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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: June 24, 2021

TIME: 7:00 PM

PLACE: 29 Center Street, Town Hall – 2<sup>nd</sup> Floor Hearing Room

MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin Gail Lima, Ed LoTurco (Remote Access), Donald Bernstein, Jennifer O’Riorden (Remote Access) and Kent Moffat (Remote Access)

MEMBER MISSING: Indra Deb

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

*Approved at the July 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. LoTurco voted Present via WebEx, Mr. Boivin voted Present, Ms. O’Riorden voted Present via WebEx, Ms. Lima voted Present, Mr. Bernstein vote Present via WebEx and Mr. Moffat voted Present via WebEx. Conservation Administrator John Keeley and Assistant Conservation Administrator Eileen Coleman were also present.

Mr. Cohen stated that this meeting is being held in-person at the Town Hall Main Hearing Room and an option for hybrid. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. 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.

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

Mr. Cohen stated that Agenda Item 7b has been withdrawn.



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**7b. Van de Graaff Drive Roadway – Reconfigure Approved Drainage Structures – Determination of Applicability**

Mr. Cohen stated that the applicant has requested a continuance to the next meeting for all 3 Notice of Intents for the Redmond Street roadway, 4 Redmond Street and 5 Redmond Street.

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

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

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

**MOTION** - Ms. Lima made a motion to continue the Notice of Intent for Redmond Street roadway, 4 Redmond Street and 5 Redmond Street until July 8, 2021. The motion was seconded by Mr. Boivin and voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**2. Citizens’ Time**

No one came forward to speak.

**3. Approval of Minutes – June 10, 2021**

Mr. Cohen stated that they did not receive the June 10, 2021 meeting minutes so they will be continued.

**4. Request for Extension to Order of Conditions/Wetland Bylaw Permit – Town of Burlington DPW – Town Wide Stream Cleaning (Vactoring) – DEP #122-394**

Meghan Cavalier appeared for the request for extension for town wide stream cleaning. Ms. Cavalier stated that there is no money in this year’s budget but they hope to continue next year.

**MOTION** - Mr. Bernstein made a motion to extend the Order of Conditions for the Town of Burlington DPW, Town Wide Stream Cleaning, DEP #122-394 for a period of 3 years. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden voted Yes and Mr. Cohen voted Yes.

**5. Request for Certificate of Compliance – 10 Great Meadow Road – Town of Burlington – DEP #122-630**

Mr. Keeley stated that they are still waiting on some information so this should be continued.

**MOTION** - Ms. Lima made a motion to continue the Request for Certificate of Compliance for 10 Great Meadow Road #122-630 until July 8, 2021. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.





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**6. Request for Determination of Applicability (RDA)**

**6a. 6 Erin Lane – William Ikier – Remove Trees**

William Ikier stated that he would like to remove 10 trees. There is one tree in the back that is dead, three pines on the left side that are not within the 100' buffer, one tall pine behind the house and five trees on the right side.

Ms. Coleman stated the back tree is completely dead and there is no concern with the removal of the tree. The other trees will acquire natural replacements and the stumps should be left on the right side and in back.

The Conservation Commission discussed/questioned:

- The stumps for the trees on the right side should be left but the pine trees on the left are out of our jurisdiction and could be removed.
- The tree company should be made aware that it cannot disturb other trees while removing the 10 approved trees.
- Opposed to removing healthy mature pine trees. They tend to live in groves to protect each other.

The applicant/staff offered the following responses:

- The large pine trees on the right side are being removed because they are close to the house and he is afraid of them falling on his house.

There were no questions from the audience.

**MOTION** - Mr. Boivin made a motion to amend the application to allow for the removal of 8 trees and leave the 2 healthy pine trees on the right side of the house. The motion was seconded by Ms. O'Riorden and voted 3-3-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted No, Mr. LoTurco voted No, Mr. Bernstein voted Yes, Ms. O'Riorden voted Yes and Mr. Cohen voted No. The motion fails.

Ms. Lima stated that she loves trees and they are designed to bend in the wind and pines grow in groups to protect each other but she respects the concern of the resident.

**MOTION** - Ms. Lima made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for cutting down 10 trees at 6 Erin Lane. The motion was seconded by Mr. LoTurco and voted 4-2-0. On a roll call vote: Mr. Boivin voted No, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O'Riorden voted No and Mr. Cohen voted Yes.

**6b. 19 Arnold Terrace – Michele Viani & Marshall DeForest – Construct Residential Addition & Garage**

Michele Viani and Marshall DeForest appeared for the Request for Determination of Applicability to construct a residential addition. Ms. Viani stated that they are proposing to build an addition with a 2-car garage and rooms above and to bump out the kitchen.

Ms. Coleman stated that the addition is approximately 50'-55' away from the wetlands and on the side of the house away from the wetlands. She has no concerns.

The Conservation Commission discussed/questioned:





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- How will the roof run off be handled?

The applicant/staff offered the following responses:

- There is an existing dry well and the gutters will be tied into that system.

There were no questions from the audience.

**MOTION** - Mr. Bernstein made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to construct a residential addition at 19 Arnold Drive. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**6c. 17 Spruce Hill Road – Thomas & Samantha Blanchette – Construct Residential Addition**

Thomas and Samantha Blanchette and Jamaal Siddiqui appeared for the Request for Determination of Applicability to construct a residential addition. Mr. Siddiqui stated that there is an existing 1 story structure on the right side of the house. They are proposing adding structural support to the foundation and adding a second floor. There will be no change in footprint.

Ms. Coleman stated that the Mass GIS layer is not accurate and there is not as much wetlands as what is shown. Most of the wetlands are on the eastern edge of this property. She would need some more detail on the foundation but she has no issue with the application. Mr. Siddiqui stated that they would most likely use helical piers instead of sono-tubes because there is less excavation.

The Conservation Commission discussed/questioned:

- How will the roof run off be handled.

The applicant/staff offered the following responses:

- There is already an existing gutter system with an underground detention and they will tie into the existing system. There will be no change in drainage.

There were no questions from the audience.

**MOTION** - Mr. Boivin made a motion to issue a negative conditional determination under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to construct a residential addition at 17 Spruce Hill Road. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**7. Minor Engineering Change**

**7a. 20 Stony Brook Road – Install Patio – DEP #122-643**

Sarah Beaumont joined the meeting for a minor engineering change at 20 Stony Brook Road to install two patios.





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Mr. Keeley stated that there is an existing Order of Conditions issued to the builder that has not received a Certificate of Compliance. Ms. Beaumont has bought the property from the developer so there is a new owner. A site walk was conducted and they are pushing the bounds of a minor engineering change within the area of alteration. They are changing the grade but they are using permeable pavers. The Commission needs to decide if this is a minor engineering change or require an amendment. Mr. Cohen stated that procedurally can we issue a minor engineering change on another owner. Mr. Keeley stated that it seems like the cleanest way because if they install the patios then the as-built will not reflect what was approved.

The Conservation Commission discussed/questioned:

- There is concern with the fill that was brought in. It is not clean fill and should be removed.
- Top soil will be required and additional information such as how much fill is needed and any grade changes.
- There is still debris in the wetlands.

The applicant/staff offered the following responses:

- The landscaper has proposed a gentle grade sloping over 12’.
- That was a condition in the original Order of Condition and staff will follow up with the developer.

There were no questions from the audience.

Mr. Cohen stated that the following conditions should be added to the approval of the Minor Engineering Change: 1) Remove existing dirty fill and replace with clean fill; 2) Downspouts in the back must go into the existing underground infiltration system; 3) The grading will slope over 10’ to current level; 4) if the runoff from the patio goes to the neighbor’s property, a shallow swale should be added to the back of the property.

**MOTION** - Ms. Lima made a motion to approve the Minor Engineering Change for DEP #122-643 for 20 Stony Brook Road with the conditions discussed tonight. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**8. Continued Public Hearing – Notice of Intent – 59 & 61 Middlesex Turnpike – Nouria Energy Corporation – Demolish Gas Station/Convenience Store and Restaurant Building and Construct a New Gas Station & Convenience Store – DEP #122-657**

Scott Goddard from Goddard Consulting appeared for the continued Notice of Intent for 59 & 61 Middlesex Turnpike. They have reviewed the draft Order of Conditions and only had minor changes which they have provided to staff.

Mr. Cohen stated that the Planning Board did not approve this project so if any changes are required for approval, the applicant would need to come back. Mr. Goddard replied he understands.

The Conservation Commission discussed/questioned:





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- Have bank improvements been proposed?
- In the Order of Condition, can Item #33 be met?
- Request that a sign be added “No snow storage allowed on site”
- The condition of sweeping only twice a year is not sufficient.
- The fence should go to the ground to block trash from getting onto the bank.

The applicant/staff offered the following responses:

- They have agreed to control trash and clean up the existing debris on the bank.
- Item #33 would be difficult to meet unless it was changed from 50’ to 40’. That change will be made.
- The sign will be added.
- The condition for sweeping the site will be changed to 4 times a year at the minimum or if the Commission or Applicant determines more is required.
- The chain link fence will be installed to the ground so trash cannot go underneath it.

There were no questions from the audience.

**MOTION** - Mr. Boivin made a motion to close the public hearing for the Notice of Intent for 59 & 61 Middlesex Turnpike, DEP #122-657. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**MOTION** - Ms. Lima made a motion to adopt the findings under the Burlington Bylaw Article 14 to demolish gas station/convenience store and restaurant building and construct a new gas station and convenience store at 59 & 61 Middlesex Turnpike, DEP #122-657 as amended. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**MOTION** - Ms. Lima made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act to demolish gas station/convenience store and restaurant building and construct a new gas station and convenience store at 59 & 61 Middlesex Turnpike, DEP #122-657 as amended. The motion was seconded by Mr. Bernstein and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**MOTION** - Mr. Bernstein made a motion to require a \$20,000 surety bond under the Burlington Bylaw Article 14 for 59 & 61 Middlesex Turnpike, DEP #122-657. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.





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**9. Continued Public Hearing – Erosion & Sedimentation Control Permit – 15, 25, 35, 49 & 95 Network Drive – Nordblom Company – Construct Bio-Science Building with Associated Parking, Landscaping and Utilities**

Todd Fremont-Smith from Norblom Company, Frank DiPietro and Marissa Valentino from BSC Group appeared for the continued Erosion and Sedimentation Control Permit for 15, 25, 35, 49 and 95 Network Drive. Mr. DiPietro stated that they have filed a response to the questions from the previous meetings. The Commission has asked that they evaluate the onsite detention basins. The vegetation is very dense and they request to survey them in the fall. They would also provide an as-built of the drainage system. The Commission has also requested a review of the wetlands. They would like to bring out their soil scientist to evaluate the sediment and requested that this be a condition of the permit. Mr. Fremont-Smith stated that there was also a request to improve the pedestrian circulation. They will commit to continue to work with the Commission to accomplish that but asked that not be tied to this Erosion permit. Ms. Lima stated that she would not want to see increased lighting on the path.

Mr. Keeley stated that he agrees that the pedestrian pathways should not be tied to an Erosion and Sedimentation Control Permit. He would take Mr. Fremont-Smith at his word that he would continue to work on this issue.

Mr. Boivin stated that he was not at the last meeting, but he has reviewed the meeting and can vote on this matter.

There were no questions from the audience.

**MOTION** - Mr. Bernstein made a motion to close the public hearing on the Erosion and Sedimentation Control at 15, 25, 35, 49 & 95 Network Drive. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to approve the Erosion and Sedimentation Control Permit under Burlington Bylaw Article 14, Section 6 for 15, 25, 35, 49 & 95 Network Drive. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**MOTION** - Ms. Lima made a motion to require a \$25,000 surety bond under the Burlington Bylaw Article 14 for 15, 25, 35, 49 & 95 Network Drive. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**13. Administration**

**13e. Other Business**

Mr. Boivin stated that at the May 22, 2021 meeting, Ms. O’Riorden brought up that at 4<sup>th</sup> Avenue there was tree cutting activities. He has visited the site and almost the entire grove of healthy trees had been cut. Out of 50 trees, there were 44 trees removed with their stumps. He inquired to staff why this was allowed and the





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Planning Board approved an insignificant change. The area will now be a park with grass and pavers and have metal tables. This is devastating and will not look natural except the grass which will have to be watered. There was no public hearing and this is not insignificant. This has a large environmental impact. He would like to send a letter to the Planning Board disputing their decision that this is an insignificant change. He would also like to send a letter to the Editor and start creating a tree bylaw.

Ms. Lima stated that this is huge impact to the carbon sink and she is not sure why pavers are proposed that sit on concrete. With the shade of the trees removed it will increase the heat factor. Mr. Fremont-Smith stated that he was not involved with this project but Nordblom put this request forward, not Abbott Labs who is just a tenant. He believes the idea behind it was to make a public assembly space. He understands the emotional reaction to the removal of the trees but we did get the Town's permission. Mr. Boivin is not blaming Nordblom, they proposed it to the Town, but the Town should never have approved it.

Mr. Keeley stated that once the trees were removed, it should have probably would have required an Erosion and Sedimentation Control Permit for the land disturbance over 10,000 SF because they would have had to grub the area but regardless that would have been after the trees were cut.

Mr. Cohen stated that he would be hesitant to send a letter to the Editor from the Conservation Commission because Nordblom has always worked well with the Town. If individuals would like to send a letter they have the right too but a letter from the Commission should go to the Planning Board that cutting of that many trees is not insignificant. Mr. Cohen asked Mr. Fremont-Smith to go back to the landscape engineer for this project to see if there are other improvements could be made to this site and he would agree that all that grass is not needed.

Ms. O'Riorden stated that this could be a teachable moment and let people know what happens to the environment when trees are removed.

**13a. Planning Board Comments**

Mr. Keeley stated that he will update the Planning Board on Erosion and Sedimentation Control at 15, 25, 35, 49 & 95 Network Drive has been approved and Nordblom has committed to work with the Town on a pedestrian walkway. He will also let them know that 59 and 61 Middlesex Turnpike has been approved.

**13b. Subcommittee & Staff Reports and Updates**

Mr. Boivin stated that he will draft a letter to the Planning Board about the tree cutting and will work with Ms. O'Riorden on an educational letter.

**13c. Discuss Future Meetings: Live Hybrid vs. WebEx Only**

Mr. Keeley stated that the order to allow for all remote meetings has been extended until at least April 2022 and asked what the Commission would prefer. Mr. Cohen asked if there have been any negative comments about the remote meetings. Mr. Keeley replied no, and it seems like the applicants and some Commissioner prefer the remote option.

**MOTION** - Mr. Bernstein made a motion that the Conservation Commission continues their meeting virtually as long as the State allows. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll







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call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

**13d. Upcoming Meetings –July 8, 2021 and August 12, 2021**

**13e. Other Business**

Ms. Lima stated that there is residential tick and mosquito spraying occurring and neighbors aren’t notified. She was walking the trails the other day and she couldn’t breathe because of the chemicals being sprayed. The pollinators are out during the daytime so chemicals shouldn’t be sprayed during the day. There needs to be other options. Ms. Lima stated that she will continue to look for information from the State and will contact our legislature if needed. Mr. Keeley stated that he would look at other communities and see how they are handling it.

Mr. Cohen asked if we have had any update on the strip of land on Erin Lane that leads to some conservation land. Mr. Keeley replied he has not heard of any update.

**14. Adjournment**

**MOTION** - Mr. Bernstein made a motion to adjourn the June 24, 2021 Conservation Commission meeting at 9:10 PM. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote: Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*

