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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: April 22, 2021
TIME: 7:00 PM
PLACE: WebEx Remote Meeting
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Ed LoTurco, Indra Deb, Jennifer O'Riorden, Donald Bernstein and Kent Moffat
MEMBER MISSING: Gail Lima

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

Minutes Approved at the May 13, 2021 Conservation Commission meeting

1. Call to Order

Mr. Cohen called the meeting to order at 7:00 PM. On a Roll Call, Mr. Boivin voted Present, Mr. LoTurco voted Present, Mr. Bernstein voted Present, Ms. O'Riorden voted Present and Mr. Deb voted Present. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also 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 173 596 3961 the password if needed is jfPeJCNB927.

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 or concerns regarding public hearings should be emailed to conservation@burlington.org before the next meeting on May 13, 2021.

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



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

Mr. Cohen stated that the applicant has requested a continuance to the next meeting for all 3 Notice of Intents for the Redmond Street roadway, 4 Redmond Street and 5 Redmond Street.

MOTION - Mr. Deb made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until May 13, 2021. The motion was seconded by Mr. Bernstein and voted 5-0-1. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco was having technical issues so abstained, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

2. **Citizens’ Time**

No one came forward to speak.

3. **Approval of Minutes – April 8, 2021**

MOTION - Mr. Boivin made a motion to approve the Conservation Commission minutes of April 8, 2021. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

4. **Request for Extension to Order of Conditions/Burlington Wetland Permit**

4a. **43 South Avenue – Gutierrez Company – DEP #122-439**

Scott Weiss of Gutierrez Company appeared for the request for extension of DEP#122-439. Mr. Weiss stated that this is the Keurig site. A partial certificate was issued in 2015 and an amendment plan was submitted in 2016 for a third building layout. They have continued to market this site but have had no interest. The site is a contaminated site and there have been cleaning activities and monitoring has continued. There is currently a parking lot where the proposed third building would be located. If the building is built, there will be slightly less impervious surface. They are requesting a 3-year extension.

Mr. Keeley stated that there are no outstanding issues and this has already been extended twice before.

MOTION - Mr. Boivin made a motion to extend the Order of Conditions/Burlington Wetland Permit for 43 South Avenue, DEP #122-439 for a period of 3 years. The motion was seconded by Mr. Deb and voted 5-0-1. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco was having technical issues so abstained, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

5. **Request for Partial Certificate of Compliance – 4 Dartmouth Road (General Walker Estates Subdivision) – Burlington Wetland Bylaw**





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Mr. Keeley stated that lot has an existing house that was originally going to be demolished and a new single family built. The developer has decided to sell the lot with the existing house. This release will only be for this lot so they can sell it. They will ask the developer to install straw wattles or seed to stabilize the driveway before we issue the Certificate of Compliance.

MOTION - Ms. O’Riorden made a motion to issue the partial Certificate of Compliance for 4 Dartmouth Road under the Burlington Wetland Bylaw. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

6. Request for Determination of Applicability

6a. 8 Carey Avenue – Victor Calumby – Demolish Garage and Construct a New Garage

Joshua Woodbury appeared for the Request for Determination of Applicability to demolish an existing garage and install a new garage with a room above at 8 Carey Avenue.

Ms. Coleman stated that this project is 65’ from the wetlands and has no issues with the project.

There were no questions from the Commission or audience.

MOTION - Mr. Deb made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for demolishing an existing garage and construct a new garage with room above at 8 Carey Avenue. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

7. Public Hearing – Erosion & Sediment Control Permit – 121 Lexington Street – 121 Lexington Street RT – Construct a Single Family Dwelling

Joe Currier appeared for the Erosion and Sediment Control Permit at 121 Lexington Street. Mr. Currier stated that they are constructing a new single family home. They have already demolished the existing home and they disturbed more than they had planned so they are over 20,000 SF.

Ms. Coleman stated that the new house is smaller than the previous one and there are no wetlands. The lot is about 35,000 SF and they have disturbed most of it, so they needed to file the Erosion and Sediment Control Permit. They will work with the owner on what erosion controls are best for this site.

The Conservation Commission discussed/questioned:

- Why was so much of the lot disturbed?
- The Commission encourages keeping large trees.
- The driveway slopes down and asked how this will be stabilized so it doesn’t affect Lot B.
- Will the construction equipment be used on Lot A only?

The applicant/staff offered the following responses:





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- The previous house was very large and they needed to remove that and install utilities. They also removed trees.
- All disturbed areas will be hydroseeded.
- All construction equipment will be on Lot A only but we still need to cleanup both Lot A and B.

Rose Hatch of 117 Lexington Street – Ms. Hatch stated that she is a direct abutter and 2 years ago they proposed razing the existing home and construct two new homes. This was appealed because this is not zoned for two homes. Lot B should not be built on and should be kept as open space.

Mr. Keeley stated that he received a call from the Tax Collector and this property is in tax title so no permit should be issued until this is cleared up.

MOTION - Mr. Deb made a motion to continue the public hearing for Erosion and Sedimentation Control at 121 Lexington Street until May 13, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

8. Continued Public Hearing – Notice of Intent – 68 Wilmington Road – Nash Quadir – Construct a Single Family Dwelling – DEP #122-658

Mary Trudeau and Adam Bram appeared for the continued Notice of Intent for 68 Wilmington Road. Ms. Trudeau stated that the spot grades have been added to the plan for the driveway, the staging area has been added to the plan for building materials and a split rail fence has been added to demarcate the buffer area. Ms. Trudeau stated that they have reviewed the draft Order of Conditions and bylaw decision and they are acceptable.

Mr. Keeley stated that he received a call from the Tax Collector and this property is in tax title so no permit should be issued until this is cleared up. He would also not recommend the location of the stockpile of material because that is where the infiltration system is and it cannot be in the riverfront. Mr. Bram stated that they can change the stockpile location to the top of the driveway. Mr. Bram stated that the property is coming out of an estate and there is no money in the estate to pay the taxes. The sale of the property will pay the outstanding taxes at closing.

The Conservation Commission discussed/questioned:

- Is a new electric line being added?
- The lumber/pallets need to be removed near the stream.
- Can we vote to approve the Order of Conditions but not issue it?
- The driveway contains a long infiltration trench and there will be heavy equipment coming in and out. How will this trench be protected?
- The cultec field should be protected during construction.

The applicant/staff offered the following responses:





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- A new electric line is being added along with a replacement water line.
- The lumber/pallets will be removed
- The Commission could vote to approve but not issue and this may give more weight for the applicant to sell the property.
- A condition could be added that the driveway and infiltration trench will be constructed last.
- A construction fence could be added around the cultic field.

MOTION - Mr. Boivin made a motion to adopt the findings under the Burlington Bylaw Article 14 to construct a new single family home at 68 Wilmington Road, DEP #122-658 but not issue. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to construct a new single family home at 68 Wilmington Road, DEP #122-658 but not issue. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to continue the Notice of Intent for 68 Wilmington Road, DEP #122-658 until May 13, 2021. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call vote: Ms. O’Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

9. Continued Public Hearing – Notice of Intent – 59 & 61 Middlesex Turnpike – Nouria Energy Corporation- Demolish Gas Station/Convenience Store & Restaurant Building and Construct a New Gas Station & Convenience Store – DEP #122-657

Dan Wells from Goddard Consulting, Josh Swerling from Bohler Engineering, Thomas Healy and Attorney William Proia from Riemer & Braunstein LLP appeared for the continued Notice of Intent for 59 & 61 Middlesex Turnpike. Mr. Swerling stated that they will be appearing before the Planning Board and Board of Health shortly and they have provided responses in a memo dated April 12, 2021 to the previous comments from the Conservation Commission. They are proposing: granite curbing throughout the site; ground water will not breakout on the slope; the TSS removal is above the required 80%; the O&M Plan has been revised so that there are no pesticides or fertilizers used on site and the snow will be removed; the river bank will be cleaned up of trash and debris; the lawn on the south side of the building has been changed to 1,000 SF of natural vegetation; test pits were not witnessed by the Board of Health but they have been in contact with them and will submit the logs; solar panels are not a feasible option for the canopy; and the underground storage tanks have been relocated 15’ further back from the river bank.

The Conservation Commission discussed/questioned:

- The applicant provided a 9” storm analysis but the groundwater breakout on slope, not where the groundwater is and he is not sure how this relates.





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- Why are the solar panels not feasible?

The applicant/staff offered the following responses:

- The storm water flows laterally to the bank and the updated plans show that.
- The technology for solar doesn't work for our system and the structural concept for the canopy.

Mr. Keeley stated that the other Boards need to weigh in and this should be continued until May 27th but they will draft a decision for review.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to continue the Notice of Intent for 59 & 61 Middlesex Turnpike until May 27, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Ms. O'Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

13. Administration

13a. Planning Board Comments

Mr. Keeley stated that he will send comments to the Planning Board on 68 Wilmington Ave and 59 & 61 Middlesex Turnpike.

13b. Subcommittee, Staff Reports and Updates

Mr. Cohen asked if the Stormwater Bylaw was going before Town Meeting. Ms. Coleman replied yes, and she will update the informational video for Town Meeting.

13c. Upcoming Meetings – May 13, 2021 and May 27, 2021

13d. Other Business

There was no other business.

14. Adjournment

MOTION - Mr. LoTurco made a motion to adjourn the April 22, 2021 Conservation Commission meeting at 8:29 PM. The motion was seconded by Ms. O'Riorden and unanimously voted 6-0-0. On a roll call vote: Ms. O'Riorden voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,
Recording Clerk*

