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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: May 12, 2022

TIME: 7:00 PM

PLACE: Burlington Town Hall, WebEx Remote Meeting

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Ed LoTurco and Kent Moffatt, Don Bernstein

MEMBER MISSING: Jennifer O'Riorden, Indra Deb

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

*Approved at the Conservation Commission meeting of June 9, 2022.*

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

Mr. Cohen stated that this meeting is being held in person, with the option of joining virtually through WebEx. 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 @ +1-408-418-9388 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.

New public hearings opened tonight will not be closed, 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 May 26th, 2022.

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

Mr. Cohen called the meeting to order at 7:00 PM. Roll call was taken, and commission members Larry Cohen, William Boivin, Kent Moffatt, Ed LoTurco, and Don Bernstein were present.

Jennifer O'Riorden and Indra Deb were not present.

**4. Request for Certificate of Compliance 98-108 Middlesex Turnpike** – Yard House USA – Stormwater Permit. Mr. Cohen announced this item will be continued to the May 26<sup>th</sup> meeting.

**7. Continued Public Hearing – Notice of Intent – 102R Winn Street** – Sung Ok & In Ho Lee – Replace culvert & restore wetlands/stream bank – DEP #122-666, Mr. Cohen requested a vote to continue the hearing.





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**MOTION-** To continue the Public Hearing – Notice of Intent – 102R Winn Street – Sung Ok & In Ho Lee – Replace culvert & restore wetlands/stream bank – DEP #122-666 to the May 26<sup>th</sup>, 2022, meeting of the commission. On a roll call vote the Motion was unanimously voted 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

**2. Citizens Time** There were no comments from the audience neither in person nor online.

**3. Approval of Minutes-** Minutes for the April 28<sup>th</sup> commission meeting had not been received yet, so no vote was taken.

**5. Request for Determination of Applicability**

- a. 94 Drake Road – Colleen Bridget Sicari & Daniel Sicari – Install above-ground pool

Mr. Peter Di Bernardo with Gibraltar pools in Topsfield summarized the scope of the proposed project as follows: it would sit behind a retaining wall and a machine will be on site for under an hour to level the area and the remainder will be completed by hand. The filtration system is a self-contained cartridge system, meaning there will be no need for backwashing of treated pool water into the yard. All the water will be contained within the walls of the pool.

Mr. Keeley pointed out that the wetland is not far beyond the retaining wall and the grading for the pool would be very close to the edge of wetlands. He believes the wetlands should be flagged and the exact location of the pool may need to shift. He recommended the project not be approved as a Determination of Applicability if the pool is within the 40-ft no-build zone. A waiver could be granted but it would have to be under an Order of Conditions.

Mr. Cohen asked the members of the Commission for questions and comments.

Mr. Moffatt asked if there is going to be a rock border around the pool, in response Mr. Di Bernardo stated that there would be a mulch or crushed stone buffer that would not go beyond the safety ledge of the pool. He stated that it would most likely be about 2 feet from the edge of water in the pool.

Mr. LoTurco and Mr. Bernstein expressed their agreement with Mr. Keely for the wetland to be delineated.

Mr. Boivin asked about the wetland resource area, whether it is bordering vegetated wetlands or isolated. Mr. Keeley stated that he believes it is considered bordering vegetated wetland. He also asked if an above ground pool requires a building permit, in which Ms. Coleman responded yes. He agreed that the wetlands need to be flagged and that the project should become a Notice of Intent.

Mr. Cohen suggested to the Commission that the resident should get a wetland delineation and file a Notice of Intent if they are seeking a waiver. Mr. Di Bernardo expressed concern about the timeliness of the project and reiterated that the project would not have a major impact on the surrounding land and wetlands. In response, Mr. Cohen stated that if the wetlands are delineated the Commission could consider letting it go as a negative





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conditional Determination and/or make an exception to do a waiver of the regulations. He stated that to grant a waiver, the applicants will have to give an incentive to do a waiver, such as replacing some previously removed trees if deemed necessary and appropriate.

**MOTION-** To Continue the Public Meeting for 94 Drake Road Under Burlington Bylaw article XIV and the state Wetlands Protection Act until the May 26<sup>th</sup> meeting of the Commission. The Motion was approved unanimously 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

**6. Public Hearing – Stormwater/Erosion & Sedimentation Control Bylaw Application** – 4 Maureen Drive – Quinn Builders Co. – Demolish dwelling & construct 2 new dwellings.

Mr. Tim Quinn of 4 Maureen Drive in Burlington spoke on behalf of the project and stated that the ANR plan has been approved by the Planning Board. After investigating, he found that all the existing drainage on site is bottomless, so there is all stone beneath the drywells and he proposed they remain in place. He explained that impervious area would be reduced by 27% from 19,105 ft<sup>2</sup> to 13,900 ft<sup>2</sup>.

Ms. Coleman expressed her concern that there is no plan for additional stormwater management. She stated that Mr. Quinn said the existing system appears to infiltrate and further action may not be required.

Mr. LoTurco expressed how he was impressed with the plan and reduction of runoff.

Mr. Bernstein did not have any further comment.

Mr. Moffatt asked if there were any more trees that are slated to be removed. In response Mr. Quinn stated that only a couple of dead pine trees will be removed, nothing else along the road.

Mr. Boivin requested more details on the drainage. In response, Mr. Quinn stated that two existing drywells will be used to capture roof and driveway runoff.

Mr. Cohen stated that it would be beneficial to have a drawing that shows where the roof leaders are and what they connect to. In that case if someone is following the drawing they know where the roofs go in relation to the pavement. He also requested clarification as to which open ended catch basins or drain manholes are infiltrating.

Mr. Boivin asked how the homes would be heated. Mr. Quinn stated the heat source is unlikely to be natural gas and could possibly propane and more likely heat pumps.

Mr. Cohen opened the floor for audience comments. Mr. Herb Pflanz of 6 Maureen Drive outlined his concerns about the erosion control where a retaining wall is planned and water runoff down the driveway. Mr. Quinn stated that the catch basin would be brought up to grade and assured Mr. Pflanz that there will more grass on that side of the property and that a stone trench or a strip drain can be installed on the left side of the driveway.





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Mr. Cohen asked if the plan has enough contours to direct enough water to the strip drain. Mr. Quinn responded that there is enough information on the plan to support the change in gradient.

Another audience member Wendy Sussman of 8 Marion Road expressed concern about the possibility of additional water in her basement due to the construction of the two new homes adjacent to her property. The response to the question was that there should be no impact to her property.

Ms. Karen Pflanz of 6 Maureen Drive had a follow-up question about the length of the wall. Mr. Quinn responded that it is planned to be about 60 ft long but could possibly be shorter. He assured her that a temporary fence and erosion control would be implemented during the construction of the wall.

There were no additional comments from audience members.

Mr. Cohen reiterated his request for a clearer plan for runoff and that the dry wells on site will adequately meet the needs of the property.

Mr. Boivin emphasized his desire to make sure all the plantings on the property are native plants, to which Mr. Cohen agreed as did Mr. Quinn.

**MOTION-** To continue the hearing for the Stormwater/Erosion & Sedimentation Control Permit Application – 4 Maureen Drive – until the May 26 meeting of the Commission. The Motion was approved unanimously 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

**8. Public Hearing – Notice of Intent – 24 Terry Avenue** – Amie Geary/Northern Business Machines – Construct 3-space parking lot – DEP #122-pending

Ms. Amy Geary of Northern Business Machines was at the meeting in person and Mr. David Romero from Commonwealth Engineering was present remotely. Ms. Geary explained that due to a Special Permit decision with the Planning Board, a sidewalk is being required to be installed in the area. Ms. Geary explained that due to the service doors on the side of the building and the addition of the sidewalk, that service vehicles would block the proposed sidewalk.

Mr. Keeley explained that the proposed 3 space lot is not much larger than a typical residential driveway, so the drainage design is similar. He was not sure about the exact distance from the proposed lot to the neighboring wetland. Mr. Romero stated that the wetland is approximately 50 feet from the wetland. Mr. Keely had no concerns about the project.

None of the commissioners had any further problems with the project.

Mr. Cohen brought the issue of yard waste and materials being dumped behind the property, which Ms. Geary was unaware of. Mr. Cohen asked if the debris could be removed and if a previously moved sign and boulder could be moved in which Ms. Geary agreed.





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A member of the audience, Ms. Cathy O'Neil of 31 Arthur Woods Avenue expressed concerns about the proposed parking spaces and that in her opinion it is unnecessary and that it would be detrimental to her neighborhood and the buffer zone between the businesses and homes in the neighborhood.

Mr. Boivin articulated his understanding of both sides of the issue and iterated that the role of the Conservation Commission is to ensure that proposed projects meet the requirements that the Commission enforces, and that this argument may be better suited for the Planning Board.

Ms. Geary reiterated that the additional spots are indeed necessary because of the construction of the sidewalk and the desire to not block the sidewalk.

Mr. Boivin asked if there is a plan to put trees in the area to act as a visual buffer. Ms. Geary responded that the trees would be planted along Long Street.

Mr. Cohen explained to the concerned citizen that while she may have a point and that the Commission understands her feelings, the Commission cannot simply deny a permit arbitrarily due to the objections of an abutter.

Mr. Cohen asked if there were any further comments from the audience. Ms. Galina Savikovsky of 1 Dale Street voiced concerns about dumping on the property adjacent to her property.

Ms. Debbie Harrington of 2 Dale Street stated that the sidewalk and trees are required under the overlay requirements from the Planning Board.

Ms. Geary clarified that the overlay requirements do not require a sidewalk, but it was a request by the Planning Board. She further explained that it was a mutually agreed upon decision between the neighbors and Northern Business Machines.

**MOTION-** To continue the hearing for 24 Terry Avenue until May 26<sup>th</sup>, 2022, meeting. The Motion was approved unanimously 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

**9. Continued Public Hearing** – Proposed revisions to Stormwater/Erosion & Sedimentation Control Bylaw (General Bylaws, Article XIV, section 6)

Ms. Coleman began the conversation with a recap on where the conversation ended at the previous meeting. The Commission would like to reduce the thresholds for abbreviated permit and the standard permit, and there was a discussion about trees. Given the bylaw is a stormwater bylaw she does not want the discussion of trees to be the focus of the revisions, as those would be better suited for a separate tree bylaw.

Proposed changes include changing the threshold for a standard permit from 20,000 ft<sup>2</sup> to 15,000ft<sup>2</sup> and an abbreviated permit from 10,000 ft<sup>2</sup> to 5,000ft<sup>2</sup>.





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Alternative proposed changes include leaving the standard permit threshold at 20,000 ft<sup>2</sup> OR if the applicant proposed to increase impervious surface on the lot such that the increase totals 10% or more of the lot. For the abbreviated permit, to drop the threshold to 5,000ft<sup>2</sup> or if the applicant is proposing increasing the impervious surface by 5% of the lot.

Mr. Cohen submitted to the Commission that the alternative proposal for a full permit and the alternative proposal for an abbreviated permit is the preferred course of action.

The other commissioners: Mr. LoTurco, Mr. Bernstein, Mr. Moffatt and Mr. Boivin, agreed.

Mr. Cohen transitioned the focus of the conversation to cite a tree ordinance from Newton, MA [Microsoft Word - Chapter 21 - Parks and Recreation - 2017 \(newtonma.gov\)](#) that requires that the removal of a tree above a certain size must be granted by a tree warden. If the homeowner has lived at the property for at least 90 days, they may receive a waiver. However, if the property is owned by a developer or flipper, a permit must be acquired. He stated his understanding that for this type of undertaking, a separate tree ordinance would be required.

Ms. Coleman asked the commission about section 6.6.3.1 which asks for trees greater than 8 inches in diameter to be shown on building plans. She asked if that was still desired to which Mr. Cohen responded, yes.

**MOTION-** To continue the public hearing for the proposed changes to the Stormwater/Erosion & Sedimentation Control bylaw until the next commission meeting on May 26<sup>th</sup>. The Motion was approved unanimously 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

#### **10. Administration**

- There were no planning board comments.
- There were no subcommittee staff reports.
- There was no official other business.

#### **11. Adjourn**

**MOTION-** To adjourn the meeting for May 12<sup>th</sup>, 2022. The Motion was approved unanimously 5-0-0. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes.

*Respectfully Submitted by Tom Prior, Recording Clerk*

