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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 later

BOARD: Conservation Commission

DATE: June 23, 2022

TIME: 7:00 PM

PLACE: This meeting is being held in person, with the option of joining virtually through Webex.

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Indra Deb, Ed LoTurco, Kent Moffatt, Jennifer O'Riorden.

MEMBER(S) MISSING: William Boivin, Don Bernstein

Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also in attendance

1. Call to Order

Meeting link:

<https://townofburlington.webex.com/townofburlington/j.php?MTID=mf1ac9b32c318d6ccd73aff5dd04c993b>

Join by phone: +1-408-418-9388 United States Toll

Meeting number (access code): 2339 548 3469

Meeting password: uPpyy3p5uA7

THE MEETING WILL BE BROADCAST LIVE ON THE BCAT GOVERNMENT CHANNEL AND BCAT'S FACEBOOK LIVE FEED.

LINK TO POSTED VIDEO:

<https://townofburlington.webex.com/townofburlington/j.php?MTID=mf1ac9b32c318d6ccd73aff5dd04c993b>

1. Roll Call

William Boivin, Ed LoTurco, Indra Deb, and Larry Cohen were present.

Don Bernstein, Jennifer O'Riorden, and Kent Moffatt were absent.

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





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2. Citizens' Time

There was no one in the audience nor online for Citizens' time.

4. Request for Certificate of Compliance 98-108 Middlesex Turnpike – Yard House USA – Stormwater Permit. This has been continued until the July 14, 2022, meeting of the Commission.

7. Continued Public Hearing – Notice of Intent – 29 Dolores Drive – Glad Valley LLC/David Vartanian – Demolish single-family dwelling & construct new single-family dwelling – DEP #122-pending. This has been proposed to be continued until the July 14, 2022, meeting of the Commission.

MOTION- To continue the public hearing until July 14, 2022. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

3. Approval of Minutes

a. May 26, 2022

MOTION- To approve the Minutes from the May 26 meeting of the Commission. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

b. June 9, 2022- The Minutes for the June 9, 2022, meeting of the Commission were not yet available.

5. Continued Public Hearing – Notice of Intent – Partridge Lane – Town of Burlington Engineering Department – Upgrade sewer pump station & force main – DEP #122-677

Brian White of the Burlington Engineering Department was in attendance and explained they are proposing to rehab the pumps in the aging pump station so that both pumps work and replace the force main which is in the street at the same time. All work is in previously disturbed areas though is surrounded by BVW.

John Keeley pointed out that it is also in the flood zone but there are no outstanding issues.

There was no one in the audience to ask questions about the project.

Ms. Coleman read the draft decisions for the project. The project would take place in previously disturbed wetland and overall flood storage would be increased by 10 ft³. The wetland delineation has been deemed accurate, there is currently no drainage system at the pump station, but Mr. White indicated that the project meets stormwater standards. A waiver was required for work within the no disturb setback, which was granted by the Commission. Since the project is an official Town of Burlington undertaking, no bond was required.

There were no further comments on the proposed draft.





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MOTION- To close the hearing on Partridge Lane – Town of Burlington Engineering Department – Upgrade sewer pump station & force main – DEP #122-677. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To grant a waiver of the 20' no disturb zone because the work is in previously developed area and the disturbance is temporary. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To adopt finding under Burling Bylaw Article XIV for DEP #122-677. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To approve the Order of Conditions for Partridge Lane – Town of Burlington Engineering Department – Upgrade sewer pump station & force main – DEP #122-677 under Burlington Bylaw Article XIV and the state Wetlands Protection Act. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

6. Continued Public Hearing – Notice of Intent – 102R Winn Street – Sung Ok & In Ho Lee – Replacement of culvert & restoration of wetlands/stream bank – DEP #122-666.

Mr. Steven Dresser stated the displaced culvert is to be replaced and have a footbridge built over it. He requested the Commission acknowledge that this project complies with the Massachusetts Stream Crossing Standards.

Mr. Keeley clarified that there were two Orders of Conditions, one for the construction of the home and one for the replacement of the culvert and construction of the footbridge. He emphasized that the footbridge without a culvert would be a big improvement both on what was there and on the box culvert replacement previously proposed.

Mr. Boivin asked about the change to the depth of the channel, to which Mr. Dresser replied that it would be as close as possible to what it was like before the culvert was originally constructed, nearly 80 years ago.

There was no one in the audience to ask questions about the project.

Ms. Coleman read the draft decisions for the project. The Notice of Intent (NOI) was filed in response to an enforcement order for the removal of an existing 18" pipe culvert and installation of a new concrete box culvert that would meet state stream crossing standards with restoration of impacted streambank. In June 2022 the NOI was amended to be for the construction of a 4' x 12' footbridge and restoration of the streambank and seeding of the affected land close to the bank. In summer of 2021 Commission staff became aware of the unauthorized use of backhoes to dig around the culvert, which was halted an enforcement order was issued to allow the installation of a concrete box culvert. This permit will also serve as a permit under the Erosion and Sedimentation Bylaw and a \$3,000 bond is proposed.





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MOTION: To close the hearing for DEP #122-666. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION: To adopt the findings under Burlington Bylaw Article XIV DEP #122-666. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION: To approve the Order of Conditions DEP #122-666 under both Burlington Bylaw Article XIV and the states Wetland Protection Act. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION: To require the posting for a \$3,000 performance surety for DEP #122-666 under both Burlington Bylaw Article XIV and the states Wetland Protection Act. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

8. Continued Public Hearing – Notice of Intent – 77 Drake Road – Gary Litchfield – Construct new single-family dwelling – DEP #122-675

Ms. Coleman and Mr. Keeley agreed with the delineation of the wetlands and had some remaining questions about the plans including stormwater management from rooftop runoff and tree replacements.

Mr. Litchfield explained that the plan is to use stone trenches around the edge of the house and pointed out some inconsistencies to be edited in the draft decisions he received.

Mr. Cohen asked Mr. Litchfield regarding additional screening for 79 Drake Road. Mr. Litchfield responded saying that a fence or additional screening can be implemented, he has been in contact with neighbors and said he is willing to have more discussions and potentially add evergreen trees, but he does not believe it will be necessary as the area is already heavily wooded.

Ms. Michelle Katz of 58 Chandler Road asked about the possibility of another dwelling being constructed on the property in the future. He explained that the house is the only project for now and he did not see an immediate need to even put a shed on the property, though he has the right to pursue that in the future with a different permit.

Mr. Cohen asked about the possibility of trees being removed and Mr. Litchfield stated he only plans to take trees down to put the driveway in. He explained the mitigation area will have trees and shrubs planted when the proper grading is completed. Mr. Cohen asked Mr. Litchfield if he would be willing to comply with a condition that forbids the removal of trees beyond what is needed to construct the driveway unless a 1:1 replacement is met. Mr. Litchfield agreed. Ms. Leah Basbanes of Basbanes wetland consulting requested that there be flexibility and room for field adjustments in the plan to protect the root systems of the trees on the property.





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Mr. Cohen asked if Mr. Litchfield would increase the amount of riverfront area granted to the Commission from 150 ft to 200 ft of riverfront land. In response, Mr. Litchfield agreed if the proposed \$5,000 bond be eliminated or reduced to \$1,000.

Ms. Coleman read the draft decisions for the project. The project is for a single-family dwelling, associated utilities, grading, and approximately 50' long driveway to provide access from Drake Road, filling of 700 square feet of bordering vegetated wetland, and 1450 square feet of wetland area to be replicated onsite and the applicant plans to donate two parcels of next to the town. The rooftop and driveway area runoff will filter into drip edge stone trenches. One of the parcels being 19,000 ft² of mostly wetlands and the second of approximately 50,000 ft² representing the entire Riverfront Area to the Town of Burlington with a proposed bond of \$1,000.

For the wetland replication area, there will be no operation of heavy equipment in the wetlands, a report documenting the vigor and health of the wetland replication area shall be submitted by a qualified scientist after each growing season for at least two years. The Commission proposes a boulder wall should be erected at the erosion control boundary line and preserved in perpetuity to which Mr. Litchfield agreed. A metal sign shall be posted at the demarcation area indicating the area is protected and prohibiting dumping. The driveway cannot be widened without authorization from the Commission. Additionally 8 native trees 22 shrubs shall be planted in the area behind the demarcation line and will be monitored for two full growing seasons. Those that fail to thrive shall be replaced, and no invasive species are to be planted on the site.

None of the Commissioners had any further comments nor concerns.

MOTION- To close the hearing for 77 Drake Road, DEP #122-675. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To issue a waiver for the 20' no disturb zone because of the following mitigation: the driveway will have a minimal impact, the applicant is proposing a 2:1 replication, and the trees that are being cut will be replaced 1:1, and because of the generous nature of the donation of land that he is giving to the town. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To approve the findings under Burlington Bylaw Article XIV for DEP #122-675. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To approve the Order of Conditions under Burlington Bylaw Article XIV and the state Wetlands Protection for DEP #122-675. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To require the posting of \$1,000 cash surety for the project at 77 Drake Road DEP #122-675. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.





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9. Continued Public Hearing – Notice of Intent – 13 Pathwoods Avenue – Patricia & Michael McLaughlin – Construct residential addition – DEP #122-pending

Mrs. Pat McLaughlin stated the scope of the project is an addition to the house that will include an additional bathroom, expansion of a bedroom and an expansion of the kitchen. Ms. Mary Trudeau assisted the applicants, Mr. and Mrs. McLaughlin, with the filing of the Notice of Intent. She stated that they have acquired a DEP file number so the hearing may be closed.

None of the Commissioners had any further comments.

There was no one in the audience that had any further comments.

Ms. Coleman read the draft decisions. The Notice of Intent was filed for the demolition of a portion of a single-family dwelling and deck as well as the construction of a 240 ft² addition and new deck within the 100' buffer zone of bordering vegetated wetlands (BVW). The closest point of the proposed new dwelling will be approximately 31' from the BVW while the closest impervious feature will be 40' from the BVW. The commission is asking the applicant to drain the rooftop runoff onto grass and not onto impervious surfaces. It is suggested that the Commission waive the no-build setback to the BVW as the applicant found it difficult to comply with setback requirements without substantial engineering and further disturbance. The granting of a waiver for this project does not set precedent for future projects. Restoration will be enhanced by 12 native shrubs being planted, and a \$2,500 bond is proposed.

MOTION- To close the hearing for DEP #122-678 for 13 Pathwoods Avenue. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To approve the findings under Burlington Bylaw Article XIV for DEP #122-678. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To approve the Order of Conditions under Burlington Bylaw Article XIV and the state Wetlands Protection for DEP #122-678. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

MOTION- To require the posting of \$2,500 performance surety for the project at DEP #122-678 for the project at 13 Pathwoods Avenue. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

10. Public Hearing – Notice of Intent – 1 Burlington Mall Road – Lincoln Property Group – Construct commercial building – DEP #122-676

Brad Johnson and Steve Matarano for Bohler Engineering and Jim Noonan, of Lincoln Property Group were presenting for the Commission. The project is owned by the Marriott Hotel and involves reconfiguring an





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under-utilized parking lot. There is a proposal for two large structures and introduction of green space and a rain garden that will be built on what is currently existing pavement. One building will be a 4-story lab and office space and a smaller, 1 story building will be what is called CGMP that is a manufacturing type facility. The project as proposed includes a paved parking lot that will form a ring around the outside of the building. The work will be on existing pavement only. Portions of the proposed development would fall into the 100' buffer zone, the 50' no-build zone and the 20' no-touch area near a vegetated wetland. All the proposed work would be on already existing parking lot areas. Some of the work to be done in these areas is to remove pavement and revegetate the area.

Mr. Keeley had not gone out and checked the wetland delineation yet but believed the stormwater runoff plan meets the standards set by the State but the applicants have not shown that they meet the phosphorus removal standards set by the Town of Burlington.

Mr. Deb asked about the amount of pavement that will be reduced with the project to which the response was approximately 8,600 ft² of pavement will be reduced according to the current plan. Mr. LoTurco inquired about the possibility of the property being subject to sinking like buildings across Mall Road have experienced. Mr. Boivin expressed support for the plan and inquired about the energy source for heating and cooling the buildings, which are still being researched by the engineers working on the project.

Mr. Cohen asked for clarification on how stormwater runoff will be managed, the answer was water would drain to catch basins, into a sump pump, water quality treatment unit then end in a rain garden. He also asked if the engineering and design team could try to design a rain garden that could be used as a prototype with features that will alleviate the safety concerns the Board of Health have expressed. Mr. Johnson agreed to investigate the design for a rain garden, and he would work with the Board of Health to try to come up with an acceptable rain garden design.

There was no one in the audience nor online that had any comments on the project.

Mr. Cohen asked if there is the possibility that a walking path could pass through the site that could connect to a planned trail that would go behind the mall and Marriot hotel and would pass near the parcel at 1 Burlington Mall Road. Mr. Johnson and Mr. Noonan stated there would be a sidewalk connection to the Marriot hotel and they agreed to investigate the possibility of making the site suitable for a path.

MOTION- To continue the hearing for the project at 1 Burlington Mall Road until the next hearing on July 14, 2022. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

11. Continued Public Hearing – Proposed revisions to Stormwater Management Bylaw (General Bylaws, Article XIV, section 6)

Ms. Coleman met with the bylaw review committee the previous week and Susan Kadilak had some concerns based on how the way the standard permit guidelines in the bylaw are written calling for engineered plans for any disturbance over 10,000 ft² or any impervious surface addition over 5% as too onerous for homeowners. So,





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the bylaw review committee voted to accept all the current changes, except for the need for a fully engineered plan for projects adding 5% impervious surface cover. The bylaw committee voted to approve changing the requirement for a fully engineered plan to be created for projects that intend to increase impervious surface area by 10% as opposed to 5%. The abbreviated permit will be generally required for projects that are between 5,000 and 20,000 ft² of land disturbance, and for greater than 5% additional impervious surface. If the project calls for 10,000 ft² of land disturbance, the bylaw will require a stamped plan for land disturbance. For any knockdown and rebuild projects, a plan stamped by a certified engineer will be required and a certification that the stamped plan was followed will also be required.

MOTION- To close the public hearing on the Proposed revisions to Stormwater Management Bylaw (General Bylaws, Article XIV, section 6). The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

12. Administration

- a. The commission wanted to make sure the planning board knows that inquiries were made for the project at 1 Burlington Mall Road regarding walking paths, green infrastructure on site and that the applicant has requested to do test pits during construction which have not been agreed to yet.
- b. Subcommittee & staff reports and updates: on Wednesday June 29 at 10:00am a dedication ceremony will be held on Chandler Road adjacent to the Mill Pond Estates.
- c. Other business. The Board of Health is taking a critical look at the area across from Staples that is subject to continual flooding possibly due to the catch basin has not been cleared. Mr. Cohen was unsure that cleaning the catch basin would solve the problem of continual flooding. Mr. Keeley stated that the basin was cleared in October 2021 so that may not be the underlying issue leading to flooding.
- d. Upcoming meetings: July 14, 2022, | August 11, 2022

MOTION- To adjourn the meeting. The motion was unanimously approved by a vote of 4-0-0. Mr. Boivin voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes, and Mr. Cohen voted Yes.

Respectfully submitted by Tom Prior, Recording Clerk

