



**RECEIVED**

By Town Clerk's Office at 10:06 am, Apr 09, 2021

# TOWN OF BURLINGTON

## *Meeting Minutes*

Email minutes to [meetings@burlington.org](mailto:meetings@burlington.org) or Bring to the Clerk's Office. Thank you

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: March 25, 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, Donald Bernstein and Kent Moffat

MEMBER MISSING: None

---

*Approved at the April 8, 2021 Conservation Commission meeting*

### **1. Call to Order**

Mr. Cohen called the meeting to order at 7:00 PM. On a Roll Call, Mr. Boivin voted Present, Ms. Lima voted Present, Mr. LoTurco voted Present, Ms. O'Riorden voted Present, Mr. Bernstein voted Present, 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 173 596 3961 the password if needed is jfPeJCNB927

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](mailto:conservation@burlington.org) before the next meeting on April 8, 2021.

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



29 CENTER STREET • BURLINGTON, MASSACHUSETTS 01803 • TEL (781) 270-1660 • FAX (781) 238-4692

[www.burlington.org](http://www.burlington.org) • [clerk@burlington.org](mailto:clerk@burlington.org)



TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

9. **Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct New Road with Stream Crossing – DEP #122-646**
10. **Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-645**
11. **Continued Public Hearing – Notice of Intent – 5 Redmond Street – Somerset Realty Trust – Construct a New Single-Family Dwelling – DEP #122-644**

Mr. Cohen stated that the applicant has requested a continuance.

**MOTION** - Mr. LoTurco made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until April 8, 2021. The motion was seconded by Mr. Bernstein and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Ms. O’Riorden voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

2. **Citizens’ Time**

No one came forward to speak.

3. **Approval of Minutes – March 11, 2021**

**MOTION** - Ms. Lima made a motion to approve the Conservation Commission minutes of March 11, 2021. The motion was seconded by Mr. LoTurco and voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Ms. O’Riorden voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

4. **Request for Determination of Applicability**

4a. **12 Frothingham Road – Edward Mackey – Install In-ground pool**

Edward Mackey appeared for the Request for Determination of Applicability to install an in-ground pool at his property. There is currently an in-ground pool but it is getting old and because of the stability of the ground, his contractor has suggested shifting the pool to the right for structural integrity. They will be entirely out of the easement.

Ms. Cohen stated that the pool will have a patio surround of ~1,000 SF of pavers on gravel around the pool. This would be at least 50’ from the wetlands on the edge of the property.

The Conservation Commission discussed/questioned:

- Is the size of the pool changing from the existing pool?
- Will the gravel be in the easement?
- Herbicides should not be used on any part of the yard because you are within 100’ of the wetlands.

The applicant/staff offered the following responses:

- The existing pool is 16’ x 32’ and the proposed is 18’ x 36’.
- All portions of the pool including the gravel will be outside of the easement.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

There were no questions from the audience.

**MOTION** - Mr. Deb made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for installing an in-ground pool at 12 Frothingham Road. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Ms. O’Riorden voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.

**5. Continued Public Hearing – Notice of Intent – 70 Mill Street (Rahanis Park) – Town of Burlington DPW – Reconstruct Parking Lots – DEP #122-655**

Meghan Cavalier and Thomas Hayes from the DPW appeared for the continued Notice of Intent.

Ms. Cohen stated that all the questions were addressed and this is a Low Impact Development project. Mr. Cohen requested that the parking complies with the contract.

There were no questions from the audience.

**MOTION** - Mr. LoTurco made a motion to close the public hearing for the Notice of Intent for 70 Mill Street, DEP #122-655. The motion was seconded by Mr. Bernstein and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to adopt the findings under the Burlington Bylaw Article 14 to reconstruct parking lots for 70 Mill Street, DEP #122-655. The motion was seconded by Mr. Deb and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to reconstruct parking lots for 70 Mill Street, DEP #122-655. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**6. Public Hearing – Notice of Intent – 6 Terrace Hall Avenue – Langone Development Group Inc. – Demolish Dwelling & Construct a New Single Family Dwelling – DEP #Pending**

Maureen Herald from Norse Environmental and Jonathan Langone appeared for the Notice of Intent for 6 Terrace Hall Avenue to demolish an existing single family and construct a new single family. Ms. Herald stated that in addition to the razing and constructing the existing home, they are proposing to cut down 3 trees and replace with 4 trees and 3 shrubs in another location, there will be an infiltration system installed to capture the roof and driveway runoff. There is an existing wooded canopy that they are proposing removing and they will put plantings in that location. They have marked the wetlands and the deck is 37’ away and the trench is 21’ away. They are requesting a variance for the 40’ no-build zone for the deck and a variance for the 20’ no-disturb zone.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

Ms. Coleman stated that this is a tight lot and the wetland flags go right to the wooden canopy. The existing house is 50' away but the proposed house is closer. Ms. Coleman asked if the house could be moved forward and she questioned why healthy trees in the wetlands would be cut. Mr. Langone stated that the trees are significantly large and he believes they are a danger if they fell to hit the house. There is a significant grade change in the lot so the house cannot move forward because it would make for a steeper driveway and the house would need to be raised higher. Ms. Herald added that they will be planting 4 trees and 3 shrubs to replace the trees that are being cut. Mr. Keeley stated that he would like to look at the soils near the wooden canopy more closely. There was also discussion to revise the plan to move the wall back from the neighbor's property due to the possible runoff.

The Conservation Commission discussed/questioned:

- Could the deck be made wider instead of deeper and is there gravel under the deck?
- Could the house be flipped so the driveway is on the other side?
- There should be no lawn added in the 20' no disturb zone. It should be wetland seed mix.
- Big trees are not dangerous if they are healthy and are better for wildlife than small trees.
- The removal of the wooded canopy is justification for the variance.
- Is the existing and new foundations at the same level

The applicant/staff offered the following responses:

- The wall was moved 2' off the property line from the original plan.
- There is gravel under the deck.
- They will look at the removal of trees.
- The foundations will be at a similar level but there may be grading here and there.

There were no questions from the audience.

Mr. Cohen stated that some of the questions to answer for next meeting are: detail of the trench, verification of wetlands flags, deck size and orientation, relocating driveway, and look at saving the large trees and mark those trees in the field.

**MOTION** - Mr. Bernstein made a motion to continue the Notice of Intent for 6 Terrace Hall Avenue to April 8, 2021. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

**7. Public Hearing – Notice of Intent – 59 & 61 Middlesex Turnpike – Nouria Energy Corporation- Demolish Gas Station/Convenience Store & Restaurant Building and Construct a New Gas Station & Convenience Store – DEP #Pending**

Dan Wells from Goddard Consulting, Luke DiStefano from Bohler Engineering and Attorney William Proia from Riemer & Braunstein LLP appeared for the Notice of Intent to construct a new gas station and





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

convenience store. Mr. Wells stated that this project would affect the bordering vegetation wetlands, riverfront and buffer. There is a steep slope on the property that goes to the river. There is also flood zone on the lot. There is currently a convenience store, gas station and restaurant so this would be a redevelopment project. The proposal is to demolish the existing structures. They will then construct a new convenience store and relocate the gas pumps further away from the riverfront. They have shown improvements proposed such as a natural landscape area between the river and the project and 1,255 SF of mitigation plantings. They are also reducing the impervious surface by a total of 140 SF and stormwater management will drastically be improved.

Mr. Keeley stated that the plan presented was not the original plan. This revised plan shows more green space. There is a general agreement with the wetland flag delineation. There are ongoing discussions on storm water management and how it meets the discharge regulations in the Zone II. Mr. DiStefano stated that there is a small discharge area. This is a tough site and we are improving it any way possible. The runoff will be captured by a deep sump catch basin with hood. The water will be discharged back to the swale and then into the wetlands. Mr. Keeley asked with the infiltration is there a danger of a break out of groundwater on the slope? Mr. DiStefano replied he will verify.

The Conservation Commission discussed/questioned:

- The new location for the storage tanks seems like they are closer to the river and asked if there was a required setback.
- There was concern with spillage when the tanks are filled.
- This design will bring the trash receptacle closer to the river.
- Have solar panels been considered on the canopy or store roof?
- The lawn to the right of the store should not be grass. It should not promote loitering and it should be a mixture of native grasses and wetlands mix and allowed to grow into a natural state.
- A fence should be looked at to block people from going behind the building.
- Were test pits done?
- When the tanks are removed, will testing be done for any contamination?
- This site should not have any fertilizers or pesticides used.
- Is there a snow storage plan?
- The regulations require 80% TSS removal and asked if the water quality unit would be sufficient.
- Is there an existing drainage system on site and will that be used?
- The Operations Manual is pretty vague and must provide more detail. There should be more than two sweepings of the site a year.
- How many EV chargers will be on site?
- A detailed planting plan should be provided.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

- There is a broken fence that should be removed and there should be proposed river bank improvement such as picking up the trash.
- What type of curbing is proposed? If it is concrete, there is concern with durability especially with plows and vertical granite curbing should be used.

The applicant/staff offered the following responses:

- There is no setback listed under the Wetlands Protection Act. The old tanks will be replaced by State of the Art storage tanks that will be monitored 24/7. It is very unlikely that there will be a spillage with the way the tanks are designed.
- They can look at solar options.
- The grass was for esthetics but they can look at expanding the native plantings.
- Test pits were done a few weeks ago but were not witnessed by the Board of Health but they spoke with Ms. Mathis and she will review the logs and if sufficient, she will sign off.
- A soil professional will be onsite when the tanks are removed.
- The snow will be trucked off site.
- There is an existing stormwater system but it will all be removed. The current infiltration is on the north side of the property and the water currently sheet flows into the wetlands untreated. They are restricted by zoning that the gas tanks must go on the left side of the site.
- There will be two EV charges on site.
- Concrete curbing is proposed.

There were no questions from the audience.

Mr. Cohen summarized the issues to be looked at: have Stormwater Management Regulations been met; there is concern with a breakout of infiltration water on the slope, details should be provided; details of the tank protection including spill protection when filling the tanks; can solar panels on the roof be explored; native/wetlands grass mix should be used on the right side of the building; test pits needs to be witness or approved by the Board of Health; snow storage needs to be detailed; Operations Manual needs to be improved with more details including sweeping the parking lot more than 2 times a year; explain why the location of the tanks must be where they are proposed; no pesticides and herbicides can be used and a note should be added on the plan; vertical granite curbing should be used; river bank improvements should be documented.

Attorney Proia stated that this is a wetlands permit and some of the comments are outside the scope of this review. We will do our best to accommodate the requests as best as we can.

**MOTION** - Mr. Boivin made a motion to continue the Notice of Intent for 59 & 61 Middlesex Turnpike to April 8, 2021. The motion was seconded by Ms. Lima and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

**8. 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**

Mr. Keeley stated that we told the applicant that they did not need to be present for the closing of the hearing.

There were no questions from the Commission or audience.

**MOTION** - Mr. Bernstein made a motion to close the public hearing for the Notice of Intent for 174 Middlesex Turnpike/2 & 4 Fourth Avenue, DEP #122-653. The motion was seconded by Ms. Lima and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to adopt the findings under the Burlington Bylaw Article 14 to construct a multi-family residential building for 174 Middlesex Turnpike/2 & 4 Fourth Avenue, DEP #122-653. The motion was seconded by Mr. Deb and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. LoTurco made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to construct a multi-family residential building for 174 Middlesex Turnpike/2 & 4 Fourth Avenue, DEP #122-653. The motion was seconded by Ms. Lima and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Deb made a motion to require a \$15,000 surety bond under the Burlington Bylaw Article 14 for 174 Middlesex Turnpike/2 & 4 Fourth Avenue, DEP #122-653. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**12. Administration**

**12a. Planning Board Comments**

Mr. Keeley stated that it is highly unusual that Nouria Energy has come before the Commission before even applying to the Planning Board.

**12b. Subcommittee, Staff Reports and Updates – Stormwater Bylaw Revision**

Ms. Coleman stated that they have had fairly extensive meetings with the Bylaw Review Committee. Most of the changes are clerical and format structure. One of the changes to content was that the Operations and Maintenance Manual will be recorded at the Registry, not the actual permit. She will email the Commission a copy of the cleanup version and this will be an article for the May Town Meeting. Mr. Keeley stated that if this doesn’t pass at the May Town Meeting then we will be out of compliance with the DEP Regulations. Mr. Keeley stated that they presented the Stormwater Bylaw revisions to the Government Affairs Subcommittee of the Chamber of Commerce. They had questions on the timing of the regulations and when and if projects would be grandfathered.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

MARCH 25, 2021

**12c. Upcoming Meetings –April 8, 2021 and April 22, 2021**

**12d. Other Business – MACC Annual Environmental Conference**

Mr. Keeley stated that the annual MACC conference will be held virtually and if any members want to attend any workshops just let them know and they can get reimbursed.

Mr. Boivin stated that a member running for Select Board stated that they would implement Viewpoint applications to make permitting easier. Mr. Keeley stated that we are already using it but it is only as good as the people inputting the data. Ms. Coleman stated that it does help streamline permitting.

**13. Adjournment**

**MOTION** - Mr. LoTurco made a motion to adjourn the March 25, 2021 Conservation Commission meeting at 9:10 PM. The motion was seconded by Ms. Lima and unanimously voted 7-0-0. On a roll call vote: Ms. Lima voted Yes, Mr. Boivin voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*

