. For many, the need to adopt stricter standards means the authority to regulate smaller projects below the DEP and RSIS "major development threshold." This trigger has several elements, chief of among them is at least one acre of disturbance.

Today's settlement patterns include infill and mixed-use development. A lot of new housing is built on less than an acre of land. Smaller development has stormwater impact. Municipalities need the authority to regulate stormwater effects on smaller projects that fall below the one-acre trigger for major development.

The RSIS at t NJAC 5:21-7.1(a) 1 says municipalities have this authority. They can adopt ordinances for smaller projects below the one-acre, major development definition. A superior court ruling in March 2021, however, (*Builders League of South Jersey v. Borough of Haddonfield*), said the Municipal Land Use Law limits stormwater reviews to only projects requiring site plan and subdivision approval.

Much of the discussion by the SIAB stormwater committee has been dealing scope of the RSIS. Several committee members agree municipalities need the authority to regulate smaller development for effective stormwater management.

Chairwoman Hrabal said a more immediate concern was a DEP emergency rule proposal to change statewide stormwater standards quickly and fundamentally. She asked DEP Assistant Commissioner Vince Mazzei, Jr. to discuss it.

Commissioner Mazzei said DEP took the unusual step go outside the formal rule-making process and propose emergency rules because many of its rules, methods, and best management practices (BMPs) are based on old, outdated rainfall data from 1999 and need to be updated. Storms have gotten more severe in the last two decades and are projected to get worse because of climate change. He said in 2021, many New Jersey communities outside the flood plain were devastated by tropical storm Ida. A recent climate study from Cornell University claimed current and future storm data are at levels above those in the 1990s. DEP believes dire measure are needed to update its stormwater rules and BMPs to accommodate today's storms and those expected tomorrow. The Administrative Procedures Act allows states agencies to adopt rules through an abbreviated rule-making process to respond to emergency conditions.

The changes DEP is considering is a two-foot increase in flood elevations in non-tidal areas (non-shore) areas. This would mean the first finished floor of any structure would be raised by three feet above existing elevations. Tidal areas (the shore) are not affected.

Flood elevation design will be required to consider projected rainfall.

Rational and modified methods for stormwater calculations are no longer allowed.

Stormwater BMPs must be designed for today and future storms.

The emergency provisions would apply immediately to RSIS projects.

PUBLIC COMMENTS

Chairwomen Hrabal asked for comments from other public members.

Mike Pisauro, policy director for the Watershed Institute said flooding is a big concern. Local reviewers need the ability to adopt stricter standards. This means the authority to apply water quality and quantity standards to proposed development below the definition of major development.

Grant Lucking said he understand the difficulty and frustration local reviewers face dealing with flooding. He reminded participants the purpose for the RSIS was to make housing more affordable with uniform and predictable site standards. Stormwater does not confine itself to municipal borders. He pointed out municipalities have been slow to rely on regional approaches to stormwater management, like watershed-wide plans and stormwater utility districts.

Jessica Pearson, from Verona said her township in Essex County is only 2.8 square miles and 98 percent developed. To deal with runoff, the township wants the ability to extend stormwater reviews to development with at least one-half acre of disturbance. She recommends municipalities have the authority to regulate smaller development.

Board member Janice Talley said Verona as typical of development trends in New Jersey. She referred to what is going on in Verona as the new reality for many localities. The RSIS needs to embrace this new settlement pattern to better deal with multifamily and mixed-use projects, higher densities, and infill development. She recommended the new stormwater rules have language to allow local reviewers to regulate smaller projects.

Michele Donato said the with the triggers for stormwater reviews in the MLUL are complicated. They are in different places of the law. She offered to work with SIAB to help craft rule language to regulate smaller projects below the major development definition in DEP and RSIS rules.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,
Marie Daniels & John Lago