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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: May 13, 2021
TIME: 7:00 PM
PLACE: WebEx Remote Meeting
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Ed LoTurco, and Donald Bernstein
MEMBER MISSING: Indra Deb, Jennifer O'Riorden and Kent Moffat

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

Approved at the May 27, 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, and Ms. Lima 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 179 747 7321 the password if needed is rrX3hS3KWR2.

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 27, 2021.

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



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7. **Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646**
8. **Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645**
9. **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 - Ms. Lima made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until May 27, 2021. The motion was seconded by Mr. Boivin and voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco 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 22, 2021**

Ms. Coleman stated that she just corrected the wording from Wetlands to Stormwater Bylaw.

MOTION - Mr. LoTurco made a motion to approve the Conservation Commission minutes of April 22, 2021 as amended. The motion was seconded by Mr. Boivin and unanimously voted 4-0-1. On a roll call vote: Ms. Lima abstained from voting, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

4. **Request for Determination of Applicability (RDA)**

4a. **5 Fowler Terrace – Daniel Milano – Clearing & Landscaping**

Daniel Milano appeared for the Request for Determination of Applicability to clear and perform landscaping at 5 Fowler Terrace. Mr. Milano stated that last fall, he received approval to remove some trees and extend his lawn. He is requesting to extend the lawn an additional 22' for a total of 44'. Mr. Milano asked if he increased the size of the trees, could he plant fewer trees. The Commission declined that request.

Mr. Keeley stated that a site visit was conducted yesterday and this is the second RDA request in 6 months. The resource area is Bordering Vegetated Wetlands (BVW) and Riverfront under the Burlington bylaw only. This would be about 20' from a stream. Mr. Keeley stated that he would request additional trees be planted. These should be 10 native trees, 10 blueberry bushes and 12 arborvitaes. They should also be allowed to level and spread out the woody debris within the lawn area.

The Conservation Commission discussed/questioned:

- Is this in the flood plain?
- There is concern with raising the grading level.





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The applicant/staff offered the following responses:

- It is in the flood plain.
- A condition could be added that the grade cannot be raised more than 1”-2”.

There were no questions from the audience.

MOTION - Ms. Lima made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to extend the lawn area. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

4b. 99A Wilmington Road – Ravi Vyapuri – Install Shed

Ravi Vyapuri appeared for the Request for Determination of Applicability to install a shed at 99A Wilmington Road. Mr. Vyapuri stated that the shed will be set on crushed stone.

Ms. Coleman stated that there is a Conservation Restriction from the 1990s. A site walk was conducted and it doesn't appear the wetlands come up as far as shown on the earlier plans. As long as the shed is outside of the restriction she has no concerns.

Mr. Cohen asked of the status of the Restriction. Mr. Keeley stated that it is not listed by bounds but the owners are respecting it.

There were no questions from the audience.

MOTION - Mr. Bernstein made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for installing a shed at 99A Wilmington Road. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

4c. 21 Arnold Terrace- Jennifer & Gary Ortega – Install Above-Ground Pool

Jennifer and Gary Ortega appeared for the Request for Determination of Applicability to install an above-ground pool at 21 Arnold Terrace. Ms. Ortega stated that the pool is 24' round and it will be about 25'-30' from the wetlands. Mr. Ortega asked how long does the erosion control barrier need to be. Ms. Coleman replied from the deck back about 50' but she will show them.

Ms. Coleman stated that a positive determination was issued when an addition was constructed but pools are different. This pool would be at least 20' away from Bordering Vegetated Wetlands (BVW) and she has no issue.

The Conservation Commission discussed/questioned:

- Will there be a patio constructed around the pool?
- The owners should stop cutting the wetland vegetation on the side.

The applicant/staff offered the following responses:

- There will be no patio work done.





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- They will stop cutting the wetland vegetation.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for installing an above-ground pool at 21 Arnold Terrace. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

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

Attorney Andrew Bram and Will Sylvester appeared for the continued Notice of Intent for 68 Wilmington Road. Attorney Bram stated that this was not fully approved due to outstanding taxes and those have been taken care of.

Mr. Keeley stated that everything was reviewed last time but not issued due to the taxes.

Ms. Lima stated that she reviewed the video from last meeting and is up to date on this item.

There were no questions from the audience.

MOTION - Mr. Boivin made a motion to close the public hearing for the Notice of Intent for 68 Wilmington Road, DEP #122-658. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Ms. Lima 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. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco 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. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to require a \$2,500 surety bond under the Burlington Bylaw Article 14 for 68 Wilmington Road, DEP #122-658. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

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

Joe Currier appeared for the continued Erosion and Sediment Control Permit at 121 Lexington Street. Mr. Currier stated that the outstanding taxes have been resolved.





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The Conservation Commission discussed/questioned:

- Spot grades should be added to the plan.

The applicant/staff offered the following responses:

- Spot grades will be added and confirmed on final inspection.

There were no questions from the audience.

MOTION - Ms. Lima made a motion to close the public hearing for the Erosion and Sedimentation Control at 121 Lexington. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to approve the Erosion and Sedimentation Control at 121 Lexington Street under Burlington Bylaw Article 14. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

MOTION - Ms. Boivin made a motion to require a \$2,500 surety bond under the Burlington Bylaw Article 14 for 121 Lexington Street. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

10. Administration

10a. Sign Conservation Restriction – Wheeler Road – Wheeler Self Storage, LLC

Mr. Cohen stated that there was a question on landscaping at this site. They are proposing some dense planting and they will be installed in the fall. Mr. Keeley stated that they will hold the Certificate of Compliance under Article 14, but DEP has issued the Superseding Order of Conditions. Mr. LoTurco stated that there has been a lot of trees cut down. Mr. Keeley stated that the area of disturbance is for the flood plain compensation area and it will be replanted.

MOTION - Ms. Lima made a motion to sign the Conservation Restriction for Wheeler Self Storage, LLC. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

10b. Planning Board Comments

There were no Planning Board comments.

10c. Subcommittee, Staff Reports and Updates

Mr. Keeley stated that there will be public hearings in the Senate for the Public Land Preservation Act that will start on June 18th.





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10d. Election of Officers

MOTION - Mr. Boivin made a motion to nominate Larry Cohen as Chairman of the Conservation Commission. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

Mr. Cohen stated that it is an honor and privilege to serve on this Commission.

MOTION - Ms. Lima made a motion to nominate William Boivin as Vice Chairman of the Conservation Commission. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

10e. Upcoming Meetings – May 27, 2021 and June 10, 2021

10f. Other Business

Mr. Keeley stated that Town Meeting will be voting on the Storm water Bylaw on Monday. The Commission never voted on this revision of the Bylaw after it had been changed by the Bylaw Review Committee. The content hasn't changed, it was mostly formatting.

MOTION - Mr. Boivin made a motion to support and approve the revised Storm water Bylaw for Town Meeting. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

Mr. Cohen asked what the change of zoning regarding Kent Cottage is. Mr. Boivin stated that the applicant has submitted a plan to retain the cottage and remodel it into 2 residential units and construct 2 other buildings. Mr. Keeley stated that if the zoning fails, there can be no housing on this site.

11. Adjournment

MOTION - Ms. Lima made a motion to adjourn the May 13, 2021 Conservation Commission meeting at 8:13 PM. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,
Recording Clerk*

