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TOWN OF BURLINGTON

Meeting Minutes

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BOARD: Conservation Commission

DATE: August 11, 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, Ed LoTurco (online), Indra Deb (online)

MEMBER(S) MISSING: Don Bernstein, Kent Moffatt, Jennifer O'Riorden.

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

Approved at the September 8, 2022 Conservation Commission meeting

1. Call Meeting to Order – Roll call of attendance

Member(s) in attendance: Ed LoTurco, Indra Deb, William Boivin, Larry Cohen

Member(s) absent: Kent Moffatt, Jennifer O'Riorden, Don Bernstein

2. Citizens' Time

There was no one in the audience for Citizens' Time.

3. Approval of Minutes:

a. June 23, 2022

MOTION- To approve the minutes for the meeting of June 23rd, 2022. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

b. July 14, 2022

MOTION- To approve the minutes for the meeting of July 14, 2022. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

4. Request for Certificate of Compliance



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a. 98-108 Middlesex Turnpike – Yard House USA – Stormwater Permit

Ms. Coleman stated that the Applicant had been request to close out the stormwater permit for this project several months ago. Ms. Coleman spoke with representatives for the establishment about the possible existence of any records for the stormwater system being maintained and inspected over the few years that the Yard House has been open. No such records existed at the time indicating that maintenance had been previously overlooked. To rectify the situation, landscapers were consulted and trained, water quality units and catch basins were checked and assessed, and a plan for future management and inspections was established.

A discussion followed regarding the idea of having a binding contract outlining the changes made and require the proper management of the area for the future.

All the Commissioners agreed that a contract would be a proper course of action to ensure that planned management is implemented.

Ms. Coleman informed the Commission that a contract was already included in the permit.

Mr. Keeley proposed approving the Certificate of Compliance immediately and withholding the \$10,000 bond for the project until a contract for the implementation of future work is shared with the Commission.

MOTION- To issue the Certificate of Compliance for the project at 98-108 Middlesex Turnpike for a Stormwater Permit. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

MOTION- Release the full amount of the \$10,000 bond subject to the Conservation Commission receiving verification that there is a contract in place to do the necessary inspections for perpetuity. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

5. Request for Determination of Applicability

a. 8 Stewart Street – Gerard Evans – Remove trees, grade, install fence (continued from July 14, 2022, meeting of the Commission)

Mr. Gerard Evans was present for the meeting and spoke on behalf of the project. He stated that an arborist identified 11 trees on his property near a wetland that are dead or dying or are a danger and flagged one that may be reduced to snag instead.

Mr. Keeley explained that the Commission made a visit to the site the previous day to inspect the trees in question and the Commission agreed with the arborist's findings. 11 of 12 trees are buffer zone tree and one is a damaged red maple in the wetland. There are several large trees in the immediate vicinity, and that the proposed work is not a clear cut. Mr. Keeley did not think that the replacement of trees would be necessary as the other trees in the vicinity may benefit



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from a reduced canopy cover. A fence is proposed to demarcate the border of the lawn and wetland.

None of the Commissioners had any further concerns, however the Commissioners were so impressed with the detailed report from the arborist regarding the state of the trees they wanted to cite the consulting arborist, John E. Coppinger III.

Mr. Keeley read the proposed conditions which included the removal of 12 trees, the tree within the wetland shall be reduced to a snag suitable for wildlife use, for tree trimmings that cannot be done by hand machinery such as bucket truck shall be placed on the driveway or current lawn area, and the cutting of invasive glossy buckthorn and euonymus shall be allowed.

MOTION- To issue a negative conditional determination under Burlington Bylaw Article XIV and the state wetlands protection act. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

b. 174 Winn Street – Sonny Ferrante – Demolish single-family dwelling & construct new single-family dwelling (continued from June 9, 2022)

Mary Trudeau was in attendance and spoke on behalf of the project. She had completed a demarcation of the wetland area on the site and found significant discrepancies from what had previously been reported by the homeowner. It became apparent that all the proposed work for the project is within the 100-200' riverfront area associated with a stream regulated under the Burlington Bylaw. A stormwater management system plan has been developed by a surveyor for the project which will mitigate total impervious surface on the site. The plan has been updated to include a revised wetland border, jurisdiction lines, riverfront area, and included a stormwater management plan.

Mr. Keeley explained that the much of the current lawn lies in the riverfront area of a locally regulated intermittent stream and would be naturally revegetated under the proposed plan to be in accordance with state and local bylaws. The proposed home is set to be closer to the riverfront area than the current home to which Mr. Keeley expressed concern and a desire to ask the applicant to consider moving the location of the proposed home, but Mr. Ferrante was not in attendance.

There was a discussion regarding the position of the home being moved from its current 30' setback to the proposed 50' setback from Winn Street. The Commissioners were concerned that that mowed lawn area would extend into the wetland buffer zone since the space directly behind the house where lawn would be is at a very steep gradient.

Mr. Deb suggested that be changed to a 40' setback from Winn Street so that the backyard will not need to be extended as far into the buffer zone as is proposed. The other Commissioners agreed with the proposed change to the plan.



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Mr. Cohen raised the point of further wetland restoration than just the removal of abandoned cars and trash. He also questioned whether the the Board of Health should be contacted in the case that some of the abandoned vehicles in the wetland site may have leaked gasoline and oil into the wetland. He suggested the applicant touch base with the Town Environmental Engineer regarding the leaking of oil and gasoline. The Commission requires a new plan with the revised location of the proposed home, a fence near the buffer zone line, the planting of three shrubs per removed vehicle, and a test being run on the soil beneath the vehicles.

6. Request for minor engineering change to 2021 negative Determination of Applicability – Electric transmission Right-of-Way (ROW) off Winn Street – NSTAR Electric (d/b/a) Eversource Energy

Ms. Sarah French was present to speak about the project on behalf of Eversource. The project is for the intersection of ROW 5 and ROW 9 off Winn Street near a vegetated wetland and stream. The proposal is to replace two switches; the wooden poles, the fence, and gravel at the foot of them will all be updated and restored.

The original proposal was for slightly smaller switches but now Eversource is using a different supplier for the switches, which will be slightly larger. There are currently four switches, and the updated proposal would be to replace those with two new switches. The plan also includes some trimming of trees that have the potential to cause an outage in the future, more permanent grading, and the installation of a gravel driveway. The plan does not include any disturbance directly to the wetland itself.

MOTION- To accept the minor engineering changes as discussed for the 2021 negative Determination of Applicability for an electric transmission Right-of-Way (ROW) off Winn Street – NSTAR Electric (d/b/a) Eversource Energy. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

7. Continued Public Hearing – Notice of Intent – 39 Cresthaven Drive – Jimmy Chew LLC/ Shawn McSheffrey – Demolish single-family dwelling and construct new single-family dwelling – DEP #122-680

Maureen Herald was present to speak on behalf of the project and presented a few minor changes to the plan as requested by the Commission. The proposal has been updated to include the revision of an infiltration trench from the side of the driveway to the end of the driveway and the inclusion of a berm at the southern property line to alleviate the fears of a neighbor who is concerned about flooding.

None of the commissioners had any objections or concerns with the proposed revisions. The project does fall into a locally regulated riverfront area and partially within the buffer zone to bordering vegetated wetlands. This project is exempt from stormwater management regulations but there is a proposal to infiltrate the storm runoff via a drip edge around the house. Bylaw



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regulations require improvements to the riverfront area and the enhancing of the riverfront by planting three native trees and two native shrubs behind the demarcation fence and to allow the area behind the fence to naturally revegetate. A \$2,500 bond is proposed for this project.

MOTION- To close the hearing for DEP #122-680 for 39 Cresthaven Drive. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

MOTION- To accept the findings under Burlington Bylaw Article XIV for DEP #122-680 for 39 Cresthaven Drive. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

MOTION- To approve the Order of Conditions permit for DEP #122-680 for 39 Cresthaven Drive, under Burlington Bylaw Article XIV and the state wetlands protection act. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

MOTION- To require the posting of \$2,500 performance surety for DEP #122-680 for 39 Cresthaven Drive, under Burlington Bylaw Article XIV. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

9. Administration

- Planning Board comments
- Subcommittee & staff reports and updates
- Other business. There was a discussion regarding the invasive spotted lanternfly and its recent discovery in Massachusetts. Anyone who spots the spotted lanternfly is encouraged to visit the following webpage: [Spotted Lanternfly | Mass.gov](https://www.mass.gov/info-details/spotted-lanternfly)
 - Town meeting will be held on September 28, 2022.
- Upcoming meetings: September 8, 2022, | September 22, 2022

10. Adjourn

MOTION- To adjourn the meeting of August 11, 2022. Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, and Mr. Cohen voted Yes. The Motion was passed unanimously by a vote of 4-0-0.

Respectfully submitted by Tom Prior, Recording Clerk.