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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: July 8, 2021

TIME: 7:00 PM

PLACE: WebEx Remote Meeting

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Ed LoTurco, Donald Bernstein, Indra Deb and Kent Moffat

MEMBER MISSING: Jennifer O'Riorden

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

*Approved at the August 12, 2021 Conservation Commission meeting.*

### **1. Call to Order**

Mr. Cohen called the meeting to order at 7:00 PM. On a Roll Call, Mr. LoTurco voted Present, Mr. Bernstein voted Present, Mr. Boivin voted Present, Mr. Deb voted Present, Ms. Lima voted Present and Mr. Moffat voted Present. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

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 1st, 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. 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 rrX3hS3KXR2.

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](mailto:conservation@burlington.org) before the next meeting on August 12, 2021.



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

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

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**

**MOTION** - Ms. Lima made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until August 12, 2021. The motion was seconded by Mr. Boivin and voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

2. **Citizens' Time**

No one came forward to speak.

3. **Approval of Minutes – June 10, 2021 and June 24, 2021**

**MOTION** - Mr. LoTurco made a motion to approve the Conservation Commission minutes of June 10, 2021. The motion was seconded by Ms. Lima and voted 5-0-1. On a roll call vote: Mr. Boivin abstained from voting, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes

**MOTION** - Mr. Boivin made a motion to approve the Conservation Commission minutes of June 24, 2021 as amended by Mr. Boivin. The motion was seconded by Mr. LoTurco and voted 5-0-1. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

4. **Request for Certificate of Compliance**

4a. **10 Great Meadow Road – Town of Burlington – DEP #122-630**

Mr. Keeley stated that the DPW has asked for a continuance until the next meeting.

4b. **140 Lexington Street (Formerly 150 Lexington Street) – ARISTA Development, LLC – DEP #122-642**

Philip Henry from Civil Design Group and Amanda Marshall from Citizen's Bank appeared for the Certificate of Compliance for 140 Lexington Street.

Mr. Keeley stated that the applicant was told about the concerns found during the site walk including erosion into the water feature, the level of standing water in that feature is a concern and perhaps it is not infiltrating





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properly and trash behind the fence that is still there. Mr. Henry stated that they are proposing a splash pad and rip rap at the roof drain. In the depression area, there is loam and seed and it can take 72 hours for it to drain but they are proposing to remove 6" of the loam and seed and install river rock to help with drainage.

The Conservation Commission discussed/questioned:

- Have the 15 Red Maples, 14 shrubs and grasses been planted because it seemed sparse and the landscaping beds only had mulch and where there plantings required in the rain garden?
- It was noted that there is a sprinkler head right near the depression and that should probably be removed or relocated.
- The soil has eroded around the fence which allows trash to get under it and it goes into the wetlands.
- There is a fascia board on the building that is above the detention area and it looks like water is getting behind it.
- During the public hearing there was much discussion on trash and now there is dense vegetation. The trash near the fence on both sides could be picked up now, but the other trash closer to the wetlands would need to wait until fall. There should be a commitment that the trash will be picked up and they could hold the bond until it is completed.

The applicant/staff offered the following responses:

- All plantings have been planted. The water feature is not a rain garden it is only a graded depression and there were no plantings proposed.
- They will have the General Contractor look at the fascia board.
- They would like to set up a site walk and point out the areas of trash.

There were no questions from the audience.

**MOTION** - Ms. Lima made a motion to issue the Certificate of Compliance for 140 Lexington Street, DEP #122-642 but hold the bond until the items discussed tonight are corrected. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**4c. 3 Murphy Court – Robert W. Murray, Lexington Trust – DEP #122-633**

Phyllis Etsell appeared for the Certificate of Compliance for 3 Murphy Court.

Mr. Keeley stated that the demarcation was complete and he has no other issues with this project.

There were no questions from the Commission or the audience.

**MOTION** - Mr. Bernstein made a motion to issue the Certificate of Compliance for 3 Murphy Court, DEP #122-633. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Mr.





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Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to release the surety in the amount of \$3,500 for 3 Murphy Court, DEP #122-633. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

**5. Request for Determination of Applicability**

**5a. 35 Eugene Road – Doreen Fortini – Remove & Fill In-Ground Pool**

Doreen and Ed Fortini appeared for the request for determination of applicability to remove and fill in their existing in-ground pool. Ms. Fortini stated that they have had the pool for 36 years and it is old and becoming a problem. They would like to fill it in and then cover it with grass. They would like to keep the fence so they can have an enclosed area for their dog. Mr. Fortini asked if they can use the concrete blocks from the patio area for fill. Their contractor said that he could use them and break them into pieces. Mr. Cohen replied that if they are not compacted properly then they could sink and you could get depressions so make sure they are compacted.

Ms. Coleman stated that there is a large drop down to the wetlands. The area will be grassed and the fence retained so she has no issues with this proposals.

The Conservation Commission discussed/questioned:

- Will the shed and fence remain in the same location?

The applicant/staff offered the following responses:

- The shed and fence will remain.

There were no questions from the 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 35 Eugene Road to remove and fill in an in-ground pool as amended. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

**5b. 3 Murphy Court – Lori Shah – Expand Deck, Install Patio & Shed and Other Landscaping**

David Davis representing the owners of 3 Murphy Court appeared for the request for determination of applicability to expand the current deck and patio, add a shed and additional landscaping.

Mr. Keeley stated that there is some non-native species proposed that should be replaced with native species within the 100' buffer. The proposed shed location is on top of the infiltrator and that should be moved. Mr. Davis replied that they will move the shed and replace the non-native landscaping.





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The Conservation Commission discussed/questioned:

- Will the proposed deck be outside of the 40' no build zone?
- There should be no fertilizers, pesticides or herbicides used at this location due to the close proximity of the wetlands.

The applicant/staff offered the following responses:

- It will be outside of the 40' no build zone.

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 for 3 Murphy Court to expand the deck and patio, add a shed and additional landscaping as modified to replace the non-native species and relocate the shed off of the infiltration system. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

**5c. 16 Hilltop Drive – Mohan babu Ramisetty – Construct Garage and Second Story Addition**

Mohan babu Ramisetty appeared for the request for determination to construct a garage and second story addition to his home at 16 Hilltop Drive. Mr. Ramisetty stated that he bought the house 5 years ago and his family has expanded so he needs the extra room.

Ms. Coleman stated that this project is about 64' from the bordering vegetated wetlands and she has no concerns.

The Conservation Commission discussed/questioned:

- How much grading or fill will be brought in?
- How will roof top run off be addressed?
- Are there any proposed trees to be cut?

The applicant/staff offered the following responses:

- There is no proposed grading or fill.
- They will infiltrate the water but he will have to talk with the contractor on exactly how.
- There is one dead tree on the side of the house that they will take down and there is one maple tree that they hope to just trim the branches. If it is determined that the maple tree has to come down, the owner must contact the office to get administrative approval.

There were no questions from the audience.





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**MOTION** - Mr. Boivin made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for 16 Hilltop Drive to construct a garage, second story addition and deck. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

**5d. 60 Beaverbrook Road – Nancy Regonini – Grading and Landscaping**

Mr. Keeley stated that this was in response to an enforcement order but no one appears to be here for it. It should be continued until the August meeting.

**MOTION** - Ms. Lima made a motion to continue the Request for Determination for 60 Beaverbrook Road until August 12, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

**6. Public Hearing – Notice of Intent – 2 Terrace Hall Avenue – Asset Redevelopment Corp. – Demolish Dwelling and Construct New Dwelling – DEP #Pending**

Greg Saab from ESS appeared for the Notice of Intent for 2 Terrace Hall Avenue. Mr. Saab stated that they are proposing demolishing the existing house and building a new single family home. They will be adding in roof drains and there is 100 SF less impervious surface. There are a few trees in front that will be removed but they will leave all the trees within the 20' no disturb zone, a post and rail fence has been added for demarcation and a stone trench has been added along the driveway.

Mr. Keeley stated that a site walk was conducted. The applicant should mark on the plans which trees are being removed vs. the ones that will remain. There should be mitigation for trees that are cut in the buffer zone. He would also like to get on the property and check the wetlands line and soils. Mr. Keeley asked if there would be grading on the sides. Mr. Saab stated that the front of the house is at 137 ½' and will go to 139' so there is minimal grading.

The Conservation Commission discussed/questioned:

- Do all the trees have to be cut?
- Is the driveway larger than the 2-car garage?
- There should be no construction vehicles in the no-disturb zone.
- Are the arrows shown on the plan sufficient or should spot grades be added?

The applicant/staff offered the following responses:

- The 5 trees in the front yard yes but the can look at some of the other trees. He will work with Mr. Keeley onsite.
- The driveway is larger and there will be an area to park.





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Nelson and Susan Eby of 1 Terrace Hall Avenue – Mr. Eby stated that the map is incorrect, their property is marked as N/F Nelson. He is concerned with the trees being removed. If they are building up the grade on the right side, then water will flow to his property. Mr. Saab stated that they will stop the grading 5' from the property line so the water will drain to the back yard. They can also create a swale or berm to direct the water to the back. Mr. Keeley asked that the applicant coordinate the grade line with the neighbor on the other side that is also under construction so it does not impede the water flow. Mr. Eby stated that the water is different when there are trees versus when they are removed.

Mr. Cohen stated that for action items for the next meeting: Mr. Keeley will verify the wetland line and soils, the plan will be changed to show which trees are being removed and which trees are staying, spot grades for the driveway will be added on the plan; the legend will be updated to include the arrows that show water flow direction, the abutters name will be corrected on the plan, a swale will be added to direct the water to the back of the property on the right hand side, the applicant will coordinate with the property under construction so the grade line matches, and mitigation for tree cutting should be provided.

**MOTION** - Mr. Deb made a motion to continue the Notice of Intent for 2 Terrace Hall Avenue, DEP #122-Pending until August 12, 2021. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

## **10. Administration**

### **10a. Planning Board Comments**

There were no Planning Board comments.

### **10b. Subcommittee & Staff Reports and Updates**

Mr. Keeley stated that the 60 Blanchard Road project to reconstruct the parking lot was dewatering onto the roadway and it was running down Blanchard Road and there was silt and sediment. This is downgradient of a 21E site so they cannot infiltrate. This project was shut down and stabilized. This will be a challenging site.

Mr. Boivin asked what the status of the Winn Street project was. Mr. Keeley stated that the site was stabilized and they need to file a Notice of Intent for the restoration. This is tricky because the actual wetlands crossing are not part of the applicant's property; they only have an access easement.

Mr. Cohen asked if there has been any response from the Planning Board or Nordblom on the tree cutting at 4<sup>th</sup> Avenue. Mr. Keeley replied he has not heard from the Planning Board and he hopes to meet onsite with Mr. Fremont-Smith to discuss the plans for this area.

### **10c. Upcoming Meetings – August 12, 2021 and September 9, 2021**

### **10d. Other Business**

Mr. LoTurco stated that the Friends of Mary Cummings Park were thanked by the Select Board for saving and improving the park.





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**11. Adjournment**

**MOTION** - Ms. Lima made a motion to adjourn the July 8, 2021 Conservation Commission meeting at 8:40 PM. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb abstained from voting and Mr. Cohen voted Yes

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*

