

**BURLINGTON CONSERVATION COMMISSION  
MINUTES OF SEPTEMBER 24, 2009  
BURLINGTON TOWN HALL, MAIN HEARING ROOM  
29 CENTER STREET, BURLINGTON, MA 01803**

**Approved October 22, 2009**

Members Present: L. Cohen, G. Lima, G. Carey, K. Melanson, I. Deb

Member Absent: A. McNamara, N. Celik

Also Present: J. Keeley, Conservation Administrator and R. Newell, Conservation Assistant

Meeting was called to order at 7:00 pm by Larry Cohen

1. Citizen's Time – no one was present for citizen's time.

2. Request for Determination of Applicability

a. & b.) 9 & 11 Sorelle Place – Single-Family House Construction – The two Requests for Determinations of Applicability for 9 and 11 Sorelle Place were heard concurrently. Aldo Gallinelli, the applicant and property owner, was present. A. Gallinelli said the project is for the construction of a single family house with an in-law apartment. J. Keeley stated that there was an Order of Conditions issued for the subdivision roadway and drainage system. There was a previous Determination of Applicability for a house at #7 Sorelle Place. The first of the two Requests for Determination of Applicability is for the construction of a house at # 9 Sorelle Place. J. Keeley commented the wetland barely touches the lot. The limit of work is 75 feet from the wetland. There is approximately 35 square feet of wetland on the lot. There is a slope to the rear of the lot before the wetland. No fill is proposed and the slope will stay as it is. J. Keeley then described the project at 11 Sorelle Place. He said it is an oddly shaped lot, and the house is approximately 60 feet from the wetland. The wetland is off to the right and is well beyond the slope. There is no work is being done to the slope. The yards of both properties are flat. Runoff from the roof and driveway is being infiltrated. There are no outstanding issues with the filings. I. Deb asked if the drywell was sized by an engineer and A. Gallinelli told him that it was designed by an engineer. I. Deb asked about the depth to groundwater on the properties and A. Gallinelli said ground water is about ten or twelve feet down. I. Deb asked if there is a basement and A. Gallinelli told him yes, there is not a problem with water since ground water is well below the basement. J. Keeley said the erosion controls are on top of the slope, and have already been inspected. L. Cohen said he would like the engineer's calculations for the sizing of the drywell to be submitted to the Conservation Department. J. Keeley then reviewed the draft Negative Determinations. No one was in the audience for this project.

**MOTION TO APPROVE A NEGATIVE DETERMINATION OF APPLICABILITY UNDER BURLINGTON BY-LAW ARTICLE 14 AND THE MA WETLANDS PROTECTION ACT FOR THE PROJECT AT #9 SORELLE PLACE – APPROVED 5-0-0**

**MOTION TO APPROVE A NEGATIVE DETERMINATION OF APPLICABILITY UNDER BURLINGTON BY-LAW ARTICLE 14 AND THE MA WETLANDS PROTECTION ACT FOR THE PROJECT AT #11 SORELLE PLACE – APPROVED 5-0-0**

3. Request for Certificate of Compliance

a. 69 Middlesex Turnpike – Dunkin Donuts – DEP File No. 122-428

The applicant was not present. J. Keeley said there are outstanding issues. He stated he did not receive a signed maintenance contract and the applicant did not submit a snow management plan. J. Keeley further stated the as-built plan has changed from the original plan as far as snow management is concerned. J. Keeley said he recommends the Commission not issue a Certificate of Compliance at this time. This item is tabled until the October 8, 2009 Conservation Commission meeting.

b. Shamrock Drive – DEP File No. 122-389

The applicant was not present. J. Keeley said there are a number of outstanding issues and recommended this be tabled until the October 8, 2009 Conservation Commission meeting.

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4. Continued Public Hearing – Notice of Intent – Rakesh Kamdar – Commercial Redevelopment – 223 Middlesex Turnpike DEP File NO. 122-451

Mary Trudeau, a wetland scientist, was present on behalf of the applicant. L. Cohen commented that during the last Conservation Commission meeting the applicant was asked to separate the roof runoff and the parking lot runoff in the vegetated filter strip. He said that the new plan shows that this was done. He asked if a plan showing the plantings for the filter strip was submitted to the Conservation Department. M. Trudeau said a plan was submitted and they are going to be planting woody vegetation instead of the grass that was originally proposed, as requested by the Commission at the last meeting. J. Keeley reviewed the draft by-law permit and draft Order of Conditions. No one was present in the audience for this project.

**MOTION TO CLOSE THE PUBLIC HEARING FOR THE NOTICE OF INTENT FOR THE PROJECT AT 223 MIDDLESEX TURNPIKE – DEP FILE NO. 122-451 – 4-0-1 (I. DEB ABSTAINED)**

**MOTION TO APPROVE FINDINGS UNDER BURLINGTON BY-LAW ARTICLE 14 FOR THE PROJECT AT 223 MIDDLESEX TURNPIKE- DEP FILE NO. 122-451 – APPROVED 4-0-1 (I. DEB ABSTAINED)**

**MOTION TO APPROVE THE ORDER OF CONDITIONS AS DISCUSSED AND AMENDED UNDER BURLINGTON BY-LAW ARTICLE 14 AND M.G.L.CH.131 S.40 FOR THE PROJECT AT 223 MIDDLESEX TURNPIKE- DEP FILE NO. 122-451 – APPROVED 4-0-1 (I. DEB ABSTAINED)**

**MOTION TO APPROVE A PERFORMANCE BOND IN THE AMOUNT OF \$5,000 UNDER BURLINGTON BY-LAW ARTICLE 14 FOR THE PROJECT AT 223 MIDDLESEX TURNPIKE- DEP FILE NO.122-451 APPROVED 4-0-1 (I. DEB ABSTAINED)**

5. Continued Public Hearing – Notice of Intent – Town of Burlington – Roadway & Intersection Improvements – Middlesex Turnpike and Northwest Office Park DEP File No. 122-450

The applicant asked to continue until the October 8, 2009 Conservation Commission meeting.

6. Continued Public Hearing – Notice of Intent – David DeAntonis – Building and Parking Lot Construction – 64 Blanchard Road DEP File No. 122-449

The applicant asked to continue until the October 8, 2009 Conservation Commission meeting.

7. Continued Public Hearing – Notice of Intent – Sandra and Mark Mimos – Single-Family House Construction – 2 Stony Brook Road DEP File No. 122-452

The applicant asked to continue until the October 8, 2009 Conservation Commission meeting.

9c. Other – Violation: 240 Winn Street – Tree cutting in a wetland.

James Tano, the property owner, and Bob Lang, a resident of the house, were present.

J. Keeley reviewed the issues. J. Keeley stated he received a call that trees had been cut in a wetland. He went to the site but no one was home, so he wrote a letter to Kathe Tano, the primary resident of the house, on September 11, 2009 to set up a site visit. Between twelve and twenty trees were cut down, some of which were in the wetland. Trees on both sides of the driveway were cut. J. Keeley said that K. Tano explained to him that a tree by the road fell and blocked the road. The owner hired a tree company to remove the tree, and a few others, but that they took down more trees than was necessary. L. Cohen asked if J. Keeley recommends that trees be planted to replace that ones that were cut. J. Keeley said most of the trees were red maples and the stumps are still there. J. Keeley said that if the stumps are left alone, young trees will sprout from the stumps. J. Keeley commented it would take longer if new trees were planted. J. Tano said a prior hurricane blew down a tree and a branch fell on the house. J. Tano said he was under the impression if a tree hangs over the house or could hurt his house, he could take it down. B. Lang stated most of the trees that were removed were dead and were on their property. He also said he was told they were liable if someone gets hurt.

J. Keeley said some trees were no where near the house; some were 30 to 40 ft. from the house. J. Keeley also said the applicant was before the Commission a year ago to bring in fill and is therefore aware of the issues with wetlands. L. Cohen said the work that was done is a violation of the Wetland Protection Act and the Town's Wetland Protection By-law. L Cohen than asked the rest of the Commission if they felt that the tree should be replace, or if a fine should be issued, or both. I. Deb commented that the Commission should issue a fine. He said

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that it is a violation of the law. G. Carey stated the property owners knew about the wetland protection regulations and agreed with I. Deb that this is a clear violation of the law. G. Lima stated that in previous cases of inadvertent cutting in, or near, a wetland, the Commission has forgone issuing a fine and just required that the area be left to revegetate. She said that in this case however, the residents did know better, and haven't even demonstrated any remorse for what they've done. B. Lang had issues with that comment. He stated they did no cutting in the wetland. K. Melanson said that she didn't think the trees that were cut were in a wetland, and said that the residents should not be fined for cutting them. J. Keeley recommended the Commission arrange a site visit to try to determine where the wetlands are. J. Tano said there are three or four trees in back that he would like to take down. L. Cohen told J. Tano he needs to file a Request for Determination of Applicability if he wants to take more trees down.

8. Planning Board Comments – None

9. Administration

a. Meeting Schedule – October 8, 2009 and October 22, 2009

b. Sub-Committee Reports – There were none.

c. Other - Enforcement Order - 20 Rocky Hill Road

J. Keeley stated a previous Determination of Applicability was issued for the construction of a single-family house on this property. He said that the previous owner had dumped building material in the wetland at the rear of the lot, and the new owner cleaned the area up. J. Keeley said he received a call that the contractor had spread fill over the silt fence into the wetland. He further stated he went to the site and told the contractor to pull the fill back and re-install the silt fence. An Enforcement Order was issued to the present owner. J. Keeley stated he recommends a fine. L. Cohen said the maximum fine is \$300.

**MOTION TO ISSUE A FINE OF \$300 – APPROVED 5-0-0**

J. Keeley mentioned someone from the Commission should attend the Community Scholarship Foundation program that is being held on Wednesday, October 14, 2009. He then reminded the Commission of the upcoming Town Meeting on Wednesday, September 30, 2009

A motion was made to adjourn the meeting at 8:00 P.M. – Approved 5-0-0

Minutes respectfully submitted by:

Ellen F. Longo, Principal Clerk

Conservation Department