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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: June 9, 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, Ed LoTurco, Kent Moffatt, William Boivin, Don Bernstein

MEMBER(S) MISSING: Jennifer O'Riorden, Indra Deb

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=m43cffa22874e8a20ab6be0195c34dec7>

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

Meeting number (access code): 179 747 7321

Meeting password: rrX3hS3KXR2

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

FACEBOOK LIVE FEED.

LINK TO POSTED VIDEO:

[Conservation Commission | Burlington Access TV \(bcattv.org\)](#)

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

MEMBER(S) MISSING: Jennifer O'Riorden, Indra Deb





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1. Roll Call

Don Bernstein, William Boivin, Kent Moffatt, Ed LoTurco, and Larry Cohen were in attendance.

Jennifer O’Riorden, and Indra Deb were absent.

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

2. Citizens’ Time

No citizens in the audience came forward.

3. Approval of Minutes

MOTION- To approve Minutes for May 12, 2022. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To approve the Stormwater Bylaw subcommittee minutes of February 15, 2022. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To approve the Stormwater Bylaw subcommittee minutes of March 10, 2022. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

4. Request for Certificate of Compliance

a. 98-108 Middlesex Turnpike – Yard House USA – Stormwater Permit. Continued until the June 23, 2022, meeting of the commission.

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

MOTION- To continue the 13 Pathwoods Avenue until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

5. Request for Determination of Applicability

a. 174 Winn Street – Sonny Ferrante – Demolish single-family dwelling & construct new single-family dwelling.





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Mr. Sonny Ferrante explained the plan to demolish a single-family home and construct a new single-family home. The current and future dwellings will be outside of the 100' wetland buffer zone. There are no trees that are within the buffer zone that will be cut down and there will be erosion control placed about 51' to protect the wetland.

Mr. Keeley stated his belief that the wetland is closer than it appears in the submitted plan and recommended the wetlands be flagged.

Mr. Ferrante said he would contact Mary Trudeau to flag the wetland area.

Mr. Bernstein and Mr. LoTurco agreed that wetland flagging should be done.

Mr. Boivin expressed support for the flagging of wetlands and asked about the removal of abandoned vehicles on the property and requested soil samples be taken to see if they have caused an effect on the wetland. Mr. Ferrante was open to the idea. He also asked about the rooftop water runoff and requested the drawing be updated to show the plan for rooftop runoff.

Mr. Cohen suggested Mr. Ferrante coordinate with the Board of Health and ask about the protocol for soil sampling.

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

MOTION- To continue the meeting for the project at 174 Winn Street until the August 11, 2022, meeting of the Commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

b. 8 Stewart Street – Gerard Evans – Remove trees, grade, install fence within 100' buffer zone to BVW.

Mr. Gerard Evans explained his plan to remove 5 sick or dead pine trees and one maple showing signs of rot that is leaning towards a neighbor's fence. There would be a fence built in the area where the trees currently are, parallel to Whitney Street, and light grading of the yard to fill in minor depressions and a slight decline in the backyard near a wetland. Two trees on the other side of the yard would also be removed under the proposal.

Mr. Keeley suggested that a second opinion regarding the removal of the trees be sought by someone who does not have a vested interest in taking down the maximum number of trees possible.

Mr. Cohen explained why wetlands and trees are protected under law due to their ecological significance for providing shade, habitat, healthy vegetation, and water ecosystems. He also explained circumstances in which trees within a 20' buffer zone may be taken down and replaced including posing a danger to the property and or extreme hindrance of the use of the property. He suggested the Commission should look at the replacement of trees within the buffer zone and for the consultation of a certified arborist.

All the commissioners agreed with the need for a consulting arborist to inspect the trees on the site.





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No one in the audience asked questions nor made comments about the project.

MOTION- To continue the meeting on 8 Stewart Street until the July 14, 2022, meeting of the Commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

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

Brian White of the Burlington DPW and Patrick Terrien Wastewater Engineering Consultand from Weston and Sampson appeared to discuss the project. Mr. White explained the pump station on Partridge Lane is not operating at the highest possible capacity as one of the two pumps is non-operational due to a break in the suction lines which cannot be fixed, and if is not replaced could cause flooding. The proposal is for a pump station conversion from the current drywell/wet well configuration into a submersible style station.

Mr. Keeley explained the wetlands had been delineated, and work would be done near wetlands and withint bordering land subject to flooding but there will be no additional fill in the floodplain.

No one in the audience asked questions nor made comments about the project.

MOTION- To continue the Public Hearing for the project at 12 Partridge Lane until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

7. 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.

Mr. Dan Dragani of Dragani Engineering summarized the scope of the project that being the demolition of an existing dwelling and the construction of a new dwelling. The proposed dwelling is outside the 100' buffer zone but within the 200' riverfront area. There is a plan for drainage mitigation and mitigation plantings directly outside the 20' buffer (no-disturb) zone to enhance the buffer zone and minor grading on the lot.

MOTION- To continue the meeting for the project at 29 Dolores Drive until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

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

Mr. Gary Litchfield of 3 Benson Way in Burlington spoke about the proposed construction of a new home at 77 Drake Road. Mr. Chris Mello of Eastern Land Survey and Leah Basbanes of Basbanes Wetlands Consulting were in attendance as well and assisted in the explanation of the plan. The house is proposed in the middle of the 3-acre parcel and is outside the wetland buffer zone as is all but 100' of driveway. In the area between





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Drake Road and the 100' buffer zone is a proposed driveway, with sewer and water, a retaining wall, and an infiltration trench. The proposal includes a plan for filling in and building on 700 ft² of bordering vegetated wetland at the closest portion to Drake Road. A replication area of 1450 ft² would be provided further south on the property. This 2:1 replacement in the current version of the plan complies with the town wetland bylaws.

MOTION- To continue the hearing for 77 Drake Road until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

10. Continued Public Hearing – Notice of Intent – 4 Mildred Road – SJ Peacock Builders Inc. – Demolish dwelling & construct new dwelling – DEP #122-674.

Mr. Steven Dresser read the project scope which is for demolition of an existing dwelling and construction of a new dwelling, with a reduction in impervious area. Mr. Dresser and the homeowner have reviewed the proposed conditions sent by Conservation staff and they agreed to them.

Ms. Coleman read the draft decision, which included the proposed addition of requiring 6 shrubs for the Commission to consider. The proposed construction is within the 100' buffer zone to bordering vegetated wetlands and the closest point of the proposed new dwelling will be about 26.4' from the bordering vegetated wetland, and the proposed new deck will be 17' from the existing wetland compared to the current deck location of 16' from the wetland. Stormwater runoff standards have been met by the current draft of the proposal even though the project is technically exempt from such measures as a single-family dwelling. Infiltration on site will be at the maximum extent possible under the wetlands bylaw by using an underground recharge system and grading the driveway to a 2' x 2' trench. It is assumed that a waiver will be required for the no disturb setback since work will be done within the 20' buffer. The demarcation fence will allow previously disturbed wetland areas to naturally vegetate and will prevent future encroachment. A \$3,000 surety is proposed for the project.

MOTION- To waive the no disturb setback to the bordering vegetated wetland because the applicant would require extensive engineering and greater disturbance of the lot. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To close the hearing for DEP #122-674. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To adopt the findings under Burlington Bylaw Article XIV for DEP #122-674. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.





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MOTION- To adopt the Order of Conditions for DEP #122-674 under Burlington Bylaw Article XIV and the state Wetland Protection Act. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- For the posting of a \$3,000 surety for DEP #122-674 under Burlington Bylaw Article XIV. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

11. Continued Public Hearing – Notice of Intent – 82 Macon Road – Stacie M. Colella – Construct residential addition – DEP #122-673.

Ms. Maureen Herald of Norse Environmental Services read the description of the project based on changes from the previous meeting of the Commission. Additions included 5 native shrubs as well as the removal of yard debris and branches in an area now identified as wetland; there will be the placement of a wetland seed mix in that cleared area to revegetate the area as well as planting 3 high bush blueberry plants.

Ms. Herald and the Commission staff agreed on adding 3 trees to the planting plan in addition to the blueberry plantings.

No one in the audience asked questions nor made comments about the project.

Ms. Coleman read the draft document and included the additional 3 trees agreed upon by Ms. Herald on behalf of her clients and the Commission. The proposed new dwelling was approximately 42' from the wetland, rooftop runoff will be infiltrated into two stormwater trenches on either side of the addition and the mowed lawn will be replaced with three trees and five native shrubs and the previously disturbed area will naturally revegetate. The Commission requests 9" straw wattles with a filter fabric fence in the area where erosion controls are proposed, and a performance bond of \$2,500. The order permits work within 100' buffer zone to the bordering vegetated wetland and within the 200' riverfront area. No work within resource area will be allowed, nor will grading beyond what is shown in the approved plan. Materials shall not be stockpiled within 40' of the wetlands or stream.

MOTION- To close the hearing for DEP #122-673 Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To adopt the findings under Burlington Bylaw Article XIV for DEP #122-673. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

MOTION- To adopt the Order of Conditions for DEP #122-673 under Burlington Bylaw Article XIV and the state Wetland Protection Act. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.





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MOTION- For the posting of a \$2,500 performance surety for DEP #122-673 under Burlington Bylaw Article XIV. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

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

Mr. Steven Dresser briefly summarized the project as the removal of an existing culvert, replacement with a footbridge and restoration of the stream in a manner that meets stream crossing standards as well as structural integrity requirements. The property on which the work described in the initial Notice of Intent was not owned by the applicant but was subject to a legal right of way on behalf of the homeowner, and was later purchased by the homeowner, negating any disputes as to who has a right of way on that parcel.

Mr. Keeley explained the Order of Conditions for the sewer underneath the stream will no longer be needed as the sewer will now be going out to Duncan Road. Mr. Keeley recommended the Certificate of Compliance be closed and the Notice of Intent be amended.

No one in the audience asked questions nor made comments about the project.

MOTION- To continue the hearing for 102R Winn Street until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

13. Minor Engineering Change – 70 Winter Street – Town of Burlington – Stormwater Permit.

Mr. Keeley stated the scope of the project as a proposed shed between the new water treatment plant and the existing water treatment plant. The new location will not affect any buffer zones and will be surrounded by pervious material.

MOTION- To approve the Minor Engineering Change for the project at 70 Winter Street by the Town of Burlington under the Stormwater Permit. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

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

Mr. Cohen summarized the scope of the project including the proposal to change the criteria for each current permit. The Standard Stormwater Permit will be for 20,000 ft² of land disturbance or for projects proposed to add greater than 10% impervious surface, in majority of cases this permit will not affect residential projects. The Abbreviated Stormwater Permit is for projects proposed to add between 5-10% increase in impervious surface or 5,000-20,000 ft² of land disturbance or filling more than 6". The Abbreviated Permit will now require a modest performance bond. Written notifications will be required for direct abutters to the proposed project.





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Cases that will increase impervious surface by 5% or more or more than 6" of fill will require a civil engineer's stamped plan.

There was no one in the audience to speak on behalf of the project.

MOTION- To continue the hearing for the Proposed revisions to Stormwater Management Bylaw (General Bylaws, Article XIV, section 6) until the June 23, 2022, meeting of the commission. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

13. Administration

- a. There were no Planning Board comments.
- b. The deed has been recorded for the Chandler Road parcel, rendering it Conservation Land.
- c. There was no other business.

Mr. Cohen asked when the bylaw needs to be submitted. Ms. Coleman responded saying it was in June.

- d. The next Conservation Commission meeting will be held on Thursday June 23, 2022, and Thursday July 14, 2022, and August 11, 2022, at 7:00pm each night.
- e. Adjourn

MOTION- To adjourn the June 9, 2022, Conservation Commission meeting. Mr. Bernstein voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Moffatt voted Yes, and Mr. Cohen voted Yes. The motion was passed with a vote of 5-0-0.

Respectfully submitted by Tom Prior, Recording Clerk.

