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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: July 14, 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, William Boivin, Indra Deb, Kent Moffatt, Jennifer O’Riorden.

MEMBER(S) MISSING: Don Bernstein, Ed LoTurco

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

**1. Call Meeting to Order – Roll call of attendance** Chairman Larry Cohen, William Boivin, Indra Deb, Kent Moffatt, Jennifer O’Riorden were all present.

**2. Citizens’ Time**

There was no one in the audience for citizens’ time.

**3. Approval of Minutes:**

a. June 9, 2022

**MOTION-** To approve the Minutes for the meeting of June 9, 2022. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

b. June 23, 2022

The Minutes for June 23, 2022, were not yet available.

**4. Request for Certificate of Compliance**

a. 20 Stony Brook Road – Ming Liang Lu – DEP #122-643

No one was in the audience for the project, but Ms. Coleman provided a summary. The Certificate of Compliance is for a project involving the tear down of an existing single-family home and the construction of a new single-family home that was in the buffer zone to the bordering vegetated wetland (BVW). The homeowners were asked to construct a post-and-rail fence which they did and add two trees behind the post-and-rail fence which they also did. A



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patio was constructed under a Minor Engineering Change, and the area was graded towards the wetland. Ms. Coleman stated that she saw no issues with the project at this time.

None of the Commissioners had any further comments.

**MOTION-** To issue a Certificate of Compliance for 20 Stony Brook Road DEP #122-643. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

**MOTION-** To release the full amount of the \$2,500 bond for the project at 20 Stony brook Road. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

b. 98-108 Middlesex Turnpike – Yard House USA – Stormwater Permit. This will be continued until the next meeting of the Commission.

### **5. Request for Determination of Applicability**

b. 51 North Avenue – American Towers LLC – Install generator on new concrete pad.

Mr. Edward Pare of Brown Rudnick LLP was in attendance remotely to represent American Towers. He explained the tower has been in town since 2001 and American Tower has begun the process of installing shared generators so that the carriers operating at this facility can have back up power sources and have fewer generators at the property. The area where the concrete pad is proposed is previously disturbed land, the plan also calls for the installation of an “H frame” which is basically two fence poles in the shape of an “H” that will house the on/off switch.

Mr. Keeley asked if the fuel for the generator would be on the same concrete pad as the generator. Mr. Pare said that the 300-gallon diesel tank will be at the base of the generator.

Mr. Deb asked how thick the concrete pad is, in which Mr. Pare replied that it would be 4” thick.

Mr. Keeley read the negative conditional determination that describes the project as taking place about 65’ away from a wetland area. The decision is a proposed negative determination of applicability which includes provisions that it only applies to the work discussed in the request for determination, installation of erosion controls, disposal of excavated soil, avoiding the tracking of sediments onto a nearby roadway, prohibition of any work in the buffer zone outside the fenced enclosure, prohibition of changing of filling and grade on the site, the prohibition of dewatering without an approved plan, prohibition of tree cutting, the commissions right of access and the standard condition regarding non-compliance.

There was no one in the audience for the project.



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**MOTION-** To issue a negative conditional determination for the project at 51 North Avenue under Burlington Bylaw Article XIV and the state wetlands protection act. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

**6. Continued Public Hearing – Notice of Intent – 29 Dolores Drive – Glad Valley LLC/David Vartanian – Demolish single-family dwelling & construct new single-family dwelling – DEP #122-679.**

Mr. Dan Trigani of Trigani Engineering presented updates to the project since the previous meeting on this project. These included locating a stone wall and adding it and grading to the plan, and completion of alternatives analysis because of the local bylaw.

Ms. Coleman noted that the only work that would be done in an inner riparian area are grading for the addition of a surface infiltration system and the planting of trees and shrubs. She did not have any remaining concerns regarding this project.

There was no one in the audience for the project.

Ms. Coleman read the draft documents. The finding states that the project is for the demolition of a single-family house and construction of a new single-family house within the riverfront area of a locally regulated stream along with the construction of an underground infiltration system and the planting of 13 native shrubs. The closest point of the current dwelling was 119’ from the riverbank and the proposed new house would be 103’ from the riverbank. The roof runoff will infiltrate into a field of storm tech units and the driveway will drain into stone trenches. A bond of \$2,500 is proposed and a narrative regarding the state of the plantings after two growing seasons will also be required.

**MOTION-** To close the hearing for the project at 29 Dolores Drive, DEP #122-679. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

**MOTION-** To issue the findings as discussed and amended under Burlington Bylaw Article XIV for the project at 29 Dolores Drive, DEP #122-679. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

**MOTION-** To approve the Order of Conditions under the state wetlands protection act and Burlington Bylaw Article XIV for the project at 29 Dolores Drive, DEP #122-679. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.



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**MOTION-** To require the posting of a \$2,500 performance bond requested under authority of Burlington Bylaw Article XIV for the project at 29 Dolores Drive, DEP #122-679. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes, and Mr. Cohen voted Yes.

**7. Public Hearing – Notice of Intent – 39 Cresthaven Drive – Jimmy Chew LLC/ Shawn McSheffrey – Demolish single-family dwelling and construct new single-family dwelling – DEP #122-pending.**

The proposed work would be within the locally regulated riverfront area and the 100’ buffer zone to a vegetated wetland pursuant to the state wetlands protection act and Burlington Bylaw Article XIV.

The application is available to view at a link on the Conservation Commission’s web page.

Ms. Maureen Herald explained that a Notice of Intent had been filed to remove the single family dwelling, patio, shed, and driveway and construct a new single-family dwelling with a deck, driveway, walkway, and retaining walls while providing rooftop infiltration grading, and associated utilities within the 100’ buffer zone of the bordering vegetated wetland. The proposed project is within the 200’ locally regulated riverfront area as shown in the official plan. The plan involves pushing the proposed new house forward to be further away from the inner riparian zone as well as the 100’ buffer zone. The proposed improvement to the riverfront area includes the planting of three red maple trees, two highbush blueberry bushes and a permanent demarcation of the area.

Mr. Keeley explained the boundaries of the bordering vegetated wetland and what was once manicured lawn will return to its natural state and there will be minimal grading on the property. The driveway will drain to trenches on the property line that should avoid the discharge of water into the roadway or neighboring property.

Mr. Cohen asked the Conservation staff if they believe the degree of riverfront improvement is sufficient to satisfy the regulations as an improvement being required for work in a riverfront. Mr. Keeley responded in the affirmative.

Ms. Virgie Zajack of 37 Cresthaven Drive was in the audience and expressed concern regarding the potential for additional flooding in her yard and the neighborhood at large and inquired about the plan to mitigate flooding in the area.

Mr. Cohen asked Ms. Herald to describe how the plan will handle runoff and she responded by saying the proposed infiltration trench will not direct any additional runoff onto the neighboring property.



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Mr. Keeley suggested the driveway pitch to the back instead of the right with a berm along the right edge and trench along the back of the driveway. Ms. Herald agreed with the plan. The additional three maple trees will also help with the mitigation of flooding, as well as when the area revegetates to its natural state instead of being manicured lawn.

**MOTION-** To continue the hearing for 39 Cresthaven Drive until the August 11, 2022, meeting of the Commission. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes, and Mr. Cohen voted Yes.

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

Mr. Mark Wickstead with Bohler Engineering was in attendance to answer questions from the previous meeting and explained the location and depth of the bioretention area. Mr. Cohen asked about the area of the rain garden in comparison to the size of the site that it will collect runoff from. Mr. Wickstead said he believed the retention area will be sufficient to capture the runoff from the site and that the vegetation in the garden area will be planted with a seed mix that will tolerate periods of being submerged. He clarified that the project is not necessarily a rain garden, but a bioretention area that will not be upkept and maintained like a garden.

**MOTION-** To continue the hearing for 1 Burlington Mall Road until the August 11, 2022, meeting of the Commission. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes, and Mr. Cohen voted Yes.

### **9. Administration**

There were no Planning Board comments

There were no subcommittee & staff reports and updates

Other business- Mr. Keeley explained that the order of conditions for a project at the Shell gas station on Middlesex Turnpike was not actually approved by the Planning Board. The planners withdrew their project and resubmitted an overhauled design that involves building closer to the neighboring brook than the Commission had previously approved, so he is recommending that the Applicants file a new Notice of Intent.

Upcoming meetings: August 11, 2022, | September 8, 2022

### **10. Adjourn**



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**MOTION-** To adjourn the meeting. The Motion was passed unanimously with a vote of 5-0-0. Mr. Boivin voted Yes, Mr. Moffatt voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes, and Mr. Cohen voted Yes.

*Respectfully Submitted by Tom Prior, Recording Clerk*