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TOWN OF BURLINGTON

Meeting Minutes

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BOARD: Conservation Commission

DATE: January 13, 2022

TIME: 7:00 PM

PLACE: WebEx Remote Meeting

MEMBERS IN ATTENDANCE: Vice Chair William Boivin, Donald Bernstein, Gail Lima, Ed LoTurco and Jennifer O'Riorden

MEMBER MISSING: Chairman Larry Cohen, Indra Deb and Kent Moffat

1. Call to Order

Pursuant to Governor Baker's June 15, 2021 lifting of the State of Emergency and following the passing of Chapter 20 of the Acts of 2021, which allows remote meetings of public bodies until April 1, 2022, 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 Meeting #179 747 7321, the password if needed is rrX3hS3KXR2. 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.

Mr. Boivin called the meeting to order at 7:04 PM. On a Roll Call, Mr. Boivin voted Present, Mr. LoTurco voted Present, Ms. Lima voted Present, Mr. Bernstein voted Present, and Ms. O'Riorden voted Present. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

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 27, 2022.

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

Mr. Boivin stated that the applicants for agenda item #4B, #9, #13, #14 and #15 are requesting a continuance.





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4b. 64A Middlesex Turnpike – NSTAR Electric Company dba Eversource Energy – Expansion and Upgrade of an Existing Electric Substation (continued from 12/9/2021)

MOTION - Mr. LoTurco made a motion to continue agenda item #4b a Request for Determination of Application for 64A Middlesex Turnpike – NSTAR Electric Company dba Eversource Energy – Expansion and Upgrade of an Existing Electric Substation until January 27, 2022. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

9. Continued Public Hearing – Notice of Intent – 130 Lexington Street – Islamic Center of Burlington – Remove fill and restore buffer zone – DEP #122-663

MOTION - Ms. Lima made a motion to continue agenda item #9 a NOI for 130 Lexington Street, DEP #122-633 until January 27, 2022. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

13. Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646

14. Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645

15. Continued Public Hearing – Notice of Intent – 5 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-644

MOTION - Ms. Lima made a motion to continue agenda items #13, #14 and #15 NOI for 4, 5 and Redmond Street roadway until January 27, 2022. The motion was seconded by Mr. LoTurco and voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

2. Citizens’ Time

There were no citizens coming forward.

3. Approval of Minutes – December 9, 2021

Ms. Coleman stated that Mr. Boivin has provided some clerical edits for the minutes of December 9, 2021. They did not change the content.

MOTION - Mr. Bernstein made a motion to approve the Conservation Commission minutes of December 9, 2021 as corrected. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

4. Request for Determination of Applicability

4a. 79 Mill Street – Suresh Damodaran – Removal of Trees





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Suresh Damodaran appeared for the Request for Determination for 79 Mill Street. Mr. Damodaran stated that there are 4 trees that he would like to remove. 2 of the trees are already dead and 1 has already fallen.

Mr. Keeley stated that they have received a letter from an arborist that the trees are dead and he would recommend removal.

The Conservation Commission discussed/questioned:

- Would recommend planting 3 native trees in another area of the lawn as replacement.

There were no questions from the audience.

MOTION - Ms. Lima made a motion issue a negative determination from the Burlington Wetland Bylaw, Article 14 for 79 Mill Street with the addition of 3 native trees being planted. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

5. Continued Public Hearing – Erosion & Sedimentation Control Bylaw – 70 Winter Street – Town of Burlington Department of Public Works – Construct a New Water Treatment and Pump Buildings

John Sanchez and Tom Hayes from the Burlington DPW and Amy Coppers from Wright-Pierce joined the meeting for an Erosion & Sedimentation Control permit for 70 Winter Street.

Ms. Coleman stated that the applicant has sent the updated information but asked if there will be a liner in the bioretention basin.

Ms. Coppers stated that there is high groundwater and they are only about 1’ below grade so the basin needs to be lined or they will flood. The plans have been updated to include the widening of the entrance, addition of tree box filters and impervious additions have been added to the report.

Mr. LoTurco stated that he has reviewed the video from last meeting and is up to date.

There were no questions from the audience.

MOTION - Ms. Lima made a motion to close the Erosion and Sedimentation Control permit hearing for 70 Winter Street. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

MOTION - Ms. Lima made a motion to approve the Erosion & Sedimentation Control Bylaw permit for 70 Winter Street under the Burlington Wetlands Bylaw, Article 14. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

6. Public Hearing – Notice of Intent (Burlington Wetland Bylaw only) – 9 Carey Avenue – 9 Carey Ave, LLC – Demolish Dwelling & Construct New Dwelling





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Julia Hooeboom of LEC Environmental, Pedro Shimizu from Gala Associates and Thamara Martins appeared for a Notice of Intent for 9 Carey Ave. Ms. Hooeboom stated that the plan is to tear down the existing house and rebuild a new one. There is an isolated wetland on the property. There is an elevation change of 3' in the back and the wetlands delineation has been done. They are proposing a porous driveway and walk way. There will be minimum site grading of less than 1'. There will be no tree removal and a sump pump will be added. The storm water from the roof will be directed into the porous pavement. The ground water is about 3' down so there is not enough room for a full infiltration system. The basement is about 2'2" above the ground water.

Mr. Keeley stated that there was site visit yesterday. There is an isolated wetland on the property and they agree with the wetlands delineation. The porous pavement is ok but there is concern with private residents keeping up with the maintenance of it and the possibility of seal coating in the future. Ms. Hooeboom stated that they could add a marker/plaque so the homeowners would know. Mr. Shimizu stated that they could use porous pavers instead. Mr. Keeley stated that would be preferable. Mr. Keeley stated that the basement floor is not a full cellar floor.

The Conservation Commission discussed/questioned:

- With only a portion of the roof runoff going to the porous pavement, what happens with the rest of the roof?
- There is two partitions of fence that are not in good shape. It should be removed and a split rail fence added in front of the 20' buffer.
- Will any fill be brought in for the basement?
- Is shed going to be removed?
- Are any new trees proposed? If not, some native trees should be added.
- Where does the sump pump empty?

The applicant/staff responded:

- About 200 SF of the roof runoff will go to the down spout and infiltration in the lawn.
- They will take down the old fence and add a split rail fence at the 20' buffer.
- Fill will be brought in but only for the crawl space.
- The shed is already removed.
- The sump pump empties to the grass.

There were no questions from the audience.

MOTION - Mr. Bernstein made a motion to continue the Notice of Intent for 9 Carey Avenue until January 27, 2022. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O'Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.





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7. Continued Public Hearing – Notice of Intent – 7 Freeport Drive – Aswin Jhaveri – Construct a Residential Addition – DEP #122-664

Steve Carvalho appeared for the continued Notice of Intent at 7 Freeport Drive.

Mr. Keeley stated that the question about the DEP 100-year flood zone has been addressed and they have no questions.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to close the public hearing for 7 Freeport Drive, DEP #122-664. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

MOTION - Ms. Lima made a motion to approve the findings for 7 Freeport Drive, DEP #122-664 under Burlington Bylaw Article 14 and the State Wetlands Protection Act. The motion was seconded by Mr. Bernstein and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

MOTION - Ms. Lima made a motion to issue the Order of Condition for 7 Freeport Drive, DEP #122-664 under the Burlington Bylaw Article 14 and the State Wetlands Protection Act. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

MOTION - Mr. LoTurco made a motion to require a \$3,500 surety bond for 7 Freeport Drive, DEP #122-664. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

8. Public Hearing – Notice of Intent – 102R Winn Street – Sung Ok & In Ho Lee – Replace Culvert & Restore Wetlands/Stream Bank – DEP #122-666

Stephen Dresser, Sean Wysocki and In Ho Lee appeared for the Notice of Intent for 102R Winn Street. Mr. Boivin read a letter for the record from Daniel Murray, manager of Murray’s Realty, Inc., the property owner of Map 37/Lot 19. It stated that he never was asked and never signed the application, so it is an illegal signature. He is opposed to what has been done. Mr. Dresser stated that there is an easement on the property. They have the right to repair and replace the right of way and they have a legal opinion.

Mr. Keeley stated that Mr. Murray has said that they have reached an agreement to sell that parcel of land but the transaction is not complete. He would suggest continuing this until the property issue is resolved.

Mr. Lee stated that they are getting ready to sign the new deeds.

Mr. Wysocki asked if we can move forward with the Enforcement Order.

MOTION - Mr. Bernstein made a motion to continue the Notice of Intent for 102R Winn Street, DEP #122-666 until January 27, 2022. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call





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vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

10 Public Hearing – Notice of Intent – 14 Spring Valley Road – Michael Casey – Construct Garage – DEP #Pending

Michael Casey appeared for the Notice of Intent at 14 Spring Valley Road. Mr. Casey stated that his engineer is deployed so he is representing himself today. The proposal was to build a garage and they were planning on a regular foundation until they found out that the house is in the flood plain so they are proposing gaps in the foundation for water flow. They are waiting on comments back from DEP.

Ms. Coleman stated that the entire site is in the riverfront. They are proposing flood vents but DEP doesn’t allow that so they need to go back and propose something else. This is a difficult site and they need to provide unimpeded flow of the flood water.

Mr. Boivin stated that usually we require sono tubes but that is difficult when you are building a garage. Mr. Casey stated that there is nowhere to add compensatory flood storage. Mr. Keeley stated that he concurs that with the size of the garage, the Commission can’t make a finding that it has minimal impact. Mr. Casey asked if it is a carport does it have to be gravel. Mr. Keeley replied no, it just can’t impede the flow of water.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to continue the Notice of Intent for 14 Spring Valley Road, DEP #Pending until January 27, 2022. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O’Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

11 Discussion – 127 Bedford Street – Installation of Paver Blocks

Mr. Keeley stated that this discussion will be continued until January 27, 2022.

12 Update & Discussion – Proposed Revisions to Stormwater Bylaw

Ms. Coleman stated that bylaw changes were sent out for review. The updates include engineering stamped plans required for addition of 700 SF of impervious surface or a 7,000 SF disturbance or more than 6” of fill.

Mr. Boivin stated that this change will capture small projects. He asked that a clean up copy be sent out for review and he also asked that final comments from the Commission be forwarded to staff.

16. Administration

16a. Planning Board Comments

There were no comments to the Planning Board.

16b. Subcommittee & Staff Reports and Updates

There were no subcommittee or staff reports.





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16c. Other Business

Discussion – Board of Appeals Application for Frontage Variance – Rear Chandler Road (Access from End of Drake Road)

Mr. Boivin stated that he appeared as well as other people before the ZBA in opposition to this variance. He would like us to send a letter to the ZBA and present our case of why this should not be approved. The entire proposed frontage is in the wetlands and there are a couple of wetlands on the property and they have never come before us. At the meeting the applicant said he only wanted to build one home that will be his personal home but if this wasn't approved, he would make a subdivision. There were no plans submitted to prove that was feasible.

Ms. Lima stated that this is at the end of the cul-de-sac abutting Mill Pond Conservation Area. At the meeting the neighbors were concerned with water and impacts to the wetlands. This parcel was never looked at by the Town to purchase because we didn't think it would ever be built on because of the frontage issue. A trail is on this property and if we could purchase it, it would be an incredible parcel.

Mr. Boivin stated that Murray Hills has a Purchase and Sales contingent on the ZBA approval.

MOTION - Mr. Bernstein made a motion to approve sending the letter to the ZBA in opposition of this variance. The motion was seconded by Ms. O'Riorden and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O'Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

Vote to Accept Deed for Mill Pond Estates – Lot #4

Mr. Keeley stated this is a small 4-lot subdivision. This will include 3 houses and 1 lot that will be donated to the Conservation Commission. A new trail was created and the Select Board will have to accept it and Town Counsel will review it.

MOTION - Ms. Lima made a motion to accept the deed for Lot #4 Mill Pond Estates. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O'Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

16c. Upcoming Meetings – January 27, 2022 and February 10, 2022

17. Adjournment

MOTION - Mr. LoTurco made a motion to adjourn the January 13, 2022 Conservation Commission meeting at 9:10 PM. The motion was seconded by Ms. Lima and unanimously voted 5-0-0. On a roll call vote: Mr. LoTurco voted Yes, Ms. Lima voted Yes, Ms. O'Riorden voted Yes, Mr. Bernstein voted Yes and Mr. Boivin voted Yes.

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*

