

Executive Summary

Complaint

The Complainants applied for a permit in February 2020 to build an addition onto their home, and as part of the permitting process the City of Burlington's Capital Works Department asked the Complainants to complete a Stormwater Brief. There was a great deal of correspondence between the Complainants and the Capital Works Department between March 2020 to March 2021, respecting the Complainants' need to complete all of the requirements in the Stormwater Brief, as the Complainants felt the requirements were either impossible or unduly onerous for their property. The Complainants asked the Capital Works Department several times how the City would cover their costs of compliance, or assist them in finding solutions. The Complainants complained to the Ombudsman in March 2021 respecting their interactions with the Capital Works Department.

Findings

There has been an acknowledged ponding/flooding problem in the backyard of the Complainant's property dating back at least several decades. It is understood that the requirements of the Stormwater Brief would have been more difficult for the Complainants to meet than the average property owner. However, the Stormwater Brief is part of the City's standard process it asks from all residents seeking building permits. The City's Grading and Drainage Clearance Certificate By-Law (By-Law 52-2018) prohibits new developments from creating new flooding issues for neighbours, or exacerbating existing issues, which the Complainant's proposals could have easily done. Capital Works staff indicated that the City can't proactively change drainage on private property – only owners can do that – and accordingly the City's role is to ensure development proposals don't make issues worse.

The Capital Works Department's correspondence with the Complainants was restrained and professional, and they made multiple attempts to explain why they were taking their positions. The Complainants simply didn't have an unrestricted right to undertake the addition they wanted without the City's permission, by going through the City's standard process.

Recommendations

No recommendation is made against the City, and the issue is now predominantly moot as following ongoing discussions, a clearance certificate and zoning certificate were issued to the Complainants in December 2021.