



**RECEIVED**

By Town Clerk's Office at 4:00 pm, Jul 13, 2020

# 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

DEPT./BOARD: Conservation Commission  
DATE: June 25, 2020  
TIME: 7:00 PM  
PLACE: WebEx Remote Meeting  
MEMBERS IN ATTENDANCE: Chairman Larry Cohen, Vice Chair William Boivin, Ed LoTurco, Indra Deb, Gail Lima, Donald Bernstein, Associate Member Kent Moffatt.

---

*Minutes approved July 9, 2020*

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

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

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 129 780 8579 and the password if needed is d7JvZpTXV43.

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 are concerns regarding public hearings should be emailed to [conservation@burlington.org](mailto:conservation@burlington.org) before the next meeting on July 9<sup>th</sup>.

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

Mr. Cohen called the meeting to order at 7:00 PM. On a Roll Call, Mr. Boivin voted Present, Mr. LoTurco voted Present, Mr. Deb voted Present, Ms. Lima voted Present, Mr. Bernstein voted Present and Mr. Moffatt voted Present.



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

June 25, 2020

**2. Citizens' Time**

No one came forward to speak.

**3. Approval of Minutes – June 11, 2020**

**MOTION** - Mr. Boivin made a motion to approve the Conservation Commission minutes of June 11, 2020 as submitted. The motion was seconded by Mr. LoTurco and voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. LoTurco, Mr. Bernstein voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**4. Continued Request for Minor Engineering Change – Wheeler Road – Burlington (Jumbo) Self-Storage – DEP #122-604**

Attorney Robert Buckley from Riemer & Braunstein LLP and Andy Graves from BL Companies appeared for a Minor Engineering Change for DEP #122-604. Attorney Buckley stated that the letter from Heidi Davis from DEP dated June 19, 2020 was submitted to the Conservation office. Mr. Keeley stated this letter indicated that the proposed changes are insignificant. The minor engineering change to the bylaw permit will keep both the bylaw permit and superseding Order of Conditions in sync.

There were no questions from the Commission or the public.

**MOTION** - Mr. Deb made a motion to approve the requested Minor Engineering Change under the Burlington Bylaw Article 14 for Wheeler Road, DEP #122-604. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes

**5. Continued Public Hearing – Notice of Intent – 20 Stony Brook Road – Ming Liang Lu – Demolish Dwelling and Construct a New Single Family Dwelling – DEP #122-643**

Stephen Dresser from Dresser, Williams and Way appeared for the Notice of Intent for 20 Stony Brook Road, DEP #122-643. Mr. Dresser stated that from the last meeting, the wetlands flags have been rehung, the setback to the storm water system has been added to the plans and the post & rail fence has been located on the plan. He looked at the leaning tree and in a few years it will fall into the wetlands but it should be left as habitat.

Ms. Coleman stated that in the decision, she has added a condition to plant additional trees in the location of the shed that is being removed. Mr. Dresser agreed to that.

The Conservation Commission discussed/questioned:

- Was the filling of the wetlands near flags 6A and 7A looked at?

The applicant offered the following responses:

- The fill looks to be some sort of wood, perhaps an old fence. They would agree to a condition to remove it by hand.

There were no questions from the audience.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

**MOTION** - Mr. LoTurco made a motion to close the public hearing for DEP #122-643. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. Deb voted Yes, Mr. LoTurco voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to adopt the findings under the Burlington Bylaw Article 14 as amended for 20 Stony Brook Road, DEP #122-643. The motion was seconded by Ms. Lima and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to adopt the Order of Conditions under the Burlington Bylaw Article 14 and the State Wetlands Protection Act for 20 Stony Brook Road, DEP #122-643. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**MOTION** - Mr. Boivin made a motion to require a \$2,500 bond for DEP #122-643 under the Burlington Bylaw Article 14. The motion was seconded by Mr. LoTurco and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**6. Continued Public Hearing – Burlington Wetland Bylaw Permit – 127 Bedford Street – Kong K. Taing and Vanden Lay – Grading, Landscaping, Driveway Extension, Buffer Zone Restoration**

Maureen Herald from Norse Environmental, Kong Taing and Vanden Lay appeared for the continued public hearing for 127 Bedford Street. Ms. Herald stated that since the last hearing back in January the following changes were made to the plan: The proposed driveway around the house is eliminated as well as 160' of retaining wall, and the wetlands boundary was adjusted. They heard the concerns from the neighbors and they are proposing an infiltration trench at the base of the driveway and run it along the property line to direct the water to the wetlands. All the stumps will be removed and two additional trees will be added in the wetland area.

Mr. Keeley stated that they walked the site and the new wetlands delineation is more accurate and the wetland continues behind this property. The new driveway configuration is better as well and the infiltration trench and the enhancement planting near the wetlands are big improvements. Mr. Keeley stated that when the house was built, it was under an administrative erosion control permit. The wetlands in the back were missed. There was no as-built so he is not sure if it was constructed as proposed. Mr. Keeley stated that they are also adding pavement in front of the house where the cars are parked that will increase run off also. This area is outside of the Conservation jurisdiction.

Ms. Lima stated that she has reviewed the documents from the January meeting since she was not present.

The Conservation Commission discussed/questioned:

- Requested that the stone trench be continued up the driveway to catch the water before going towards the neighbors.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

- Requested that it be written in the decision that the stone trench cannot be removed and a fine can be given if it is.
- Significant trees were removed and they are only replacing them in the back corner. There should be additional trees added.
- If snow is piled up on the driveway trench, it could affect how the trench operates.
- The fence needs to be extended to the property line on the left with no gate to prevent lawn cuttings being deposited in the wetlands.
- Should the wetland be enlarged to accommodate the extra flooding due to the tree removal. There could have been a fine issued or enforcement order, so this could be a compromise.
- There should be no herbicides used near the wetlands.
- Will the fill being brought in for the retaining wall reduce the water flow?
- Where does the roof top flow go?

The applicant/staff offered the following responses:

- There is a 2' area between the fence and the driveway that they can add a stone trench.
- The trees were cut 2-3 years ago. If they came in for a permit, they would have been approved for cutting trees outside of the 20' no disturb zone.
- The trench needs to be maintained and it will be part of the O & M manual with the filing.
- The vinyl fence in the back will be extended to the property line on the left.
- The fill will not reduce the water flow, but additional vegetation including the grass lawn will help. The applicant would be agreeable to add some additional small shrubs in the back.
- The roof top runoff goes behind the back deck.

Michael and Kerrie Callahan of 125 Bedford Street – Mr. Callahan stated that he bought his house 5 years ago and there was minimal water and now they can't use their back yard because it is flooded all the time. The sump pump in their basement is constantly on except when there is a drought. A few years ago the sump pump would only turn on when there was a consistent rain or in the early spring. Ms. Herald stated that the existence of a sump pump means there is a high water table.

Mr. Keeley stated that he never saw the wetlands prior to the tree removal. The property 2 doors up, 121 Bedford Street, has a large pond in their back yard that probably used to flow in the direction of 123 Bedford St. The re-delineation shows that the wetlands go off this property as well. This is a complex situation and there has been development in this area.

Kristin Brady of 13 Pleasant Street – Ms. Brady stated that she has lived in her house for 37 years and there was never standing water behind her house until the trees were removed. Is it not right just because they want a





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

lawn, the neighbors now have to suffer with water on their property all the time. They caused this by cutting down over 60 trees. The wetlands should be expanded to capture the water. Ms. Herald stated that on June 8<sup>th</sup> she was on her clients' property, and Ms. Brady has installed a sports court right behind her client's property which is causing flooding on her client's property. This is a violation and needs to be addressed. Ms. Brady stated that our property is below this property so it cannot flood their property.

Mr. Cohen stated that for the next meeting the applicant should look at ways to address the additional water due to the removal of the trees; look at using pervious surfaces where possible, look at drainage along the driveway; staff to schedule a site visit including the properties of 125 Bedford Street and 13 Pleasant Street with the owner permission. Mr. Callahan and Ms. Brady gave permission for the site visit to their property.

**MOTION** - Mr. LoTurco made a motion to continue the public hearing for 127 Bedford Street until July 9, 2020. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

7. **Continued Public Hearing – Notice of Intent – Redmond Street Roadway – Somerset Realty Trust – Construct a New Road with Stream Crossing – DEP #Pending**
8. **Continued Public Hearing – Notice of Intent – 4 Redmond Street – Somerset Realty Trust – Construct a New Single Family Dwelling – DEP #Pending**
9. **Continued Public Hearing – Notice of Intent – 5 Redmond Street– Somerset Realty Trust – Construct a New Single Family Dwelling – DEP #Pending**

Mr. Cohen stated that agenda items 7, 8 and 9 will be discussed together.

Mary Trudeau, Phyllis Etsell and William Rudolph appeared for the Notice of Intent for Redmond Street roadway and #4 and #5 Redmond Street. Ms. Trudeau stated that this is a proposed 2 lot subdivision off Redmond Street located between two paper streets. There is no frontage or access on a public way so the subdivision will create access and frontage for the 2 lots. There are extensive wetlands on this site and there are two distinct wetlands (B and C Series). The B Series has a distinct stream channel and the C Series is like a headwater situation that gathers water and flows north. There will be alteration of approximately 4,257 sf of bordering vegetated wetlands. The proposal will meet all storm water regulations and will reduce the peak runoff and volume of storm water with the infiltration systems proposed. There is a proposed wetlands crossing which requires a DEP Army Corps of Engineers filing. The DPW has also reviewed it and they prefer a concrete crossing instead of an aluminum, so the Applicant will change to concrete on the plans. They are also going to consolidate the storm water management system and relocate the infiltration system off the road. They have looked at access from Raymond Street instead of Redmond Street and there was less impact to the bordering vegetated wetlands off Redmond Street. They will provide the calculation to support that. They are proposing a limited project and are hoping that instead of replicating the wetlands, they can donate an adjacent parcel to the Conservation Commission. DEP has said no to this and that a replication area is required but they will continue discussions because the replication area will require extensive tree removal. They may ask for a 1 to 1 or 1 to 1 ½ replication instead of the normal 2 to 1.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

Mr. Keeley stated that under the Wetlands Protection Act 310 CMR, Section 10.53.E, a limited project is defined, it includes projects that can only access uplands through a wetlands crossing. DPE will require a 401 water quality certification and will require replication. This is a federal permit and they do not have the flexibility to allow for donation of land instead. The site needs to have more wetlands delineation done. The crossing needs to be done in an area with the least impact to the wetlands and calculations will need to be provided. If the roadway is public, it cannot have retaining walls, if it remains private then retaining walls may be allowed.

The Conservation Commission discussed/questioned:

- There needs to be a path cut into the property to allow for a site visit.
- The access that allows the least amount of disturbance needs to be pursued.
- There needs to be a lot more discovery on this site and the Commission should look at Google Earth to get an overall view of the property.
- With the stream crossing, will that cause the loss of hydrology flow?
- Does the Commission have the authority to only approve one lot if access can be achieved with a smaller wetlands disturbance?
- There looks like there is a large upland portion of the property off of Raymond Road that should be looked at.
- If the culvert is approved, it should be large enough to allow animals to pass through not just water.
- Can porous pavement be looked at for this development?

The applicant/staff offered the following responses:

- Enforcement of the maintenance of porous pavement is hard to do and it would not be practicable in this instance.

Tony Gaglione of 2 Redmond Street – Mr. Gaglione stated that he purchased his house in March and he is not a fan of development on Conservation land. We need to protect our Conservation land. He is concerned with flooding if the wetlands are being removed and with development of houses and streets and the increased impervious surfaces. Ms. Lima stated that this is private land, not Conservation's land but they need to come to the Commission to make sure that they meet the regulations where wetlands are involved. Mr. Boivin added that they need to show calculations that the post-development water flow cannot be more than the pre-development water flow. This is done by replication, detention and infiltration systems. Mr. Gaglione stated that 3 Redmond Street already has issues with the sewer and he doesn't want to add to it with more development. He is also concerned that additional lots will be requested after these 2 houses are built. Ms. Etsell stated that there is not enough upland for any additional houses. Ms. Etsell added that the two lots currently exist but do not have frontage on an existing public way. There are zoned wetlands off Raymond Street that cannot be removed and makes the land not buildable. Mr. Cohen suggested that Mr. Gaglione attend





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

the Planning Board meeting to discuss this. Mr. Gaglione asked if Redmond Street and Raymond Street will be connected. Ms. Trudeau replied no.

Ron Conti of 1 Redmond Street – Mr. Conti stated that the application states that a Homeowner’s Association would be responsible for the O&M manual but if they don’t follow it how would that get enforced. Mr. Keeley stated that honestly, enforcement is not easy. On large projects we get annual reports but smaller projects like this are tougher. Mr. Cohen stated that you may have to get a lawyer involved. Ms. Lima stated that if you see something that is being done wrong, then contact the Conservation office and we can issue a fine, violation and enforcement order but if we don’t know about it, we can’t watch over every project. If the road becomes public, then the Town of Burlington will be responsible. Mr. Cohen added that the Board of Health will also have a drainage permit that will have to be maintained. Mr. Conti would like a copy of the O & M manual. Mr. Keeley stated that he can add it to the website but it is going to be updated because the drainage is going to be re-designed.

Ms. Coleman provided a clarification, she believes Mr. Gaglione was talking about a problem with storm water drainage not sewer and Wetlands, not Conservation land.

**MOTION** - Mr. Boivin made a motion to continue the Public Hearings for Agenda Items 7, 8, and 9 until August 13, 2020. The motion was seconded by Mr. Deb and unanimously voted 6-0-0. On a roll call, Mr. Boivin voted Yes, Ms. Lima voted Yes, Mr. Bernstein voted Yes, Mr. LoTurco voted Yes, Mr. Deb voted Yes and Mr. Cohen voted Yes.

**10. Administration**

**10a. Planning Board Comments**

Mr. Keeley will update the Planning Board on the Redmond Street issues discussed tonight including the benefits of not being a public way.

**10b. Subcommittee, Staff Reports and Updates** - None

**10c. Upcoming Meetings –July 9, 2020 and August 13, 2020**

**10d. Other Business**

Mr. Cohen stated that he walked the Mill Pond area and it is very nice.

Ms. Lima stated that we received notification of the water restriction by a reverse 911 call but it should be wider spread notification. Ms. Lima doesn’t understand how washing cars and watering parks are exempt. If the grass dies, it will come back. Mr. Cohen stated that he spoke with the Police and they are not enforcing the water ban. Mr. Keeley replied that the DPW is enforcing it.

**11. Adjournment**

**MOTION** - Mr. LoTurco made a motion to adjourn the June 25, 2020 Conservation Commission meeting at 9:12 PM. The motion was seconded by Mr. Boivin and unanimously voted 6-0-0. On a roll call vote, Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. Bernstein voted Yes and Mr. Cohen voted Yes.





TOWN OF BURLINGTON  
CONSERVATION COMMISSION MINUTES

June 25, 2020

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*



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)