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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 at a later date

BOARD: Conservation Commission
DATE: February 11, 2021
TIME: 7:00 PM
PLACE: WebEx Remote Meeting
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Gail Lima, Ed LoTurco, Indra Deb, Jennifer O'Riorden and Kent Moffat
MEMBER MISSING: Donald Bernstein

Minutes Approved on March 11, 2021

1. Call to Order

Mr. Cohen called the meeting to order at 7:01 PM. On a Roll Call, Mr. Boivin voted Present, Ms. Lima voted Present, Mr. LoTurco voted Present, Ms. O'Riorden, Mr. Moffat and Mr. Deb voted Present. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

Mr. Cohen read the following statement: Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order Imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Burlington Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by tuning into the BCAT Government Cable Access Channel, the BCAT Government Meetings Facebook Live feed, or you can join the meeting over the phone @408-418-9388. To join the WebEx live video conference, click on the link on the Conservation Commission's meetings page or on the Town of Burlington Town calendar or go to Webex.com, join a meeting. Meeting number is 179 747 7321 the password if needed is rrX3hS3KXR2.

New public hearings opened tonight will not be closed, so as to allow comments from those who are unable to access or are uncomfortable with the technology. Comments or concerns regarding public hearings should be emailed to conservation@burlington.org before the next meeting on February 25, 2021.

The meeting is being recorded on BCAT as well as WebEx.

Mr. Cohen stated that Agenda Item 6 will be continued to the February 25, 2021 Conservation meeting.

2. Citizens' Time



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No one came forward to speak.

3. Approval of Minutes – January 28, 2021

Mr. Cohen stated that he would like the bullet under Item #10 to read “Appreciation was given from the Commission to Nordblom Company for cleaning up the tires and snowmobile along the Kent Road trail.”

MOTION - Ms. Lima made a motion to approve the Conservation Commission minutes of January 28, 2021 as amended. The motion was seconded by Mr. LoTurco and voted 4-0-2. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Ms. O’Riorden abstained from voting, Mr. Deb abstained from voting and Mr. Cohen voted Yes.

4. Request for Certificate of Compliance/Return of Surety

4a. 174 Middlesex Turnpike/2 & 4 Fourth Avenue – Nordblom Development Company – DEP #122-575

Frank DiPietro from BSC Group appeared for the Request for a Certificate of Compliance for DEP #122-575.

Mr. Keeley stated that this project was never constructed and there is another project in the approval process now for a multifamily development. This should have been closed out. Mr. DiPietro stated that the driveway to Life Time Fitness was part of the Order of Conditions but that is also shown on the plan before the Commission now and it was built per the approved plan. The driveway is not in the resource area. Mr. Keeley added there is no bond for this project.

MOTION - Mr. Deb made a motion to issue the Certificate of Compliance for DEP #122-575. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

4b. 60 Blanchard Road – Nordblom Company – DEP #122-565

Mr. Keeley stated that this is the same situation as the previous approval. A permit was issued to demolish the existing building and it was never done. JAM Holdings applied for the permit but the property is now owned by Nordblom and another project has just been approved. Mr. Keeley added that some site work was done including the removal of an old septic system. There was no bond for this project.

MOTION - Mr. Boivin made a motion to issue the Certificate of Compliance for DEP #122-565. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

5. Discussion – Sawmill Brook Conservation Area Access from Erin Lane

Mr. Keeley stated that there has been a request from a resident to provide access to the Saw Mill Brook conservation area from Erin Lane. The Conservation Commission has a 30’ wide parcel on Erin Lane that is entirely in the gas easement. The residents have requested that they put in a trail on this parcel. The parcel is wet in the back so a bog bridge may be required. The area closest to Erin Lane seems to be landscaped so there may be encroachment from the abutting properties.





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The Conservation Commission discussed/questioned:

- The Boy Scouts had to re-route the trail around this area because it is very wet.
- Pictures were presented showing the parcel with a boat being stored on it.
- If we make improvements, the parcel should be clearly marked as a trail.
- With COVID, there is an increase of people using the trails and the signage that the Boy Scouts put up is very helpful. There is no signage on Erin Lane and it is intimidating to use this access due to the neighbors taking it over. There should be no changes in topography and perhaps a bog bridge could be installed to get through the wet spot.
- There should be conservation signs added to the access to the trails near the Wilmington line as well as No Motor Vehicles signs.
- A post and rail fence with a gravel walking path should be added to define the access.
- There should be markers or gates to discourage motor vehicles.
- The gravel path is a good idea but perhaps landscape timbers could be added along the edge to keep the gravel from spilling onto the neighbor's property.
- The signs should be installed at least 10' high to prevent vandalism.
- There was a question if cars would be parking on the streets from people using this access or would this be similar to the Chandler Road access.
- There were questions on funding for this access.
- This access is not an easement. This is a parcel owned by the Town of Burlington under control of the Conservation Commission.

Mr. Keeley stated that this access would mostly likely be a neighborhood access so cars parking on the street should not be a problem. This path can be accessed from Fox Hill School and Saw Mill Road that has plenty of parking. They have not thought about funding yet, this was for concept discussions. The DPW could hopefully help with the signs and if the Boy Scouts are involved, they usually do the fundraising so he will get in touch with them.

Ram Varuganti – Mr. Varuganti stated that the parcel looks like it belongs to the 2 neighbors and not an open parcel. He walks the trails a lot and was afraid to use this access. It should be identified as a trail. Mr. Varuganti asked if adverse possession applies since the neighbors have been maintaining this property. Mr. Keeley replied no, adverse possession does not apply to public land.

Florence and David Leone of 17 Erin Lane – Ms. Leone stated that they have lived at this house since 1997 and walk the lovely trails a lot but it is very wet there. Ms. Leone stated that the neighbors that abut this parcel do not mind if people walk through it. She is very interested in what is going to be proposed and signage is very important. Mr. Leone asked what the intent of the access is.





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MOTION - Mr. Boivin made a motion to approve a concept plan for Erin Lane access with a marked gravel pathway, landscape timbers along the side, a board walk over the wet land, Conservation signage and no motorized vehicle signage. The motion was seconded by Mr. Lima and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

6. Continued Public Hearing – Notice of Intent – 174 Middlesex Turnpike/2 & 4 Fourth Avenue – Nordblom Development Company – Construct a Multi-Family Residential Building – DEP #122-653

MOTION - Mr. LoTurco made a motion to continue the Notice of Intent for 174 Middlesex Turnpike/2 & 4 Fourth Avenue until February 25, 2021. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

7. Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646

8. Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645

9. Continued Public Hearing – Notice of Intent – 5 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-644

Mary Trudeau, David Romero and Phyllis Etsell appeared for the continued public hearings on Redmond Street. Ms. Trudeau stated that the Conservation Commission asked us to look at access from Raymond Road instead of Redmond Street. The impact to the Bordering Vegetation Wetlands (BVW) was reduced by 1,000 SF off Raymond Road but the impacts to the local riverfront and buffer zone were impacted more. The buffer zone was impacted by an additional 50% and there would be 10,000 SF of impact to the riverfront coming off Raymond Road. The access off Raymond Road would also require 3 to 4 more times the fill. With all the combined impacts, the access off Redmond Street is more reasonable. They have reached out to DEP about gifting the 1.7 acres of land instead of replication of the 5,000 SF of wetlands but they have not heard back. If this is not a Limited Project then the Conservation Commission has no discretion and wetlands replication would be required but if it is determined to be a Limited Project then there is more discretion allowed.

Mr. Romero stated that soil testing was done at the end of Raymond Road and there is high ground water but Class A soil with sand and gravel. The proposed infiltration system will be located in a low ground water area. There will be ~200’ of pavement with a catch basin at the end. They will be adding a culvert for the stream crossing. Mr. Romero provided a table showing the impacts of coming off each road. BVW would be 4,257 SF off Redmond Street and 3,220 SF off Raymond Road; buffer impacts would be 9,809 SF off Redmond Street and 15,986 SF off Raymond Road; and there would be no impact to the Riverfront off Redmond Street and 10,383 SF of impact off Raymond Road.

Mr. Keeley stated that he hasn’t seen the letter that was sent to DEP. The Raymond Road could be the alternate analysis required for a Limited Project. The riverfront is a regulatory stream, not perennial. He would agree that access off Redmond Street is less impactful to the resource areas. A 401 water quality certification is the issue and we will wait to see what DEP says. We still need to walk the site and check the wetland flag





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delineation. Mr. Keeley stated that he would prefer retaining walls around the culvert but the DPW does not want retaining walls in the 40' right of way for the crossing. He would suggest that the applicant talk with the DPW on the type of culver they prefer. Mr. Romero stated that the aluminum culvert would be 2 ½' tall and it has no bottom.

Linda and Jim Unsworth of 17 Raymond Road – Ms. Unsworth asked if access from Raymond Road is off the table. Mr. Cohen stated that we can't say that officially but there are fewer impacts to the wetlands coming off Redmond Street. Mr. Cohen suggested keeping informed of the hearing.

The Conservation Commission discussed/questioned:

- Is house #5 inside or outside of the 40' no build zone, 20' no disturb and 200' riverfront?
- There is concern that the house locations will provide a very limited backyard and the homeowners will not be able to do anything in the back yards.
- The applicant should look at adding delineation markers in the back yards.
- It is not looked at favorably to fill in wetlands and it goes against everything that the Conservation Commission tries to preserve.
- This project is a shoehorn and they are cramming 2 houses where nature does not want them.
- There is still a question of elevations and if the infiltration system will work.
- When were the test pits done?
- How will the street runoff be handled?
- Is there an infiltration system on house #4 and elevations should be added to the plans for this.
- How is the end of the street designed?
- What is the width of the street? The plans show 16' and 20'.
- The design is setting up future homeowners to fail with such small yards.
- Is the replication area of 5,000 SF discretionary? The proposed wetland filling is very close to the 5,000 SF and a more detailed report is required to make sure they are under the 5,000 SF.
- What is a Limited Project?
- Can the Conservation Commission deny the project if it does not meet our local regulations even if DEP is ok with it? The local regulations were stricter than DEP for a reason and we should have that ability to deny it. These are 3 separate Notice of Intents and are approved and voted on separately.
- A detailed construction and grading plan should be submitted to prove that more land won't be disturbed during construction.
- A site walk on the 1.7 acres should be done before we accept any land, if this becomes an option.
- If the wetlands are filled in will the 20' no disturb line change?





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The applicant/staff offered the following responses:

- House #4 and #5 are outside the 40' no-build zone, outside the 20' no-disturb but house #5 is within the 200' riverfront at the corner.
- The test pits were done in December/January timeframe and the Board of Health witnessed them. A soil evaluation was performed and that included the high seasonal water table.
- There are 2 catch basins at the end of the road to handle the sheet runoff and there is sloped granite curbing to the pipe that runs into the infiltration system. There is also a water quality unit proposed.
- House #4 has its own infiltration system for the roof top run off.
- The end of the street will be graded down to the wetlands with a 3 to 1 or 4 to 1 slope. They could add a delineation fence.
- The street is 20' wide and the plans will be corrected.
- If this project is deemed a Limited Project, then the Commission can permit more than 5,000 SF and have some discretionary approval.
- A Limited Project allows owner to access uplands on their property when there is no other access. If there is no other way to access the uplands, they are allowed to cross and fill wetlands.
- The 20' no disturb will change based on the new filling line.
- These are existing lots and an existing roadway. They are not creating any new lots.

Mr. Cohen stated that the outstanding issues are: the DEP response on the wetlands replication, construction sequencing plan, detailed calculations showing the replication area is under the 5,000 SF of fill and test pit logs.

MOTION - Mr. Deb made a motion to continue the Notices of Intent for Redmond Street Roadway DEP #122-646 to the Conservation Commission meeting of March 11, 2021. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Mr. Boivin made a motion to continue the Notices of Intent for 4 Redmond Street DEP #122-645 to the Conservation Commission meeting of March 11, 2021. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

MOTION - Ms. Lima made a motion to continue the Notices of Intent for 5 Redmond Street DEP #122-644 to the Conservation Commission meeting of March 11, 2021. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

10. **Administration**

10a. **Planning Board Comments**- None





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10b. Subcommittee, Staff Reports and Updates

10b.1 Review Proposed Conservation Restriction for Jumbo Storage Site on Wheeler Road

Mr. Keeley stated that the final draft of the Conservation Restriction is ready to submit to EOE. The Board of Selectmen approved it on Monday and we need to approve it also.

MOTION - Ms. Lima made a motion to approve the final draft of the Conservation Restriction for Jumbo Storage Site on Wheeler Road. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

10b.2 Public Lands Preservation Act

Mr. Keeley stated that the public lands preservation act is in the new legislation session in the House and Senate and hopefully this will be the year. Mr. Cohen stated that he wrote to both the State Representative Ken Gordon and State Senator Cindy Freedman and they both are in support of this legislation. Mr. Gordon has agreed to co-sponsor the bill. Mr. LoTurco spoke with both of them also and hears the same.

10c. Upcoming Meetings –February 25, 2021 and March 11, 2021

10d. Other Business

Ms. Lima asked if the Town plowed the new Harris Lane trail after this past snow. She also asked when the signage will be installed. Mr. Keeley stated that the signage will be put up once we take control of the land and he is not sure about the plowing but will look into this.

Mr. LoTurco stated that he spoke with Rick Bowman and Oracle will be doing a lighting reduction program on the entire campus. This should be completed now or very shortly.

11. Adjournment

MOTION - Ms. Lima made a motion to adjourn the February 11, 2021 Conservation Commission meeting at 8:55 PM. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,
Recording Clerk*

