Members Present: Chair Larry L. Cohen, Vice Chair William Boivin, Indra Deb, Ed LoTurco, Gail Lima

Members Absent: Jennifer O’Riorden and John Ramsdell

Also Present: Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman

1. Call to Order
Mr. Cohen called the meeting to order at 7:03 PM.

2. Citizens’ Time
No one came forward to speak.

3. Approval of Minutes – October 24, 2019
MOTION - Ms. Lima made a motion to approve the Conservation Commission minutes of October 24, 2019 as submitted. The motion was seconded by Mr. Boivin and voted 5-0-0.

4. Approval of Conservation Restriction – 20 Corporate Drive – DEP #122-576
Mr. Keeley stated that the Order of Conditions was issued and the project is half done and they have occupied the right side. The Conservation Restriction is for the vernal pool behind the building. The draft restriction has been submitted.

MOTION - Mr. LoTurco made a motion to approve the Conservation Restriction for 20 Corporate Drive for DEP #122-576. The motion was seconded by Ms. Lima and unanimously voted 5-0-0.

5. Request for Extension
5a. General Walker Estates (Dartmouth Road/101 Francis Wyman Road) – Waypoint General Contracting – Burlington Wetland Bylaw Permit

Edward Champy appeared for a request for extension for General Walker Estates. Mr. Champy stated that the project was delayed. It took a year to get power to the road. They built two houses and then were delayed for another 9 months. They are requesting a 3-year extension.

Mr. Keeley stated that this project pertains to the Burlington Wetlands Bylaw only. There is an isolated wetland near the cul-de-sac. There are 2 of the 4 houses built on Dartmouth. The house at 101 Francis Wyman has not been demolished and there are still 2 house lots left that have not been built out. They have done site visits and have received reports. The Planning Board has issues with work that was done after the occupancy permit was issued. The driveway and grading was not done per plan.

The Conservation Commission discussed/questioned:

- The driveway runoff is now going to the neighbor’s property
- The roof top gutters are not connected and going into the neighbor’s property.
- The grade was changed after the occupancy permit was issued.
The applicant offered the following responses:

- Steve Dresser has been hired and he has come up with a new plan to address the issues. This plan will be submitted to the Planning office.
- Some of the roof gutters are draining down to the easement out back and some are draining towards the front.
- They will be digging a trench down the driveway to add crushed stone and perforated pipe to direct the water towards the back.
- He bought the property 2 ½ years ago. He understands the issues the neighbors are having. There were issues for the first 3 months but those have been fixed.
- The Minor Engineering Change plan should be submitted quickly.

David Miller of 19 Gloria Circle – Mr. Miller stated that this project has been a nightmare since day 1. They broke ground about 2 ½ years and power was not the reason for the delay. After the occupancy permit had been issued the developer went in and raised the grade 2’-3’ over the infiltration system. The driveway is Pitched towards his property. The down spouts are not tied into the infiltration system and there have been 5 instances of them burning debris and operating construction vehicles at all hours as well as fights between contractors where police had to be called.

Mr. Cohen stated that if the permit runs out, then the applicant would have to apply for a new Notice of Intent. There are only certain criteria under which this Commission can deny a request for extension. Mr. Keeley added that technically the Order of Conditions expired on October 31st but the request for extension was received prior to that date so they allow it. If the continuance is not granted, then all work must cease. The Commission could let the Notice of Intent expire and require that the drainage be done under an Enforcement Order. Mr. Cohen stated that if the new plans show significant change, then we may require an amendment or a new filing. Mr. Keeley added that the Commission may shorten the requested extension.

MOTION - Mr. Boivin made a motion to grant the extension of the permit issued under the Burlington Wetland Bylaw for General Walker Estates for a period of 9 months. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0.

5b. 4 Sunnyside Avenue – Maimmona Shaikh – DEP #122-579

6. Informal Discussion – 4 Sunnyside Avenue – Driveway Layout – DEP #122-579

Mr. Cohen stated that they will take items 5b and 6 together since they are regarding the same property.

Rahil Shaikh and Maimmona Shaikh appeared for discussions on 4 Sunnyside Avenue. Ms. Shaikh stated that they bought the property last year and the foundation was constructed in September and they would like a continuance of their permit. They would also like to widen the turn into the driveway because it is a sharp turn and this is a dead-end street and the Town plows all the snow there.
Mr. Keeley stated that the Order of Conditions expires in December. The Order of Conditions was issued to the prior owner, so the extension would be issued in the new owner’s name. The foundation has been constructed but there are a few minor issues. There were about 7 or 8 trees cut beyond the erosion controls so some plantings will be required in the spring to replace the trees that were cut. They also want to widen their driveway entrance.

The Conservation Commission discussed/questioned:

- The trees should be replaced in the spring with native trees.
- All tree stumps should remain.
- Delegate approval of the modified plan showing the tree planting to staff.
- The applicants should check with the DPW in regards to the curb cut at the driveway.
- The contractor should contact the Conservation office for the required inspections.

**MOTION** - Mr. LoTurco made a motion to grant the extension for 4 Sunnyside Ave, DEP #122-579 as requested. The motion was seconded by Mr. Deb and unanimously voted 5-0-0.

**MOTION** - Mr. LoTurco made a motion to approve the revised configuration of the driveway as a Minor Engineering Change for 4 Sunnyside Ave, DEP #122-579. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0.

7. **Request for Certificate of Compliance & Release of Surety**

7a. **4 Paige Road – Joseph Ferrara – DEP #122-609**

Joseph Ferrara appeared for the Certificate of Compliance and Release of Surety at 4 Paige Road. Mr. Ferrara stated that all the exterior work is done and he did remove the shed in the back.

Ms. Coleman has no issue with this project.

**MOTION** - Mr. Boivin made a motion to approve the Certificate of Compliance for 4 Paige Road, DEP #122-609. The motion was seconded by Mr. LoTurco and unanimously voted 5-0-0.

**MOTION** - Mr. Deb made a motion to release the $3,500 Surety for 4 Paige Road, DEP #122-609 in its entirety. The motion was seconded by Ms. Lima and unanimously voted 5-0-0.

8. **Request for Determination of Applicability**

8a. **94 Drake Road – Daniel Sicari – Install Retaining Wall and Add Fill**

Daniel Sicari, owner, and Tino Bonnano, Bonnano Construction, appeared for the Request for Determination of Applicability for 94 Drake Road. Mr. Bernando stated that they would like to build a 3’ retaining wall and grade the property for a lawn.

Ms. Coleman stated that there is a wetland in the back of the property but it is 60’ away from the proposed retaining wall. They have no issues with this request.

There were no questions from the audience.
MOTION - Mr. Deb made a motion to approve a Negative Conditional Determination for 94 Drake Road as presented under the Burlington Wetlands Bylaw and State Wetlands Protection Act. The motion was seconded by Mr. Boivin and unanimously voted 5-0-0.


Adam Lapon and Maureen Herald of Norse Environmental Services appeared for a Notice of Intent at 82 Wilmington Road. Ms. Herald stated that the Commission has issued a positive determination for this property. The applicant would like to construct an addition, deck, patio and shed at his property. There will be a 40’ no-disturb buffer zone and they will provide roof top infiltration on the addition. There were a number of trees cut in the buffer zone and they are proposing planting 8 new trees and installing conservation seed mix. The erosion controls have been placed.

Mr. Keeley discussed the following points:

- This application is within the riverfront of the Ipswich River. He does not agree with the Notice of Intent that this is non-riverfront.
- The 100’ no-disturb zone basically does not exist in this case and would be unreasonable to require as that would extend all that way to the addition.
- The proposal of having a 40’ no-disturb zone is not unreasonable.
- The tree stumps should remain and there is no need for seed mix because the area will naturally return to wetlands. Additional trees and shrubs should be planted.
- The trees that were cut were within the 100’ buffer zone to the river bank. The tree company should have known.

The Conservation Commission discussed/questioned:

- How did the trees get cut?
- The Commission has jurisdiction action over the riverfront and there is value.
- Suggestion to add a post and rail fence with no gate to delineate the 40’ buffer line or a row of shrubs.
- The existing fence should remain because it would cause more damage to remove it.
- Alternatives should be submitted since this project is in the riverfront.
- 2 parties are at fault; the tree company and the land surveyor.

The applicant offered the following responses:

- They thought the stream was intermittent. The tree company said that as long as they were 20’ away they could cut down trees.
- An alternative narrative will be presented.
• The applicant requested a continuance to finalize the plans.

There were no questions from the audience.

This agenda item will be continued to the December 11, 2019 meeting.


Steve Dresser appeared for a Notice of Intent for 58 Beaverbrook Road. Mr. Dresser handed out revised plans that include the wetland flagging. They are proposing demolishing the existing single family home and constructing a new single family. The new house will be in the same location. This is greater than 40’ from the BVW. There will be a 20’ no-disturb zone. The roof drains will go into an infiltration system. A test hole was done and it is good for an infiltration system. The ground water is 6’ down and there is 5’ of fill. There will be a total of 8500 SF of disturbance. There will be an increase of impervious surface of 600 SF.

Ms. Coleman discussed the following points:

• This application is within the 100’ buffer zone.

The Conservation Commission discussed/questioned:

• The existing fence has a gate and it’s clear that dumping of yard waste has occurred in the wetlands. The yard waste needs to be cleaned up and the gate should be taken out or replaced.

• Spot grades should be added to the plan for the driveway.

The applicant offered the following responses:

• The plans will be updated with the suggestions of the Commissioners.

• The fence will probably be replaced.

There were no questions from the audience.

This agenda item will be continued to the December 11, 2019 meeting.


Dan Yu, Owner, Jim White, HW Moore Associates and Dave Cowell, Senior Wetlands Scientist from Hancock Associates appeared for a Notice of Intent for 1 Wheeler Road. Mr. White stated that this building has had many uses. They are proposing to demolish the existing building and construct a 2-story retail building. The site has the Vine Brook to the south and wetlands to the west. There will be parking on both levels. The curb line will not change at the Vine Brook. All DEP storm water management regulations will be met. There will be 90% TSS removal and infiltration will be 10 times greater than what is required. The pavement will be reduced in the 200’ riverfront. The roof drains and parking lots will drain into the infiltration system on both levels. Mr. Cowell stated that there is a net reduction of impervious surface of 739 SF on the total site.
Mr. Keeley discussed the following points:

- What is the existing tank on site?
- The roof top should not go through the stormwater separator. It is less efficient.
- The infiltration is good and the upper portion of the system flows into the lower system.
- There were no test pits done so this is based on assumed soil information.
- The wetlands to the northeast are offsite and not flagged but the approximate location looks accurate.
- The riverfront alternative needs to be more in-depth and the improvements need to be spelled out. There is a small reduction in impervious but the Commission may want more.
- The details of the hydro-dynamic separator need to be submitted with the model number and spec. sheet.
- The bylaw only requires 44% of TSS removal and thinks that the proposed number is a high.
- There is an inconsistency in the application if this is a redevelopment site.

The Conservation Commission discussed/questioned:

- How is the driveway runoff being handled?
- Snow removal plan needs to be submitted.
- Mulch is in place all the way to the top of the bank near the Middlesex Turnpike. There needs to be more planting.
- Pull back the asphalt in the riverfront area by making the drive aisle smaller.
- The roof is flat, the applicant should look solar panels or a green roof option.
- The roof run-off needs to be separated from the parking run-off.
- Request that the applicant look at making a smaller footprint of the building.

The applicant offered the following responses:

- The existing tank is a storm water treatment tank.
- The engineer has been involved with this site for 25 years. The ground water is about 10’ down. They could file soil testing prior to construction.
- The driveway runoff will go into a catch basin. They will be improving the riverfront area and pulling the building back.
- The building footprint will be reduced from 18,000 SF to 11,000 SF.
• 3 Maple trees will be added at the entrance and will use wildflower mix.

There were no questions from the audience.

This agenda item will be continued to the December 11, 2019 meeting.

12. Administration

12a. Planning Board Comments

Mr. Keeley will send the comments of the Commission in regards to 1 Wheeler Road to the Planning Board.

12b. Subcommittee, Staff Reports and Updates

There were no subcommittee or staff reports.

12c. Upcoming Meetings – December 12, 2019 and January 9, 2020

12d. Other Business

Mr. Keeley stated that Eversource will be working on all the rights-of-way under the power lines throughout town clearing brush.

Mr. Keeley stated that Tennessee Gas will also be doing vegetation maintenance along their easement.

Mr. Keeley stated that DEP has issued a superseding Order of Conditions for the Jumbo Storage project. They have added some additional riverfront area alteration permitted for flood storage. There is a 10 day appeal period and they are half way through it. If it is not appealed, the bylaw decision will have to be amended.

13. Adjournment

MOTION - Mr. LoTurco made a motion to adjourn the November 14, 2019 Conservation Commission meeting at 9:12 PM. The motion was seconded by Mr. Deb and unanimously voted 5-0-0.

Respectfully Submitted by Dawn Cathcart, Recording Clerk