

Norwell Planning Board Meeting Minutes
April 27, 2005 Regular Session

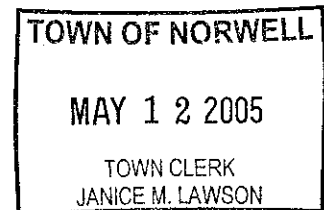
The meeting was called to order at 7:00 p.m. Present were Board Members Richard Parnell Barry, Bruce W. Graham, James M. Ianiri and Sally I. Turner and Town Planner Ilana Quirk. Member Karen A. Joseph was absent.

DISCUSSION. Agenda. 7:00 p.m.

Member Ianiri moved and Member Barry seconded that the Board approve the draft agenda. The motion was approved 4-0, with Member Joseph absent.

DISCUSSION. Minutes. 7:00 p.m.

April 13, 2005 Regulation Session Minutes
April 13, 2005 Executive Session Minutes



Member Ianiri moved and Member Barry seconded that the Board vote to accept the April 13, 2005 Regular and Executive Session minutes. The motion was approved 4-0, with Member Joseph absent.

DISCUSSION. Bills. 7:01 p.m.

Member Turner moved and Member Barry seconded that the Board vote to approve the following bills:

Planner Mileage Reimbursement: \$50.70
(7/04 to 4/25/05)

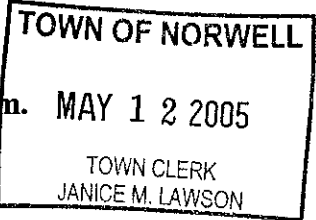
ITZA (Master Plan Web Site)\$31.80

The motion was approved 4-0, with Member Joseph absent.

DISCUSSION. Chapter 91 License. Landon/241 River Street 7:05 p.m.

The Board discussed the materials received from the Landons, regarding their application to the state for permission to construct a pier on the North River at property known as 241 Main Street, which is accessed over Wanton Shipyard,

Member Ianiri moved and Member Turner seconded that the Board vote to determine that no public hearing by the Board shall be required and that the Board not provide any comments on the matter and that Chairman Graham be authorized to sign the Municipal Notice Form. The motion was approved 4-0, with Member Joseph Absent. Chairman Graham executed the form.



DISCUSSION. Trunnel Subdivision. Surety Release Request. 7:10 p.m.

Member Turner recused herself.

The Board reviewed the status of the surety held for the project. The Town currently holds a surety bond in the amount of \$154,000 and a Lender's Agreement in the amount of \$150,000.

Coler & Colantonio has provided a report indicating that at least \$99,000.00 worth of work remains to be completed, including repair and replacement of erosion and sedimentation control devices during the construction process. In particular,

Developer Steve Waitekaitis requests that the \$150,000 Lender's Agreement be released in its entirety and that the Board continue to hold the \$154,000 surety bond. Member Barry noted that an updated construction schedule has not been provided.

Member Ianiri moved and Member Barry seconded that the Board vote to release the Lender's Agreement of \$150,000, provided that Developer Waitekaitis shall first provide to the Board: (1) an updated construction schedule; and (2) evidence confirming that the required erosion and sedimentation control measures have been repaired and replaced as necessary.

The motion was approved 3-0, with Member Joseph absent and Member Turner recused.

DISCUSSION. Bright Horizons Site Plan Modification. 7:15 p.m.

The Board reviewed the Bright Horizons Site Plan Modification proposal for land located on Longwater Drive. On February 7, 2005, the Board of Appeals granted zoning relief to allow an 8500 square foot building to be constructed and used as a childcare facility. On April 12, 2005, the Applicant filed an application to modify the zoning relief previously granted to increase the square footage of the proposed structure by 504 square feet, to a total of 9,504 square feet.

The Board considered whether peer review of the April 12, 2005 proposal is warranted. Engineer Chessia's recommendation was that such a review probably is not warranted. Member Ianiri moved and Member Barry seconded that the Board vote to not require technical review of the Applicant's April 12, 2005 modification proposal. The motion was approved 4-0, with Member Joseph absent.

The Board reviewed a draft decision, dated April 27, 2005. Member Ianiri moved and Member Turner seconded that the Board vote to recommend that the Applicant shall be required to provide the Board of Appeals with an updated drainage calculation report, which shall detail the impact of the April 12, 2005 proposed modification that would increase the square footage of the structure by 504 feet and increase the parking as shown on revised Sheets 3 and 5, entitled "Layout and Zoning Plan" and "Grading & Drainage Plan," respectively, both dated June 30, 2004 as revised through April 1, 2005 and

prepared by Cubellis Saivetz Associates and signed and stamped by Registered Professional Engineer Chi Y. Man.

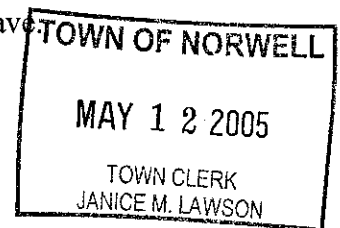
The motion was approved 4-0, with Member Joseph absent.

Member Ianiri moved and Member Barry seconded that the Planning Board vote to recommend to the Board of Appeals that the Board of Appeals grant with conditions the Applicant's request to modify the zoning relief granted by the Board of Appeals on February 6, 2005 to allow an 8,500 square feet structure at the Property in order to allow a 9,004 square foot structure, provided that this recommendation shall be subject to the findings and conditions set forth in the Planning Board's October 28, 2004 report to the Board of Appeals and to the condition that a revised drainage report shall be provided before a building permit is issued that details the impact of the 504 square foot increase in the foot print of the structure and the proposed increase in parking will have

The motion was approved 4-0, with Member Joseph absent.

DISCUSSION. Open Space and Recreation Plan. 7:20 p.m.

The Board discussed the "Norwell Open Space & Recreation Plan 2005-2010," dated February 1, 2005. Member Ianiri moved and Member Barry seconded that the Board vote to accept and approve the plan. The motion was approved 4-0, with Member Joseph absent.



DISCUSSION. Indian Trail ANR Plan. 7:25 p.m.

The Board discussed the April 26, 2005 Indian Trail draft decision and made one typographical correction to page 1 and had no issues as to page 2. The Board reviewed the votes to be taken under the draft and voted as follows:

Member Ianiri moved and Member Barry seconded that the Board vote to determine that, since application for endorsement of the 2001 ANR Plan was received prior to April 5, 2004, the Board's 1986 Subdivision Regulations (the "Regulations") apply to the 2001 ANR Plan. The motion was approved 4-0, with Member Joseph absent.

Member Turner moved and Member Ianiri seconded that the Board vote to determine that the existing conditions for the Property are as follows:

- A. The Property has 5.66 acres of area and fronts on Grove Street, a public way, for 283.3 feet; and
- B. One residential dwelling is located on the Property.
- C. A common driveway is located on the Property and provides driveway access to Grove Street for the Property (188 Grove Street) and for a second residential parcel (204 Grove Street), which is located to the rear of 188 Grove Street.

The motion was approved 4-0, with Member Joseph absent.

Member Turner moved and Member Ianiri seconded that the Board vote to determine that the proposed division of the property would be as set forth below:

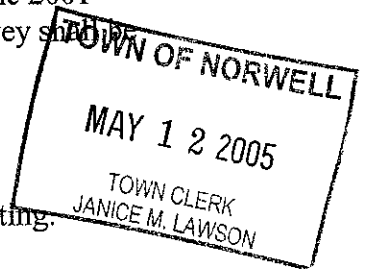
- A. The Property would be divided into two residential lots, Lot 1 and Lot 2.
- B. Lot 1 would have 1.13 acres of area and front on what is shown on the 2001 ANR Plan as "Indian Trail" and is described as a private way of variable width.
- C. Lot 2 would have 4.53 acres of area and front on Grove Street for 283.3 feet.
- D. Lot 2 also would continue to have a common driveway over it, which would continue to provide access to Grove Street for 188 Grove Street and 204 Grove Street.

The motion was approved 4-0, with Member Joseph absent.

Member Ianiri moved and member Barry seconded that the Board find that the 2001 ANR Plan does not comply with the requirement of §2.2.1 that a date of survey shall be placed on the plan.

The motion was approved 4-0, with Member Joseph absent.

The Board tabled the discussion on the draft discussion until later in the meeting.



PUBLIC HEARING. Trunnel Subdivision Modification. Mullaney. 7:30 p.m.

Members Barry, Graham, Ianiri and Turner were present. Planning Board Engineer John Chessia was present. Applicants Sean Mullaney, Esq. and Steve Waitekaitis were present, together with their engineer Deborah Keller of McKenzie Engineer. Abutter Jonathan Hahn of 936 Main Street was present.

Member Barry read the public hearing notice to open the public hearing. Member Turner recused herself and left the table.

Member Barry announced all materials submitted to the Planning Office regarding the project, which proposes to modify the September 17, 2003 subdivision approval granted for the Trunnel Subdivision Project in order to allow a driveway from 944 Main Street to access onto Trunnel Lane.

Engineer Keller submitted green cards, regarding public hearing notices that were sent to abutters.

Engineer Keller made a brief presentation and noted that the proposed driveway connection would have no impact on the closed drainage system for the Trunnel Lane

Subdivision. She requested a waiver, on behalf of the Applicants, from the requirement that the Lotting Plan Sheet be revised to show the metes and bound for the parcel located at 944 Main Street.

Applicant Sean Mullaney of 944 Main Street noted his concerns about becoming part of the subdivision. His main concern was that he not be prohibited from using fertilizer and other chemicals on his lawn. It is his understanding that the lots in the subdivision have such a prohibition. It was noted by the Board that the prohibition comes from the Conservation Commission's Order of Conditions for the Property, not from the subdivision approval granted for the project. Mr. Mullaney's property is not part of the Order of Conditions. Engineer Keller noted that she did not expect that a filing with Conservation would be required for the project as 944 Main Street slopes away from the wetlands and there is no drainage impact on the subdivision's drainage system. The process for enforcing conditions of approval, etc., was explained to Mr. Mullaney and he acquiesced to inclusion of 944 Main Street as part of the subdivision.

Mr. Mullaney requested that the Board waive the filing fee that he paid to bring the subdivision modification request forward. The Board discussed the request and was sympathetic, but the members noted that the Board urged Mr. Mullaney to consider adding his driveway to the subdivision when the public hearing was still open for the original project and that the Board has a concern about setting a precedent of waiving fees.

Member Ianiri moved and Member Barry seconded that the Board vote to deny Applicant Mullaney's request for a waiver of the filing fee. The motion was approved 3-0, with Member Joseph absent and Member Turner absent/recused.

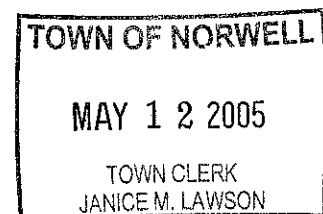
Member Graham asked Engineer Chessia to provide any comments that he wishes to make. Engineer Chessia had not comments other than the comments set forth in his reports.

Member Barry noted that he is concerned that the new, proposed driveway would slope back toward the house. Engineer Keller explained that the water will drain, as it does not to a low point behind Mr. Mullaney's home. She does not believe that will cause any problem for the house. Engineer Chessia said that he was satisfied that there will be no adverse impact to the subdivision way.

Member Graham asked if there were any other comments or submittals and there were none.

Member Ianiri moved and Member Barry seconded that the Board vote to close the public hearing. The motion was approved 3-0, with Member Joseph absent and Member Turner absent/recused.

The Board reviewed a draft decision, dated April 27, 2005.

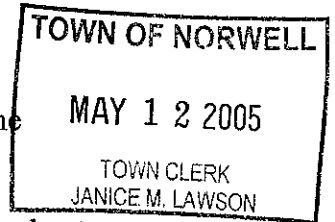


MOTION: Member Ianiri moved and Member Barry seconded that the Board vote to find that the Modified Subdivision Plan is subject to the Planning Board's April 5, 2004 Subdivision Rules and Regulations.

VOTED: The motion was approved 3-0, with Members Joseph and Turner absent.

SECTION 6.4.4 LOTTING PLAN REQUIREMENT:

Engineer Keller requested a waiver on behalf of the Applicants, to eliminate the requirement that 944 Main Street be shown on the Lotting Plan Sheet.



MOTION: Member Ianiri moved and Member Barry seconded that the Board vote to grant a waiver from the requirement that 944 Main Street be shown on the Lotting Plan.

VOTED: The motion was approved 3-0, with Member Joseph absent and Member Turner absent/recused.

SECTION 7C. DRAINAGE

MOTION: Member Ianiri moved and Member Barry seconded that the Board vote to find the drainage requirements of Section 7C are satisfied as the drainage calculation indicate no change in the flood height in the basin or increase in discharge from the basin with the additional driveway pavement added to the Trunnel Land drainage system.

VOTED: The motion was approved 3-0, with Members Joseph and Turner absent.

SECTION 7H.5. TREES AND PLANTINGS

MOTION: Member Ianiri moved and Member Barry seconded that the Board vote to find the requirements of Section 7H.5 are satisfied.

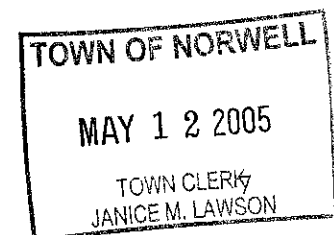
VOTED: The motion was approved 3-0, with Member Joseph absent and Member Turner absent/recused.

CONDITIONS OF APPROVAL

MOTION: On April 27, 2005, Member Ianiri moved and Member Barry seconded that the Board vote that any approval of the Application and endorsement of the Modified Subdivision Plan and the September 17, 2003 Trunnel Estates Subdivision Decision and the plan endorsed thereunder shall be subject to the terms and conditions of approval set forth below.

VOTED: The motion was approved 3-0, with Members Joseph and Turner absent.

1. Endorsement of the Planning Board shall be sought within 6 months of the date of the vote to approve the Modified Subdivision Plan. Failure to obtain endorsement within said 6 months shall result in the automatic rescission of this approval. The time for such endorsement may be extended for not more than one year upon the written request of the Applicant, for good cause shown, prior to the expiration of the 6 months, and upon a vote of the majority of the Planning Board then present.
2. Prior to endorsement of the Modified Subdivision Plan, proper surety shall be provided, as required under G.L. c.41, §81U, ¶7 to guarantee completion of the required work in accordance with the Regulations and any and all conditions set forth herein. In the event that a covenant form of surety is used, the form of the covenant shall be reviewed and approved by the Planning Board, executed by the owners of record and any mortgagees of record, and then executed by the Planning Board and then recorded by the Applicant at the Registry of Deed prior to endorsement and recording of the Modified Subdivision Plan. The Applicant shall provide evidence of the recording prior to endorsement.
3. The Property shall be limited to four residential lots as shown on the Subdivision Plan and Modified Subdivision Plan and no further division or subdivision shall occur with further subdivision modification under the Subdivision Control Law.
4. Prior to endorsement of the Modified Subdivision Plan, the Town of Norwell shall be provided with a duly executed and recorded access easement allowing the property at 944 Main Street to access over Trunnel Lane.
5. Prior to endorsement of the Modified Subdivision Plan, the Town of Norwell shall be provided with a duly executed and recorded Homeowners Association Trust instrument indicating that 944 Main Street has been added to the Trust.
6. Prior to endorsement of the Modified Subdivision Plan, this Certificate of Vote shall be recorded with and referenced to the original September 17, 2003 Subdivision Decision and plan endorsed thereunder and evidence of the recording of same shall be provided by the Applicants.
7. Prior to surety release and at the Fire Department's request, 944 Main Street shall have an address of Trunnel Lane for 911 purposes.
8. Prior to surety release, the driveway entrance for 944 Main Street to Main Street shall be closed and landscaped.
9. The driveway entrance for 944 Main Street shall be closed permanently and shall not be reestablished anywhere along Main Street without further subdivision modification under G.L. c.41, §81W. This requirement shall run with the land as a permanent restriction and shall be enforceable by the Town of Norwell, by and through the Planning Board or its agents. In the event that enforcement is obtained, the offending party(s) against whom enforcement is obtained shall be jointly and severally liable for the Town's reasonable attorneys' fees and costs.
10. At least 48 hours prior to any initial site work, written notice of the intent to start construction shall be provided to the Planning Office by Applicant Mullaney.
11. Prior to the pre-construction notice, the Applicant shall provide the Planning Board with a copy of the revised Subdivision Modification Plan on disc in DXF format and also two 11x17 sets of the Subdivision Modification Plan.
12. Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.



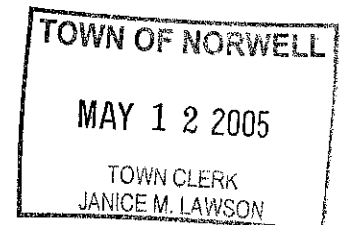
13. All construction activities associated with the approved Modified Subdivision Plan shall be conducted in a workman-like manner. During construction all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of town roads.
14. Construction, once commenced, shall progress through to completion of the development as approved as continuously and expeditiously as possible.
15. Applicant Mullaney shall provide the Planning Board with the name, address and telephone number of the project manager or other responsible party on site who will be responsible for construction activities with the construction notice.
16. Construction equipment shall not be parked or stored adjacent to any drainage channel, drainage inlet, or wetland buffer area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and wetland buffer areas.
17. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long term stockpiles over 30 days shall be shaped stabilized and circled by siltation fence or hay bales and shall be stabilized by temporary seeding or netting.
18. There shall be no future driveways on to Trunnel Lane from the lots abutting Main Street, Roubound Road, Harbor Lane, and Turner's Way, other than the three lots shown on the Subdivision Plan approved during 2003 and the fourth lot shown on the Modified Subdivision Plan, if approved hereunder.
19. Failure by the Applicants to complete the construction of the driveway onto Trunnel Way approved hereunder as shown on the Modified Subdivision Plan within one (1) year of the date of the endorsement shall result in the automatic rescission of this approval. The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of said one (1) year period, and upon a vote of the majority of the Planning Board then present.
20. The Applicant shall supply the Mylar and prints required for endorsement.
21. The term "Applicants" as used in this decision shall include the Applicants and their respective heirs, successors, and assigns.
22. All terms and conditions set forth in the September 17, 2003 decision which were not expressly modified hereunder shall continue to be in full force and effect.

DECISION

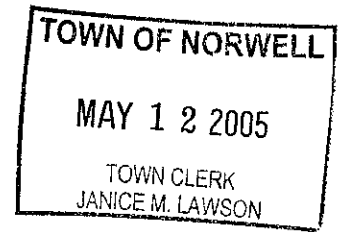
MOTION: Member Ianiri moved and Member Barry seconded that the Board vote to approve with the above-enumerated conditions the Modified Subdivision Plan, provided that any and all waivers granted shall be subject to compliance with any enumerated conditions.

VOTED: The motion was approved 3-0, as follows:

Richard Parnell Barry: Aye
 Bruce W. Graham: Aye
 James M. Ianiri: Aye



Karen A. Joseph: Absent
Sally I. Turner: Absent/Recused



DISCUSSION. Indian Trail/Grove Street ANR Plan. 8:20 p.m.

The discussion regarding the April 26, 2005 draft decision for the Indian Trail/Grove Street ANR Plan for the MacInnises resumed. Members Barry, Graham, Ianiri and Turner were present. Attorney Stacy Shunk was present for the Applicants.

The Board explained to Attorney Shunk the motions taken earlier in the evening, before she arrived, and provided her with a copy of the April 26, 2005 draft decision that is under review.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan complies with the requirements of §2.2.3 that the name and addresses of all abutters from the most recent Tax List shall be shown.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan does not comply with the requirement of §2.2.4 that existing and proposed boundary lines, dimensions and areas of lots, with all bounds, shall be keyed into the Massachusetts grid system.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan does not comply with the requirement of §2.2.5 that all existing and proposed lines of streets, ways and easements shall be shown and labeled as to whether they are private or public as the 2001 ANR Plan does not depict how the private way shown as Indian Trail intersects with Grove Street.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan complies with the requirement of §2.2.5 that the zoning classification shall be shown as the classification is shown in note 1.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the requirement of §2.2.7, that any present or proposed public areas within the property be shown, does not apply.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Turner moved and Member Ianiri seconded that the Board find that the 2001 ANR Plan complies with the requirements of §2.2.8 that all existing buildings or structures, if any, be shown.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan does not comply with the requirement of §2.2.9 that all permanent bounds shall be shown.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan complies with the requirements of §2.2.10 that all wetlands shall be delineated.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan complies with the requirement of §2.2.11 that a locus map be provided.

VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the requirement of §2.2.12, that adjoining land owned by the applicant has adequate frontage, does not apply.

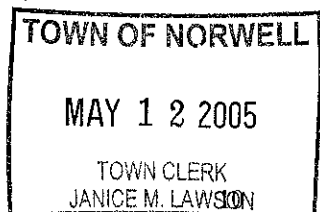
VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the 2001 ANR Plan complies with the requirement of §2.2.13 that adequate room for endorsement has been provided.

VOTED: The motion was approved 4-0, with Member Joseph absent.

5. Determination under G.L. c.41, §§81L and P as to whether the 2001 ANR Plan may be endorsed as "Approval Not Required."

A. Determination under G.L. c.41, §81L that every lot within the tract to be divided has frontage either on a public way or on a way which the Town Clerk certifies is maintained and used as a public way.



MOTION: Member Turner moved and Member Ianiri seconded that the Board find that one of the two lots shown on the 2001 ANR Plan fronts only on a way that is labeled "Indian Trail" and that this purported way is not a public way and is not a way which the Town Clerk certifies is maintained and used as a public way. (A true copy of the Town Clerk's street directory is attached hereto as Exhibit D.)

VOTED: The motion was approved 4-0, with Member Joseph.

- B. Determination that every lot within the tract to be so divided has frontage on a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that none of the lots shown on the 2001 ANR Plan has frontage on a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law.

VOTED: The motion was approved 4-0, with Member Joseph absent.

- C. Determination that every lot within the tract to be so divided has frontage on a way in existence with the subdivision control became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

- i. Effective date of the Subdivision Control Law in the Town of Norwell.

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that the Subdivision Control Law took effect in the Town of Norwell on February 9, 1953.

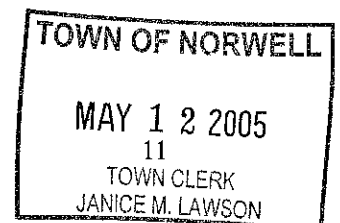
VOTED: The motion was approved 4-0, with Member Joseph absent.

- ii. Was the way shown as 'Indian Trail' on the 2001 ANR Plan in existence prior to February 9, 1953?

Findings:

- a. Is there any evidence of a path or trail in the vicinity of the way shown on the 2001 ANR Plan as Indian Trail?

MOTION: Member Ianiri moved and Member Barry seconded that the Board



find that a path of some kind was in the vicinity of what is shown as Indian Trail on the 2001 ANR Plan as early as 1941; and that, in 1941, this trail provided driveway access from Grove Street for one structures. (A copy of a portion of a 1941 Quadrangle Map is attached hereto as Exhibit E.)

VOTED: The motion was approved 4-0, with Member Joseph absent.

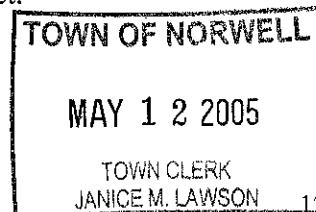
- b. Is there sufficient evidence to establish that Indian Trail as shown on the 2001 ANR Plan is in the same location as any path or trail that may have existed prior to 1953?

Findings:

MOTION: On April 27, 2005, Member Ianiri moved and Member Barry seconded that the Board vote to adopt the findings of fact set forth below.

VOTED: The motion was approved 4-0, with Member Joseph absent.

- 1) The 2001 ANR Plan does not show how the way depicted as "Indian Trail" on the plan intersects with Grove Street.
- 2) The January 25, 1954 ANR Plan, offered as evidence by the Applicants' counsel as to the location of Indian Trail in 1954 (see Exhibit 3 to plaintiffs' complaint), appears to show the intersection of Indian Trail with Grove Street in a different location than the location asserted by the Applicants today.
- 3) The Applicants' counsel offered a 1945 layout plan for Grove Street as evidence as to the location of Indian Trail as to where it intersects Grove Street; however, the 1945 layout plan does not identify the "Wood Road" that it depicts as "Indian Trail" and the 2001 ANR Plan does not show the point of intersection of "Indian Trail," with Grove Street.
- 4) The Applicants' Surveyor certified that the "Wood Road" shown on the 1945 Grove Street Layout plan accurately depicts the current location of Indian Trail; however, the 2001 ANR Plan does not depict the full location of "Indian Trail" as it does not show the full length of "Indian Trail" or its intersection with Grove Street.



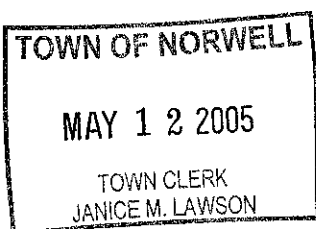
- 5) In addition, no evidence was presented by the Applicants as to the use of Indian Trail prior to February 9, 1953 as a private way. The 1954 ANR Plan (Plan Book 9, Page 740) (See Exhibit 3 to plaintiffs' complaint) indicates, as does the 1941 Quadrangle Map, that the trail that existed prior to 1953 was used only as a driveway for one structure to access Grove Street up until as late as 1954. The 1945 Grove Street Layout plan provides no contrary evidence that a trail in this area was used only as a driveway for one dwelling.
- 6) The 1954 ANR Plan (Plan Book 9, Page 704) (Exhibit 3 to plaintiffs Complaint) shows that the Parcels A, B, C and D were compiled to provide access over Parcel D to permit entry from Grove Street to the back land shown on the plan.
- 7) The 1954 ANR Plan (Plan Book 9, Page 704)(Exhibit 3 to plaintiffs' Complaint) and the supporting deed indicate that the grantor still owned an intervening parcel of land between Parcel D and Indian Trail that had a width of 300 feet.
- 8) No evidence was presented that any property owner ever offered the purported Indian Trail as a way that provided legal frontage for a building lot.

MOTION: Member Turner moved and Member Ianiri seconded that the Board find that the Applicants provided insufficient evidence to establish that the path shown as Indian Trail on the 2001 ANR Plan is the same path shown on the 1941 quadrangle map.

VOTED: The motion was approved 4-0, with Member Joseph absent.

- c. Does Indian Trail, as shown on the 2001 ANR Plan, have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon?

MOTION: Member Ianiri moved and Member Barry seconded that the Board find that insufficient evidence was provided to establish that Indian Trail, as shown on the 2001 ANR Plan, has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the use of the land abutting thereon or served thereby and for the installation of the municipal services to serve such land and the buildings erected or to be



erected thereon, as the full length of Indian Trail is not shown on the 2001 ANR Plan and no evidence was provided regarding the current use of Indian Trail.

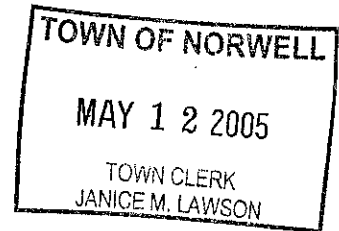
VOTED: The motion was approved 4-0, with Member Joseph absent.

MOTION:

Member Ianiri moved and Member Turner seconded that the Board vote to refuse to endorse the 2001 ANR Plan for all of the reasons and determinations previously made.

The vote was as follows:

Richard Parnell Barry:	Aye
Bruce W. Graham:	Aye
James M. Ianiri:	Aye
Karen A. Joseph:	Absent
Sally I. Turner:	Aye



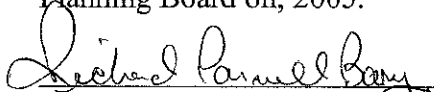
Discussion. Budget. Town Meeting.

The Board discussed Town Meeting and budget matters.

Adjournment. 9:30 p.m.

At 9:30 p.m., Member Turner moved and Member Barry seconded that the Board vote to adjourn. The motion was approved 4-0, with Member Joseph absent.

I certify that the above minutes were reviewed and approved by majority vote by the Planning Board on, 2005.


Richard Parnell Barry, Clerk