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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

DEPT./BOARD: Conservation Commission  
DATE: July 9, 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, Jennifer O'Riorden

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*Approved August 13, 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 129 246 8069 and the password if needed is 76a25UGqaii.

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 Ms. O'Riorden voted Present.





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**2. Citizens' Time**

No one came forward to speak.

**3. Approval of Minutes – June 25, 2020**

**MOTION -** Ms. Lima made a motion to approve the Conservation Commission minutes of June 25, 2020 as submitted. The motion was seconded by Mr. Boivin and voted 7-0-0. 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, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

**4. Request for Certificate of Compliance/Release of Surety – 24 Terry Avenue – BAPA Corporation – DEP #122-621**

Amy Geary appeared for the Certificate of Compliance for BAPA Corporation.

Mr. Cohen stated that a site visit was conducted. Mr. Keeley stated that this project was a commercial addition and a parking lot with storm water changes. The site is stable and weekly inspections reports were provided. There are a few of the blueberry bushes that have died and there is some trash that needs to be removed. There was pea stone added between the curb and edge of work that was not on the plan but it should be fine. Ms. Coleman added that the no snow dumping sign is also needed.

There were no questions from the Commission or the public.

**MOTION -** Mr. LoTurco made a motion to issue the Certificate of Compliance for 24 Terry Avenue, DEP #122-621. The motion was seconded by Mr. Boivin and unanimously voted 7-0-0. 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, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

Mr. Cohen asked if the surety should be held until the issues are fixed. Ms. Geary stated that the blueberry bushes were just planted last month. She will check with their landscaper but it could have something to do with the water ban. Ms. Lima stated that the bushes can be hand watered with a hose and they don't require a lot of water. Ms. Geary stated that the trash will be picked up, the no snow dumping sign was ordered and should be installed next week and if the blueberry bushes can't be saved they will be replaced.

**MOTION -** Mr. Deb made a motion to release the \$15,000 surety for 24 Terry Avenue, DEP #122-621. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. 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, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

**5. Public Hearing – Notice of Intent – 3 Marjorie Road – Kara & Eric Imlach – Install In ground Pool – DEP #Pending**

Homeowner Eric Imlach and Kyle Cormier from Oxbow Associates appeared for the Notice of Intent for 3 Marjorie Road. Mr. Cormier stated that the applicants would like to install an in-ground pool with patio in the rear of the house. They are proposing that the storm water will be collected by a drain in the patio and flow into an infiltration system. There will be a swale and grading that will direct the overflow into the intermittent stream. The pool is outside of the 40' no-build zone but some of the patio and grading will be within 20' – 40' buffer zone. There is a depression containing some wetland species that is about 150 sf. An isolated wetland





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requires 500 SF so this depression is not an isolated wetlands. He also noted they are proposing some invasive species control with herbicide and cleanup of debris in the 0' – 20' buffer zone Mr. Cormier added that there will be 5 trees removed towards the back that are outside of the 50' buffer line.

Ms. Coleman stated that there is a small patch of wetland material in the depression area but she is satisfied with Kyle's assessment that it is not big enough to be regulated. They are also going to be moving the shed further away from the wetland which is a positive thing and all the pool water will go into the infiltration system.

The Conservation Commission discussed/questioned:

- The invasive species removal should only be done by a professional.
- There should be a condition that no heavy equipment should be allowed.
- The tree stumps should be left.
- Will the infiltration system handle the run off of the deck only?
- Were test pits done?
- There should be some compensation for the removal of the 5 trees and stumps.
- Is the shed parallel to the trees?
- Will there be enough room to excavate the material and not go beyond the erosion controls?

The applicant/staff offered the following responses:

- They planned to remove the tree stumps.
- The infiltration system will handle the run off from the deck, pool and patio.
- Test pits were done.
- The trees that are to be removed are outside of the 50' buffer zone.
- The shed location is incorrect on the plan. The new location will have the back of the shed at the 101' elevation line.
- They will have the material trucked off site immediately or they could extend the erosion controls and store the material in the front temporarily.

There were no questions from the public.

Mr. Cohen stated that the hearing will not be closed tonight but will be continued until the next meeting. The outstanding issues are to clarify the new location of the shed and add a condition that the herbicide application must be done by a professional.

**MOTION** - Ms. Lima made a motion to continue the public hearing for the Notice of Intent for 3 Marjorie Road, DEP #Pending. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. On a roll call vote,





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Mr. LoTurco voted Yes, Ms. Lima voted Yes, Mr. Deb voted Yes, Mr. Boivin voted Yes, Mr. Bernstein voted Yes, Ms. O’Riorden 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 and homeowner Vanden Lay appeared for the continued public hearing for 127 Bedford Street. Ms. Herald stated that since the last hearing they have modified plans to include extending the infiltration trench along the easterly property line to the 96’ contour, adding additional trees and shrubs along the infiltration trench, extended the chain link fence to the easterly property line, an O & M manual has been submitted. They also looked at the use of porous pavement in the front but the property owners would like to use asphalt. The runoff from the driveway is picked up with the extension of the infiltration trench. Ms. Herald also presented two plans from 1957 that shows a drainage easement from the Callahan property to the Brady property. There was also a stream that ran by the Callahan property. This water was directed to the drainage easement that has been blocked by the new sports court. The drainage easement appeared to be an open drainage channel.

Mr. Keeley stated that they walked the area around this site. They started on 127 Bedford and then went to 13 Pleasant Street. There are remnants of the drainage easement. The area that was flooded last year with water up to his knees now has a sports court on top of it. The water was going towards the catch basin at the back of 13 Pleasant Street but now the water can’t flow to it because of the sports court. There needs to be modification to the property so water can flow where it went before. The property owners at 13 Pleasant Street also took down some trees.

The Conservation Commission discussed/questioned:

- There is more than just 127 Bedford Street contributing to the water issue
- There were cat tails that extended beyond both sides of the fence at 13 Pleasant Street and now that area is impervious.
- The wetlands have been there a long time. The property owners at 125 Bedford Street are the victims in this and their land is spongy and not usable. 127 Bedford Street took down 66 trees and 13 Pleasant Street added a sports court that block the water from flowing where it should and is acting like a dam. The owners at 13 Pleasant Street were well aware of the water issue and an enforcement order should be issued. One mature oak tree absorbs 250 gallons of water a day. Voluntary compliance is the best option.
- A drainage swale could be added to 13 Pleasant Street to try to alleviate some of the water.

Michael and Kerrie Callahan of 125 Bedford Street – Mr. Callahan asked if the infiltration trench could be run up to the sidewalk to catch the run off from the driveway up front. Ms. Herald stated that they there is established lawn that deals with the run off. Mr. Callahan stated that in the previous hearing the infiltration system looked a lot bigger than this one. Ms. Herald stated that the previous hearing was adding an infiltration chamber, not a trench. Mr. Callahan asked if the Town was going to fix the drainage easement if it is blocked. Mr. Keeley stated that he will get in touch with the DPW to look at this issue. Ms. Callahan stated that we had the water issue prior to the sports court being installed.





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Kristin and Robert Brady of 13 Pleasant Street – Mr. Brady stated that he has lived here for 42 years and there was never water in his back yard until they cut down 66 trees. Their yard is the lowest spot so the water runs to it. Mr. Brady stated that they took trees down but they were allowed. Ms. Brady asked what will be done with the clogged drainage easement. Mr. Keeley stated that he will contact the DPW. Ms. Brady asked why the replacement trees are only going to be 3'-4' in height when the trees they cut were more substantial. Ms. Brady also asked where the drainage from the wall will go. Ms. Herald stated that the detail is provided and there is a drainage pipe along the wall that will outlet to the 20' no disturb line. Mr. Keeley added that this is graded in the same direction but it is flatter so it will discharge slower over the vegetated slope. Ms. Brady asked if the fill will be monitored. Ms. Herald replied that it will be clean fill as the bylaw requires.

Mr. Cohen stated that the hearing will not be closed tonight but will be continued until the next meeting to get a draft decision. The outstanding issues, not necessarily from the applicant are: Mr. Keeley to speak with the DPW on looking to see if the inlet is blocked. The owners of 13 Pleasant Street need to look at options to address the sports court violation including perhaps a drainage swale. The Commission determined that the extension of the infiltration trench is not required. Ms. Brady asked if larger trees could be planted. Ms. Lima stated that it is not best to transplant large trees; they do better as smaller caliber trees. Mr. Keeley stated that they could request a few more oak trees be added in the back corner. Ms. Herald replied that they could add 2 more oak trees in the back.

**MOTION** - Mr. Boivin made a motion to continue the public hearing for 127 Bedford Street until August 13, 2020. The motion was seconded by Mr. LoTurco and unanimously voted 7-0-0. 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, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

**7. Administration**

**7a. Planning Board Comments** - None

**7b. Subcommittee, Staff Reports and Updates**

Mr. Keeley stated that they have not had any indication of when in-person meetings will start.

**7c. Upcoming Meetings –August 13, 2020 and September 10, 2020**

**7d. Other Business**

Mr. Keeley stated that they will be discussing the 40 Westwood issue at the August meeting. He will also add the Enforcement/Violation order for 13 Pleasant Street to the August agenda.

**8. Adjournment**

**MOTION** - Mr. Deb made a motion to adjourn the July 9, 2020 Conservation Commission meeting at 8:25 PM. The motion was seconded by Ms. O'Riorden and unanimously voted 7-0-0. 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, Ms. O'Riorden voted Yes and Mr. Cohen voted Yes.

*Respectfully Submitted by Dawn Cathcart,  
Recording Clerk*

