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TOWN OF BURLINGTON

Conservation Commission Meeting Minutes

DEPT. /BOARD: Conservation Commission

DATE: 6/22/2023

TIME: 6:30 PM

PLACE: 29 Center Street – Town Hall – 2nd Floor Main Hearing Room

Member(s) in attendance: Larry Cohen, Rob Sheahan, William Boivin, Indra Deb, Ed LoTurco
(in person)

Member(s) absent: Kent Moffatt

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

THE MEETING WAS BROADCAST LIVE ON THE BCAT GOVERNMENT CHANNEL

Approved at the July 13, 2023 Conservation Commission meeting

1. Call Meeting to Order – Roll call of attendance

Mr. Cohen called the meeting to order at 6:30 PM and read a statement about public participation and technology. On a Roll Call, Mr. Boivin, Mr. Sheehan, Mr. Deb, Mr. Moffatt, Mr. LoTurco, and Mr. Cohen all indicated that they were present.

2. Public Participation (for items not on the agenda)

There were no comments from the audience regarding items not on the agenda.

3. Approval of Minutes June 8, 2023

The Minutes from the previous meeting were not yet available to be voted on.

4. Request for Certificate of Compliance/Completion/Surety release

a. 7 Wheeler Road (Self-storage facility) – Baranof Holdings LLC – DEP #122-604 (surety release only)



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Mr. Keeley gave an update on the state of plantings at the site and while they did not fare well during the drought of summer 2022, the plantings that were implemented in the fall fared better. He believed the plantings were well established enough to return the surety.

MOTION- To release the \$30,000 bond for the project at 7 Wheeler Road DEP #122-604. The Motion passed unanimously by a vote of 5-0-0.

5. Request for Extension to Order of Conditions

a. 9-11 Ray Avenue – Ray Estates Trust (Robert W. Murray) – DEP #122-594

Ms. Phyllis Etsel was present on behalf of Mr. Robert Murray to request an extension for the Order of Conditions.

None of the Commissioners nor Commission staff had any issue with issuing an extension for the Order of Conditions.

MOTION- To extend the order of Conditions for the project at 9-11 Ray Avenue DEP #122-594 for three years. The Motion passed unanimously by a vote of 5-0-0.

6. Request for Determination of Applicability

a. 14 Sandy Brook Road – Kee Hwan Lee – Install shed

Mr. Lee was present at the meeting and his daughter joined him to act as an interpreter for him. A shed was constructed prior to consultation with the Commission and the shed and the entire yard on the property fall within a floodplain.

Mr. Keeley explained that the building department brought the construction of the shed to the attention of the Conservation staff. He noted that there are not any other logical locations within Mr. Lee's property that would not be within the floodplain adjacent to a wetland area. The shed is less than 5 feet from the wetland. He suggested that the best course of action would be to remove some dirt that was blocking the flow of water underneath the shed.

None of the Commissioners had major concerns about the location of the shed and the plan to improve water flow by removing the dirt.

There was a back and forth discussion between the Commissioners and the applicants regarding the necessity of removing the dirt so that the flow of water on the floodplain would not be



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impeded. Mr. Cohen invited the applicant to contact the Conservation office any time that they plan to do any more work within the floodplain so that proper guidelines can be followed.

Mr. Keeley read the draft conditions which included language requiring structures built on flood plains to not impede the general flow of water. He clarified that the fill be removed so that the space underneath the shed is at the same elevation as the surrounding area.

MOTION- To issue a waiver for the “No-disturb zone” and “No-build zone” under the wetlands bylaw due to the project being deemed de minimis to the integrity of the floodplain. The Motion passed unanimously by a vote of 5-0-0.

MOTION- To issue a Negative Conditional Determination under Burlington Article Bylaw XIV and the state wetlands protection act for the project located at 14 Sandybrook Road. The Motion passed unanimously by a vote of 5-0-0.

7. Continued Public Hearing – Notice of Intent – 1, 2 & 10 Wall Street – The Gutierrez Company – Landscaping activities – DEP #122-122-689

Dan Dadinsky was present for the meeting on behalf of the Gutierrez Company.

Mr. Keeley stated that the application was continued from the previous meeting because there was no file number associated with the project. Ms. Coleman reminded the Commission that their concerns from the previous meeting were largely addressed in the updated version of the proposal.

The proposed scope of work includes proposed landscape and hardscape modifications which include repairing the sidewalk, adding handicap spaces, installing 20 EV chargers, the removal of 17 trees that are either in poor condition or are invasive and will be replaced with 23 trees as well as hundreds of shrubs, perennials and other ground cover vegetation. Part of the work occurs within 100 ft. of Little Brook. There is a net reduction of 450 ft. of impervious surfaces and no changes to existing stormwater management nor pavement.

The project required a waiver within the no disturb setback, since the disturbance is temporary Commission staff supports granting an exemption waiver for the project. A bond of \$4,000 is proposed.

There were no additional comments from the Commission, nor the audience.



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MOTION- To close the hearing for DEP #122-122-689. The Motion passed unanimously by a vote of 5-0-0.

MOTION- To waive the 20' No-disturb setback under Burlington Bylaw Article XIV since the disturbance will be temporary. The Motion passed unanimously by a vote of 5-0-0.

MOTION- To adopt the findings under Burlington Bylaw Article XIV for DEP #122-122-689. The Motion passed unanimously by a vote of 5-0-0.

MOTION- To adopt the Order of Conditions under Burlington Bylaw Article XIV for DEP #122-122-689. The Motion passed unanimously by a vote of 5-0-0.

MOTION- To require the posting of a performance guarantee in the amount of \$4,000 under the authority of Burlington Bylaw Article XIV for DEP #122-122-689. The Motion passed unanimously by a vote of 5-0-0.

8. Continued Public Hearing – Proposed changes to Burlington Wetland Bylaw, Article XIV, section 1.0 to incorporate climate resiliency

Mr. Boivin gave a brief overview of what the Commission aims to include climate change resiliency as a criteria on which it may take protective measures. Specific regulations will be created at a later date.

Mr. Cohen clarified that there will be also hearings that are open to the public for any proposed changes to the regulations. He proceeded to give examples such as creating new criteria for infrastructure based on climate change data and projections which include more frequent and intense precipitation events and high heat events.

Ms. Phyllis Etsel asked if the Commission plans to examine zoning guidelines as a potential tool to address climate change to which Mr. Cohen responded that zoning guidelines are already under review for other projects in town.

MOTION- To leave the hearing on the changes to the wetland bylaw open until the July 13 meeting of the Commission. The Motion passed unanimously by a vote of 5-0-0.

9. Administration



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- a. There were no Planning Board comments.
- b. There were no subcommittee & staff reports and updates.
- c. Other business to Discuss Enforcement Order – 58 Beaverbrook Road

Mr. Keeley mentioned a letter from the applicant in which he requests a conditional change that he may plant three of the six required trees this year, and six next year. None of the Commissioners had any objections to the request.

MOTION- To allow the applicant for the project at 58 Beaverbrook road to plant three trees this year and three next year per the homeowners request. The Motion passed unanimously by a vote of 5-0-0.

d. Upcoming meetings: July 13, 2023 | *August 10, 2023

*There was a brief discussion about moving the date of the August meeting from the 10th to the 24th. A final decision will be made at the July 13 meeting.

10. Adjourn

MOTION- To adjourn the meeting. The Motion passed unanimously by a vote of 5-0-0.