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TOWN OF BURLINGTON

Conservation Commission Meeting Minutes

DEPT. /BOARD: Conservation Commission

DATE: January 12, 2023.

TIME: 6:30 PM

PLACE: 29 Center Street – Town Hall – 2nd Floor Main Hearing Room

Member(s) in attendance: William Boivin, Ed LoTurco, Kent Moffatt, Rob Sheehan (all in person), Don Bernstein (online)

Member(s) absent: Larry Cohen, Indra Deb

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

THE MEETING WAS BROADCAST LIVE ON THE BCAT GOVERNMENT CHANNEL

Approved at the January 26, 2023 Conservation Commission meeting

1. Call Meeting to Order – Roll call of attendance

Chairman Larry Cohen was absent, so Vice-Chair William Boivin called the meeting to order at 6:30 PM and read a statement about public participation and technology. On a Roll Call, Mr. LoTurco voted present, Mr. Moffatt voted present, Mr. Sheehan voted present, Mr. Bernstein voted present, and Mr. Boivin voted present.

Mr. Boivin explained that this will be the final meeting for commissioner Don Bernstein as he is retiring, and commissioner Jennifer O’Riorden has resigned from her position as a Commissioner.

2. Public Participation (for items not on the agenda)

There were no comments from the audience regarding items not on the agenda.

3. Approval of Minutes – December 8, 2022

MOTION- To approve the Minutes from the December 8 meeting of the Commission. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Abstain, and Mr. Boivin voted Yes. The Motion was passed with a vote of 4-0-1.

4. Request for Determination of Applicability

a. 33A Fairfax Street – Paul Nichols – Construct residential addition.

Mr. Paul Nichols of 33A Fairfax Street was present to speak about the proposed project, which is a 32’ by 16’ addition to an existing house that is within the outer Riverfront Area (RFA) to



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Sandy Brook. The addition would be approximately 10 feet closer to the stream (at 152 feet) than the closest point of the existing house.

Mrs. Coleman shared the site plan with the Commission and did not have any concerns about the distance from the stream as the project would take place on what is already existing lawn. She stated that there is no need nor any plan to remove any existing trees or shrubs. She suggested that the homeowner make sure all roof runoff does not flow towards neighboring properties, but onto the middle of the property onto existing lawn.

Mrs. Coleman shared the Draft Decision and outlined the Conditions for the project which include the installation of sediment barriers during work, all construction materials shall be securely stockpiled and disposed of off-site, minimum of 20' away from the street if it is going to be over 5' high.

MOTION- To approve the request for a Negative Determination of Applicability for the project at 33A Fairfax Street. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

b. 5 Burlington Woods Drive (aka 15 Burlington Mall Road) – Tony Ecker & Jeremy Rogers, 5 Burlington Woods, LLC – Parking lot reconstruction and generator installation

Mr. Mark Arnold with Goddard Consulting was present to speak on behalf of the applicant. The proposed project is to construct a 1,222 square foot addition, loading dock and compactor enclosure, enhance landscape islands, remove 4 trees to accommodate a sidewalk on the southwestern edge of the property, and plant 8 trees along the northwestern property line.

Most of this work was to be outside the buffer to bordering vegetated wetlands (BVW). The loading dock was to have a trench drain, a new gas/oil separator and pvc pipe directing stormwater to the existing system that discharges to the infiltration basin. Work within the buffer to BVW was to include work on a landscape island and pavement cutting. Building of a block wall on top of an existing shorter wall was to occur within the 20-foot no-disturb zone. The impervious surface would be reduced by 496 square feet.

Mr. Keeley asked if the manmade, isolated wetland on the site has an outflow. Mr. Arnold explained that all the stormwater from the site flows into the wetland, and it occasionally floods, and that to his knowledge the wetland is isolated.

Mr. Boivin requested that the applicant remove any litter on the property.

MOTION- To issue a Negative Determination of Applicability for the project at 5 Burlington Woods Drive. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

c. 72 Wilmington Road – Robert Rumley – Landscaping activity



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The applicant, Mr. Robert Rumley was present at the meeting. The proposed plan is to construct a patio and low retaining wall behind the existing house, trim trees and remove volunteer saplings, replace a degraded pipe conveying stormwater from driveway and garage to behind house, replace concrete walkway in front and right side of existing building, clear debris, and branches from the stream. The work would be within the inner riparian zone of the 200-foot riverfront area to the Ipswich River and the 100-foot buffer zone to bank.

Mrs. Coleman explained the footprint of the home has not been touched, but there was landscape occurring involved with the replacement of a walkway. At the visit with the Commission, evidence of the removal of trees and shrubs in part of the property was observed that was not known to staff.

The Commission expressed interest in making a plan to revegetate the landscape to improve water quality and restore soil viability. Mr. Boivin suggested an area along the bank of the Ipswich River should be planted and left to naturally rehabilitate. He also suggested that the applicant consider the removal of a temporary bridge and replace it with a more permanent bridge, but that would require a Notice of Intent.

Ms. Coleman outlined the conditions for the project which are standard for most similar projects and forbids any other alteration to the landscape without the Commission's knowledge, and requires the removal of debris on site.

MOTION- To issue a Negative Determination of Applicability for the project at 72 Wilmington Road. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

5. Request for Certificate of Compliance/Completion & Release of Surety

a. 39 Cresthaven Drive – Jimmy Chew LLC – DEP #122-680.

Attorney James Juliano of Scafidi/Juliano of 42 Pleasant Street in Woburn was present on behalf of the applicant. An Order of Conditions was approved by the Commission in 2022 for a teardown/rebuild in a Bordering Vegetated Wetland, but the work was never completed as the property is under new ownership and the existing home will not be torn down.

MOTION- To issue a Certificate of Compliance for the project at 39 Cresthaven Drive. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

b. 207 Cambridge Street – Federal Investment Trust/Mo Santangelo – Wetland Bylaw Permit

Mr. Fred Russell was present online on behalf of the applicant. He described problems with runoff from a hillside causing icy conditions on Cambridge Street. The applicant worked with MassDOT to redirect runoff into a drainage system on Cambridge Street. Mr. Russell requested



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the release of a portion of the \$7,500 surety for the project at this time and once the remainder of the project is complete, the applicant will request the Certificate of Compliance.

Mrs. Coleman gave an overview of some of the work completed up to the present and Mr. Russell stated that he is satisfied with how the project is going. Mrs. Coleman agreed and thought the project is being completed as planned and that there is still some work to be done to stabilize the surrounding bank.

There was a negotiation between Mr. Russell and Mr. Boivin about the reason for the surety and how much should be released. There was an agreement to release \$6,500 of the surety to the applicant and for \$1,000 be held to ensure the efficacy of the project in the future.

MOTION- To release \$6,500 of the bond to the applicant for the project at 207 Cambridge Street. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

6. Discussion – Violation – 11 Marjorie Road

There was no one present at the meeting for the discussion, but Mr. Keeley summarized the issue as unauthorized removal of trees within the buffer zone of wetlands. Commission staff has talked to the home owner and scheduled them for this meeting. He never received an email address, but sent a paper copy of the agenda for the meeting in the mail but staff has not heard back from them.

He suggested the project be moved to the next meeting of the Commission on January 26, 2023.

7. Continued Public Hearing – Notice of Intent – 214 Winn Street – Robert Bonanno – Re-set culvert, trench & install electrical conduit, modify driveway with new wall – DEP #122-684

Mary Trudeau was present on behalf of Mr. Bonanno. She updated the Commission that the culvert to be reset will be 28 feet and that Mr. Bonanno will not be applying the decorative trim originally proposed for the driveway.

A Notice of Intent (NOI)/Burlington Wetland Bylaw application was filed for the burial of an electrical and cable utilities underground within an existing driveway in a trench running 325 feet from Winn Street to the residence, resetting an existing 12” culvert running 28’ perpendicular to and under the driveway, and constructing a hand-built fieldstone headwall. The cable conduit would be above the reset culvert. The culvert carries a tributary of Maple Meadow Brook, and the work was within the buffer to Bordering Vegetated Wetlands (BVW), within an intermittent stream and within 100 feet of the stream.



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MOTION- To close the hearing for the Notice of Intent for the project at 214 Winn Street, DEP #122-684. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Abstain, and Mr. Boivin voted Yes. The motion passed by a vote of 4-0-1.

MOTION- To approve the findings under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Abstain, and Mr. Boivin voted Yes. The motion passed by a vote of 4-0-1.

MOTION- To approve the Order of Conditions under Burlington Bylaw Article XIV and the state Wetlands Protection Act. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Abstain, and Mr. Boivin voted Yes. The motion passed by a vote of 4-0-1.

MOTION- To approve the performance guarantee of \$2,000 for the project at 214 Winn Street, DEP #122-684. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Abstain, and Mr. Boivin voted Yes. The motion passed by a vote of 4-0-1.

8. Administration

a. Mr. Boivin read an official statement that the Conservation Commission, pursuant to a vote by the Town of Burlington Select Board, authorizes the acceptance of donation of two land parcels on Drake Road.

MOTION- To accept land donation of two parcels on Drake Road. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0.

b. There were no Planning Board comments.

c. There were no subcommittee & staff reports and updates.

d. There was discussion on the possibility of the Town purchasing land near Saw Mill Brook.

e. Upcoming meetings: January 26, 2023 | February 9, 2023

9. Adjourn

MOTION- To adjourn the meeting. Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Mr. Moffat voted Yes, Mr. Sheehan voted Yes, and Mr. Boivin voted Yes. The motion passed by a vote of 5-0-0