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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: September 23, 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 Jennifer O'Riorden
MEMBER MISSING: Kent Moffat

*Also present were Conservation Administrator John Keeley and
Assistant Conservation Administrator Eileen Coleman*

1. Call to Order

Mr. Cohen called the meeting to order at 7:01 PM. On a Roll Call, Mr. Boivin voted Present, Mr. LoTurco voted Present, Mr. Bernstein voted Present, Mr. Deb voted Present, Ms. Lima voted Present and Ms. O'Riorden 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 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. 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 2339 548 3469 the password if needed is uPpyy3p5uA7.

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 October 14, 2021.

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



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2. Citizens' Time

Qicheng Yu of 3 Arnold Terrace stated that the French drains have been added but there is still water and he would like to add a stone pit and manhole to catch the overflow of water into the street. The proposed plan was approved by the Engineering Department. Mr. Keeley stated that what the Commission approved is not what was constructed. All this does is transfer the water problem from this property to someone else's back yard.

The Conservation Commission discussed/questioned:

- More information of where the water would go to is needed.
- Look at adding a rain garden in the back and not bringing the water to the front
- Why was the work not done as approved?
- Look at capturing as much water onsite as possible
- Where does the trench drain go at the driveway? Engineering should look at this.
- A Licensed Engineer should be contacted to size the drainage system properly.

The applicant/staff offered the following responses:

- The work is not done because equipment is still needed to come in the back yard.
- The trench drain along the driveway is not connected to anything.

3. Approval of Minutes – September 9, 2021

MOTION - Ms. Lima made a motion to approve the Conservation Commission minutes of September 9, 2021. The motion was seconded by Mr. Bernstein and voted 5-0-2. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin abstained from voting, Ms. O'Riorden 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

Joseph Fitzpatrick from the Engineering Department appeared for the Certificate of Compliance at 10 Great Meadow Road. Ms. Coleman stated that all work is complete and they have no issue with issuing the Certificate of Compliance. Mr. Cohen asked if there is regular maintenance of the infiltration system. Mr. Fitzpatrick replied yes, through the manholes.

MOTION - Mr. Boivin made a motion to issue a Certificate of Compliance for 10 Great Meadow Road, DEP #122-630. The motion was seconded by Mr. Deb and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.





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5. Minor Engineering Change – 70 Mill Street (Rahanis Park) – Add Drainage Structure – DEP #122-655

Meghan Cavalier from the Burlington Engineering Department appeared for a Minor Engineering Change at 70 Mill Street. Ms. Cavalier stated that she completed the work at 70 Mill Street but noticed a puddle issue behind the playground and it has become worse since they fixed the parking lot. They are proposing to add a 4" perforated pipe and ¾" crushed stone. Mr. Keeley stated that previously, the water would just roll over the pavement and go into the wetlands. The work that was done is an improvement and what is proposed is a good solution.

The Commission has no questions.

MOTION - Ms. Lima made a motion to approve the Minor Engineering Change for 70 Mill Street DEP #122-655 as proposed. The motion was seconded by Mr. Deb and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

6. Request for Determination of Applicability

6a. 28 Winn Street – Moniz Donuts, Inc. c/o Lisa Dempsey – Change Parking Lot and Drive-Thru Configuration

Bill Lucas from Bohler Engineering appeared for a Request for Determination of Applicability at 28 Winn Street. Mr. Lucas stated that they are proposing reconfiguration of their parking lot. There are wetlands and buffer zone on the northeast side of the property. There will be no additional impervious surface. The roof and parking lot runoff are handled with an existing catch basin on site and erosion controls will be added.

Ms. Coleman stated that this is within the buffer zone. There are no storm water improvements proposed and there is some additional green space proposed. There are trash bins and grass clippings in the wetlands that need to be removed. Ms. Coleman added that maintenance records were supposed to be submitted and they haven't been. Mr. Keeley stated that this was approved in 2004 under DEP #122-373 and a condition was to provide maintenance records which haven't been done. Ms. Coleman stated that a PE should do an assessment and an Enforcement Letter should be written. The conditions of the O&M are still in effect.

The Conservation Commission discussed/questioned:

- Can the gate be removed? It is not needed and allows for dumping in the wetlands.
- The grasses should be replaced with plantings instead of lawn.
- Will there be a second order window?
- Is there a shallow overflow?

The applicant/staff offered the following responses:

- There will be two lanes to order but a single pickup window.





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- There is no shallow overflow.

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 28 Winn Street. The motion was seconded by Mr. Bernstein and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to direct staff to issue an Enforcement Order to 28 Winn Street for failure to submit the required inspection documents. A licensed Civil Engineer should be hired to inspect and provide a report of the status of the drainage system. A \$300 fine could be issued if this continues. The motion was seconded by Ms. Lima and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

Mr. Boivin and Ms. O’Riorden stated that they have watched the video of the previous hearing is update on the public hearings.

7. Continued Public Hearing – Notice of Intent – 26A Francis Wyman Road – Town of Burlington – Rehabilitate Pump Station and Replace Force Main – DEP #122-661

Brian White, Assistant Town Engineer, appeared for the continued Notice of Intent for 26A Francis Wyman Road, DEP #661. Mr. White stated that stated that this project is for a new force sewer main and he is here to answer any additional questions.

Ms. Coleman stated that this will be a huge benefit, because it will not being going through the wetland and now will be in the street right of way.

The Conservation Commission discussed/questioned:

- Will the old pipe be removed or abandoned and what type of material is it?
- Are there any impacts to the wetlands if the pipe remains?
- Will there be check dams installed?

The applicant/staff offered the following responses:

- The old pipe will be pumped, cut and capped. It is cast iron.
- There will be no impacts to the wetlands.
- Weston and Sampson looked at this and once it is installed there will be no chance of spills so no check dams will be installed.

There were no questions from the audience.





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MOTION - Mr. LoTurco made a motion to close the public hearing for the Notice of Intent for 26A Francis Wyman Road, DEP #122-661. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Deb made a motion to approve the findings for 26A Francis Wyman Road, DEP #122-661 under Burlington Wetlands Bylaw, Article 14 and the State Wetlands Protection Act. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to approve the Order of Conditions for 26A Francis Wyman Road, DEP #122-661 under the Burlington Wetlands Bylaw, Article 14 and the State Wetlands Protection Act. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

8. Continued Public Hearing – Notice of Intent – 15 Dolores Drive – Sunshine Realty Trust – Demolish Dwelling & Construct a New Dwelling – DEP #122-662

David Romero appeared for the continued Notice of Intent for 15 Dolores Drive to demolish an existing dwelling and construct a new dwelling. Mr. Romero stated that a site visit was conducted last week and the wetland line was reviewed. The fence was straightened out slightly along the wetlands line.

Ms. Coleman stated that they agree with the wetlands line and there are no trees to be removed, only shrubs. There were no questions from the Commission or the audience.

MOTION - Mr. Bernstein made a motion to close the public hearing for the Notice of Intent for 15 Dolores Drive, DEP #122-662. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Deb made a motion to approve the findings for 15 Dolores Drive, DEP #122-662 under the Burlington Wetlands Bylaw, Article 14. The motion was seconded by Mr. Bernstein and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. LoTurco made a motion to approve the Order of Conditions for 15 Dolores Drive, DEP #122-662 under the Burlington Wetlands Bylaw, Article 14 and the State Wetlands Protection Act. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Deb made a motion to require a \$3,500 surety bond for 15 Dolores Drive, DEP #122-662. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes,





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Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

9. Public Hearing – Request for Amendment to Order of Conditions – 6 Terrace Hall Avenue – Langone Development Group Inc. – Site and Grading Changes – DEP #122-656

Jonathan Langone appeared for request for an amendment of an Order of Conditions for 6 Terrace Hall Avenue. The Order of Conditions was approved on April 8, 2021. Mr. Langone stated that they would like to construct a boulder wall across the site and tie it into the field stone wall already in existence and add a patio. Ms. Coleman stated that the pile of debris should be leveled to the ground. The grade will be adjusted slightly, a grass swale will be added and they are proposing to relocate a deck. Ms. Coleman asked if they will grade down to the boulder wall. Mr. Langone replied that they will raise the grade about 2 ½’.

The Conservation Commission discussed/questioned:

- The boulders are currently exposed and if you bring the fill up to them then there would not be a deterrent from dumping into the wetlands.

The applicant/staff offered the following responses:

- They will also add two signs that state “Wetlands – No Dumping” or similar along the back.

There were no questions from the audience.

MOTION - Mr. LoTurco made a motion to close the public hearing for the Request for Amendment to the Order of Conditions, 6 Terrace Hall Avenue, DEP #122-656. The motion was seconded by Mr. Bernstein and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to approve the amendment to the Order of Conditions for 6 Terrace Hall Avenue, DEP #122-656 as requested. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

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

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

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

Phyllis Etsell, David Romero, Bill Rudolph and Mary Trudeau appeared for the continues Notices of Intent for Redmond Street Roadway, and 4 and 5 Redmond Street. Mr. Romero stated that the subdivision will have 2 lots that are accessed off Redmond Street. There will be a cul-de-sac, retaining walls and an 18’ roadway. On Lot #4, there is a full drainage system with 2 catch basins that flow to a water quality device into a full





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infiltration system along Raymond Street. The roof runoff for #4 will go into an underground chamber. There is also an 8'x9'x2' culvert. They will be filling 4,000 SF of wetlands. They will be providing 1 to 1 replication and they are offering a 1.7-acre parcel off Summerset Street. The wetlands line has also been modified. Ms. Trudeau stated that the wetland line has been set.

Mr. Keeley stated that there is a question on the ownership of the storm water and infiltration system because it is located on 2 lots. This issue maybe a Planning Board issue. The retaining wall is an improvement. DEP requires 1 to 1 replication but the Burlington bylaw requires 2 to 1 but the land being donated should be considered. The applicant should check with the Engineering department to make sure the culvert pipe is the proper material. He also agrees with the wetland line.

The Conservation Commission discussed/questioned:

- If the elevation of the cul-de-sac is 147' and the foundation is at 141' the water, will sheet flow towards the house?
- Will the distribution of the water in the wetlands be interrupted with the wetlands that are being filled?
- Will there be sump pumps in the basements of the houses?
- Construction of the roadway will divide the wetlands.
- Can the existing wetlands handle the water flow from the new impervious surface?
- There will not be much of usable yards for the houses.
- Will propane be used for heating?
- The test pits were done in 2020 and there has been a lot of rain in 2021 so ground water will be higher. New test pits should be done.
- Concerned with how the infiltration will work.
- There is a massive amount of water that comes down off Raymond Street and the basement elevations are lower than some of the wetland elevation.
- Concerned with the amount of land being cleared. With over an acre of trees being cut, that could mean 1 million gallons of water a year will not be absorbed by the trees.
- The applicant should look at solar panels and electric heat pumps to provide a green energy house.
- The slope is over 20' especially on the left side.
- Waterproofing and sump pumps should be looked at.
- Information should be provided on the 1.7 acre parcel such as significant features and qualifying value.
- Is it a risk if they don't require 2 to 1 wetlands replication?
- Is a Natural Heritage Survey needed?





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The applicant/staff offered the following responses:

- The runoff from Raymond Street will continue into the wetlands and they have provided flood control.
- The filling of the wetlands will not interrupt the distribution.
- No sump pumps are being planned but they can discuss it with the developer.
- The culvert meets the DEP requirements.
- They are not sure of what will be used for heating.
- They use historical ground water but can do a few more test pits.
- There is 2' of separation from the high ground water from the infiltration system and a 3 to 1 slope.
- There is a large area to the left that is a filled wetland so that should be easy to restore but the other side is hard to say. It is about 12% over the 1 to 1 replication.
- A Natural Heritage Survey is not needed.

Mr. LoTurco left the meeting at 9:18 PM.

Mr. Cohen stated that the items to be addressed for the next meeting are:

- Ownership of the infiltration system needs to be clarified.
- Details of the value of the 1.7 acre parcels should be submitted.
- The type of material of the culvert should be verified with the Engineering department.
- The applicant should look at sump pumps, waterproofing and green energy.
- Additional test pits to confirm high ground water level.

MOTION - Mr. Boivin made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until October 14, 2021. The motion was seconded by Ms. Lima and voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

13. Administration

13a. Planning Board Comments

Mr. Keeley will update the Planning Board on discussions tonight.

13b. Subcommittee & Staff Reports and Updates

There were no subcommittee, staff reports or updates.





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13c. Upcoming Meetings –October 14, 2021 and October 28, 2021

13d. Other Business

Mr. Deb stated that the Diwali event will be this Sunday, September 26th from 4:00 to 6:30 PM on the Common.

Mr. Cohen stated that Ken Gordon will be holding an event with the Speaker of the House on Mass Economy and the direction it is headed on September 28th at 6:30 PM at the Archer Hotel.

14. Adjournment

MOTION - Mr. Boivin made a motion to adjourn the September 23, 2021 Conservation Commission meeting at 9:52 PM. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn McDowell,
Recording Clerk*

