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TOWN OF BURLINGTON

Meeting Minutes

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Minutes need to be posted within 30 days or 2 meetings of the board – Draft minutes can be posted and revised at a later date

BOARD: Conservation Commission
DATE: January 14, 2021
TIME: 7:00 PM
PLACE: WebEx Remote Meeting
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Donald Bernstein, Ed LoTurco, Jennifer O'Riorden and Associate Member Ken Moffat
MEMBER MISSING: Indra Deb

Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

Approved at the January 28, 2021 Conservation Commission meeting.

1. Call to Order

Mr. Cohen called the meeting to order at 7:05 PM. On a Roll Call, Mr. Boivin voted Present, Ms. Lima voted Present, Mr. LoTurco voted Present, Ms. O'Riorden voted Present, Mr. Bernstein voted Present and Mr. Moffat voted Present.

Mr. Cohen read the following statement: Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order Imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Burlington Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by tuning into the BCAT Government Cable Access Channel, the BCAT Government Meetings Facebook Live feed, or you can join the meeting over the phone @408-418-9388. To join the WebEx live video conference, click on the link on the Conservation Commission's meetings page or on the Town of Burlington Town calendar or go to Webex.com, join a meeting. Meeting number is 179 747 7321 the password if needed is rrX3hS3KXR2.

New public hearings opened tonight will not be closed, so as to allow comments from those who are unable to access or are uncomfortable with the technology. Comments are concerns regarding public hearings should be emailed to conservation@burlington.org before the next meeting on January 28, 2021.

The meeting is being recorded on BCAT as well as WebEx.



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2. Citizens' Time

No one came forward to speak.

3. Approval of Minutes – December 10, 2020

MOTION - Mr. Turco made a motion to approve the Conservation Commission minutes of December 10, 2020 as amended. The motion was seconded by Mr. Bernstein and voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

4. Request for Certificate of Compliance/Return of Surety

4a. 82 Wilmington Road – Adam Lapon – DEP #122-635

Adam Lapon appeared for the certificate of compliance and return of surety for 82 Wilmington Road.

Ms. Coleman stated that the project is complete and they have no problem with it.

Mr. Cohen stated that there is an old fence along the stream and asked if that could be removed. Mr. Lapon replied that would be no problem.

There were no questions from the public.

MOTION - Mr. Bernstein made a motion to issue the Certificate of Compliance for 82 Wilmington Road under Article 14 of the Burlington Wetland Bylaw. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to release the \$2,000 bond for 82 Wilmington Road under Article 14 of the Burlington Wetland Bylaw. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

5. Enforcement Orders

5a. 174 Mill Street – Riverfront Area Encroachment

Attorney Christine Tree and Kate Mun appeared for the enforcement order at 174 Mill Street

Ms. Coleman stated that last summer she approved a project for a deck. After Ms. Lima said that it appeared the granite markers were moved, she dug in further and found there was a NOI issued in 1997 for when the house was built under a different address. There were strict limits of work and when she inspected it, she found a portion of the deck outside the restricted area. This is also in the riverfront.

Ms. Tree stated that the Muns purchased the property in 2015 and started renovations including the deck. They were not aware of the full extent of the Conservation Restriction. The contractor was supposed to get all relevant permits but didn't. The deck is in the buffer zone but a lot of the deck is cantilevered but there is a footing in the wetland because the contractor built the incorrect size deck. They are asking the deck remain in the existing location but they would plant native shrubs alongside it.





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The Conservation Commission discussed/questioned:

- Agree with adding shrubs along the back of the deck. Summer sweet would do well there. The types of shrubs should be determined with staff.
- The Commission agreed that the deck can remain due to most of the deck being cantilevered off the ground.

There were no questions from the public.

5b. 23 Morrison Road – Tree Removals

6. Request for Determination of Applicability (RDA)

6a. 23 Morrison Road – Leigha Levesque – Remove Trees

Leigha and Chris Levesque appeared for the enforcement order and Request for Determination of Applicability at 23 Morrison Road. Ms. Levesque stated that they moved into the house in September and they just wanted to cut down rotten and overgrown trees. There were a few branches that have come down on the house.

Ms. Coleman stated that they received a call that there was tree cutting within the river front. There were about 5-6 trees that were already cut within 70' of the riverfront. The homeowners knew the property was within the riverfront area. An enforcement order was issued. In response, the homeowners submitted a RDA requesting removal of several additional trees down on the side close to the house and at the back of the property. They were provided with a draft decision requiring replanting 5 trees and 10 shrubs within 20' of the stream and removal by hand of gravel that is along the stream.

The Conservation Commission discussed/questioned:

- Trees are important to the wetlands. The trees close to the back look healthy and they are not in favor of removing the trees in the back and there should be replacement trees for the 7 trees taken down.
- All restoration work should be done from the lawn.
- The applicants should work with staff on the type of shrubs and trees to be planted.

Bryan and Amy Brothers of 20 Morrison Road – Mr. Brothers stated that about a year ago a tree fell near the stream on their property so they should be allowed to cut down the trees.

MOTION - Mr. LoTurco made a motion to ratify the Enforcement Order for 23 Morrison Road. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to issue a negative conditional determination of applicability for 23 Morrison Road for cutting trees under the Burlington Bylaw Article 14. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

6b. 47 Cresthaven Drive – 159 Mott Street LLC/Rakesh Goel – Demolish Single Family Dwelling and Construct New Single Family Dwelling





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Rakesh Goel and Maureen Herald from Norse Environmental appeared for a Request for Determination for 47 Cresthaven Drive. Ms. Herald stated that Mr. Goel is proposing to tear down the existing single family home and construct a new single family home with deck. There is Bordering Vegetated Wetlands on the property. The proposed house at the closest point will be 89.7' away from the wetlands and the deck will be 97.1' away. There was a question of flags and they have hung new flags for review.

Ms. Coleman stated that the wetlands are approximately 80' away and there is a stream that is 300' away. There were some wetland flags that were missing and they should be added. She has no issues with the proposal.

The Conservation Commission discussed/questioned:

- A split rail fence along the 20' no disturb line should be installed. The buffer line is an odd shape so it should be added along the average line.
- There is some debris on the right side of the pool of standing water that should be removed by hand.

There were no questions from the audience.

MOTION - Ms. O'Riorden made a motion to issue a negative conditional determination of applicability for 47 Cresthaven Drive under the Burlington Bylaw Article 14 and State Wetlands Protection Act. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

7. Public Hearing – Notice of Intent – Terrace Hall Avenue – Town of Burlington DPW – Construct Sidewalk – DEP #122-Pending

Thomas Hayes from the Town of Burlington and Megan Cavalier appeared for the Notice of Intent to construct sidewalks on Terrace Hall Avenue. Mr. Hayes stated that they are proposing 1,500' of sidewalk from Lord Baron to Fire Station #2. They are working on a grant for this sidewalk construction. Ms. Cavalier stated that they are not touching anything in the river. They will construct the sidewalk and will add stone trenches behind the sidewalk that will be covered in loam and seeded. They will install erosion controls during the work. They will pave the driveway that exists over the Tennessee Gas easement and construct new handicap ramps. There will be 1 tree removed and a guard rail and chain link fence will be added.

Mr. Keeley stated that there is some leeway for storm water and riverfront requirements. The trench should be enough for storm water management and no fill should be brought in.

The Conservation Commission discussed/questioned:

- How can you make sure that the power wash debris doesn't go into the stream? The applicant should look into rigging up a tarp near the river so the power wash spray does not go into the river.
- There is rotten conduit that should be addressed.
- There are vegetated areas that have trash in them. The contractor should pick up the trash as part of this project.

The applicant/staff offered the following responses:





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- They would power wash towards the street and then clean it up but will investigate different ways to do this.
- The conduit is a Verizon line and is not Town owned but will they look into it.
- They will have the contractor clean up the debris.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to continue the Notice of Intent for sidewalks until the Conservation Commission meeting of January 28, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

8. Continue Public Hearing – Notice of Intent – 11 University Avenue – Daniel E. Murray, Trustee – Demolish Dwelling & Construct a New Single Family Dwelling – DEP #122-651

Jonathan Shuster from Oxbox Associates and David Romero from Commonwealth Engineering appeared on behalf of the applicant of 11 University Avenue. Mr. Shuster stated that they revised the plans to show a 12” stone trench along the edge of the driveway and a post and rail fence along the limit of yard. They also added a note that the burning bushes will be removed.

Ms. Coleman stated that all issues raised at the last meeting have been addressed.

MOTION - Ms. Lima made a motion to close the public hearing for the Notice of Intent for 11 University Avenue, DEP #122-651. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to adopt the findings under the Burlington Bylaw Article 14 for 11 University Avenue, DEP #122-651. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for 11 University Avenue, DEP #122-651 as amended. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to require a \$2,500 bond for 11 University Avenue, DEP #122-651 under the Burlington Bylaw Article 14. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

9. Public Hearing – Notice of Intent – 60 Blanchard Road – Nordblom Development Company – Reconstruct Parking Lot – DEP #122-Pending

Attorney Robert Buckley and Attorney Kristine Hung from Riemer & Braunstein LLP, Todd Freidmont-Smith from Nordblom Company, and Marissa Valentino from BSC Group represented this application. Mr. Buckley





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stated that this is the former Data Com building. 96% of the work being proposed to this site is internal. They did remove the driveway and an Enforcement Order was issued.

Ms. Valentino stated that the building will remain and they are proposing to replace the parking lot and driveway, add curbing and a concrete pad for a co-gen facility. They have added a drainage manhole, a double catch basin with deep sump and water quality unit. They are also proposing a swale with a curb break and two new gas lines within the paved area.

Mr. Keeley stated that the storm water systems within the paved areas are an improvement. There was also another violation with vegetation being cut. This has been incorporated in the NOI. The Commission may want to require concrete or sloped granite curbing instead of Cape Cod berm.

The Conservation Commission discussed/questioned:

- Why does the water not spill over at the first parking space on the left?
- Where will the dumpster be located?
- Snow storage should be added to the plan.
- Spot grades should be added to the plan.
- There is a lot of trash and debris on the right side of the driveway that needs to be cleaned up.

The applicant/staff offered the following responses:

- The water is directed to the swale and there is a high point near the first parking space.
- All trash is removed daily in the labs and kept regulated in the building.
- Snow storage and spot grades will be added to the plan.

Mr. Cohen summarized the outstanding issues: vegetation cutting will be incorporated into the conditions, spot grades and snow storage added to the plan, trash and fill to be removed along the driveway, and the type of curbing needs to be agreed upon.

MOTION - Mr. Boivin made a motion to continue the Notice of Intent for 60 Blanchard Street until January 28, 2021. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

10. Public Hearing – Notice of Intent – 174 Middlesex Turnpike/2 & 4 Fourth Avenue – Nordblom Development Company – Construct a Multi-Family Residential Building – DEP #122-Pending

Attorney Robert Buckley and Attorney Kristine Hung from Riemer & Braunstein LLP, Todd Freidmont-Smith and Todd Nordblom from Nordblom Company, and Marissa Valentino from BSC Group represented this application. Attorney Buckley stated that this is the first phase of a residential development. Ms. Valentino stated that this project is within the 200’ riverfront area, within the 100’ wetlands buffer zone and this is also a flood zone. This project was originally approved for an office building and they are presenting the proposed residential option that has a lot of green space, 250,000 SF building, ground level parking, 2 courtyards and





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enhanced landscaping around the site. The flood plain has multiple elevations across the site, it is 131' on the northern side and tapers down to 127' at Middlesex Turnpike. They are proposing grates in the building design to allow flood waters to enter the building and flow through. At the most there will be 1 ½' of water. They grates would be located on the West, South and East sides of the building. The storm water management has been fully upgraded and infiltration is not possible due to the water level so they are proposing structured storage.

Mr. Keeley stated that this project is in the riverfront and buffer zones but the resource area is across Middlesex Turnpike so the Commission should focus on flood plain compensation volume and storm water management. Mr. Keeley stated that that this is a Zone II, Critical Area.

The Conservation Commission discussed/questioned:

- How high are the grates and how long will they last?
- If 1/3 of the roof runoff goes into the detention system, where does the other 2/3 go?
- The water goes into CB #6 into a water quality unit then where does it go?
- Where are the dumpsters?
- Is there more capacity for additional residential units?
- The building should be as “green” as possible and be as close as possible to a net zero footprint.
- The snow storage and removal should be added to the plan.
- Will the roof be a white reflective roof?
- There should be vegetation in front of the grates to hide them.
- The green park should have more landscape features than just a lawn.
- Will the flood plain water recede in the same direction as they do now?
- Is this project in conjunction to Life Time Fitness?
- Will the sidewalk improvements be looked at?
- North Avenue to Middlesex Turnpike has a walkway and they should look at creating a garden type walkway to create a more continuous pathway from the north side of Lifetime Fitness trail around this project.
- Although not related to this project, it was mentioned that there are almost 40 tires along the walking path that starts on the westerly side of North St and heads out to Route 3. It was requested from Nordblum for their help picking up these tires in the spring.
- There are a lot of vegetation and animals in that area that the applicant should be mindful of.

The applicant/staff offered the following responses:



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- The grates are 2'- 2 ½' high and the maintenance of them will be part of the Operations and Maintenance manual. They have been used in projects that are 10 years old and they are still intact. 1 sq./in of grate should handle 1 SF of water storage.
- The remaining roof runoff goes into the municipal system.
- After leaving CB #6 the water enters the drain line to 4th Avenue.
- There is an internal trash room in the east elevation, where totes will be wheeled out. The trash will be picked up 2-3 times a week.
- There is still more capacity in the recharge. The total FAR allows more room to grow.
- The building will be LEED certified. They will have solar panels on the roof to run the common areas. They will be as green as possible.
- The roof will be white reflective.
- There will be small vegetation planted to screen the grates must not block them.
- They will look at the landscape features of the park.
- The flood waters do recede in the same direction.
- This project is being done in partnership with Life Time Fitness or Life Time Living.
- They are going to focus on the sidewalks.

Mr. Cohen summarized the outstanding issues: reference maintenance of the grates in the Operations and Maintenance manual including inspections; snow storage designation and removal; landscaping of the park and the possibility of adding a vegetated path to Life Time Fitness.

There were no questions from the public.

MOTION - Mr. LoTurco made a motion to continue the Notice of Intent for 174 Middlesex Turnpike/2 & 4 Fourth Avenue until January 28, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden and Mr. Cohen voted Yes.

- 11. Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646**
- 12. Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645**
- 13. Continued Public Hearing – Notice of Intent – 5 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-644**

MOTION - Mr. LoTurco made a motion to continue the Notices of Intent for Redmond Street Roadway, 4 Redmond Street and 5 Redmond Street until the Conservation Commission meeting of January 28, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes,





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Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

14. Continued Public Hearing – Proposed Revisions to Burlington Stormwater Management Bylaw Governing Erosion & Sedimentation Control (General Bylaws, Article XIV, Section 6.0)

Mr. Cohen stated that the proposed bylaw changes bring Burlington into compliance. They have received the support of the Planning Board and Board of Health as modified. They are going before the Zoning Bylaw Review Committee on Tuesday and Board of Selectmen on Wednesday.

MOTION - Mr. LoTurco made a motion to close the public hearing for the proposed bylaw changes. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to approve the revision to the Burlington Stormwater Management Bylaw for submission to Town Meeting. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

15. Administration

12a. Planning Board Comments- Mr. Keeley stated that it is too early to comment fully on 174 Middlesex Turnpike but they will let them know of the Commission’s preference in curbing on 60 Blanchard Road.

12b. Subcommittee, Staff Reports and Updates – None

12c. Upcoming Meetings –January 28, 2021 and February 11, 2021

12d. Other Business- None

16. Adjournment

MOTION - Mr. LoTurco made a motion to adjourn the January 14, 2021 Conservation Commission meeting at 9:50 PM. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,
Recording Clerk*

