

Norwell Planning Board Meeting Minutes
February 2, 2005 Regular Session

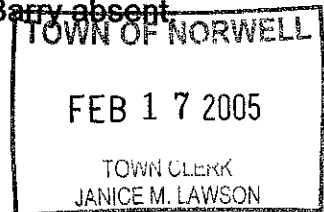
The meeting was called to order at approximately 7:00 p.m. Present were Board Members Bruce W. Graham, James M. Ianiri, Karen A. Joseph and Sally I. Turner and Town Planner Ilana Quirk. Member Richard Parnell Barry was absent.

DISCUSSION. Agenda. 7:00 p.m.

Member Graham moved and Member Ianiri seconded that the Board accept the agenda as written. The motion was approved 4-0, with Member Barry absent.

DISCUSSION. Minutes. 7:01 p.m.

**January 19, 2005 Regular Session Minutes.
January 19, 2005 Executive Session Minutes.**



Member Ianiri moved and Member Graham seconded that the Board vote to approve the January 19, 2005 Regular Session and Executive Session minutes. The motion was approved 4-0, with Member Barry absent.

DISCUSSION. BILLS. 7:05 p.m.

The Board considered the bill, dated January 29, 2005, for \$540.00 received from Attorney Mark Bobrowski for a legal opinion rendered by him to the Planning Board, regarding the Wildcat Hill Subdivision.

Member Graham moved and Member Ianiri seconded that the Board voted to approve payment of Attorney Bobrowski's January 29, 2005 bill for \$540.00. The motion was approved 4-0, with Member Barry absent.

DISCUSSION. Submission of ANR Plan. 7:07 p.m.

The Board was notified by the Planner of receipt of an ANR Plan entitled "Barrel Lane Commons," dated October 5, 2005, as revised through January 20, 2005, prepared by GCG Associates, Inc. for Donald E. Shute.

Member Graham moved and Member Ianiri seconded that the Board accept submission of the October 5, 2005, as revised through January 20, 2005 ANR Plan for Barrel Lane for review and for action on February 16, 2005. The motion was approved 4-0, with Member Barry absent.

DISCUSSION. Draft Annual Report. 7:10 p.m.

The draft annual report has been distributed to the members via e-mail and will be scheduled for discussion on February 16, 2005.

DISCUSSION. Draft Open Space Plan. 7:15 p.m.

The draft open space plan was distributed to the members and is scheduled for discussion with the Open Space Committee on February 16, 2005 at 6:30 p.m.

DISCUSSION. Indian Trail. 7:20 p.m.

Town Counsel Robert Galvin, Jr. was present and asked whether the Board wished him to be present at the meeting scheduled with the McInnises for 9:00 p.m. There was a discussion by the Board members of an intention to ask Attorney Devin for documentation that the McInnises have the required ownership and control over what they assert is Indian Trail so as to allow them to widen and approve it, since that seems to be a threshold issue.

DISCUSSION. Cedar Point. 7:25 p.m.

Engineer John Chessia was present. There was a brief discussion with Engineer Chessia regarding the compaction test results, which were received and faxed to him earlier in the day. Engineer Chessia had not seen the results yet and the Board will wait for his report.

PUBLIC HEARING. Turner's Way Subdivision Modification. 7:32 p.m.

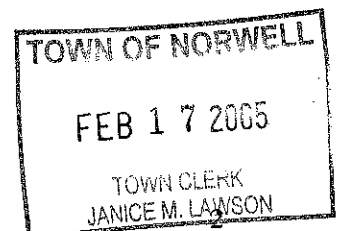
All Board members were present, except Member Barry.

Also present were Engineer John Chessia of Coler & Colantonio for the Planning Board; Applicant David Lee Turner; Engineer David J. Crispin of BSC Group for the Applicant.

Members of the public who were present included; Robin Baxter of 74 Harbor Lane, Maureen Cole of 33 Bridge Street, Deborah Cox of 22 Roubound Road; Robert DeMarco of 920 Main Street; Carolyn Gibbons of 24 Roubound Road; Edward Pecoraro of 85 Harbor Lane; David P. Schenkein of 44 Bridge Street; and James Whelan of 4 and 20 Hunter Drive.

Member Ianiri read the public hearing notice to open the public hearing.

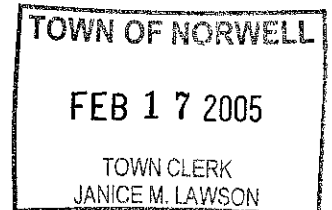
Member Turner announced that she has filed a conflict of interest disclosure with the Town Clerk and is recusing herself from participating in this matter as she is related to the applicant. Member Turner left the table and the hearing room for the duration of the public hearing.



Member Joseph read a public hearing preamble, explaining the procedures that will be followed by the Board is conducting the hearing and rendering a decision.

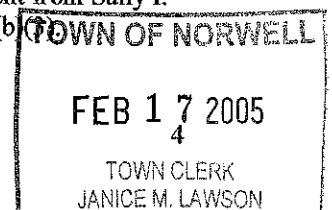
Member Ianiri reviewed and announced the 24 submissions received by the Board to date regarding the application and explained that the submissions are available for review during Town Hall hours. The following specific submissions were announced:

1. On October 13, 2004, the Applicant submitted a set of drawings for Turner's Way to the Planning Board, consisting of 11 sheets, prepared by BSC Group of 384 Washington Street, Norwell, MA 02061.
2. On October 13, 2004, the Applicant submitted a bound document to the Planning Board, with a table of contents stating that the following items were enclosed: (i) A cover letter dated October 6, 2004 from Project Engineer Michael F. Carson of the BSC Group, reciting the waivers requested; (ii) Form C; (iii) Limited Environmental Assessment; (iv) Stormwater Management Plan; (v) Soil Test Information; (vi) Abutter Notification Information; (vii) Exhibits.
3. On October 13, 2004, the Applicant submitted a construction plan, consisting of a single sheet, entitled "Construction Plan;" prepared by Registered Professional Engineer David J. Crispin, dated October 1, 2005; Scale: 1" = 40' and signed and sealed by Engineer Crispin on October 6, 2004.
4. On October 21, 2004, the Planning Board forwarded a memo and a copy of the Subdivision Plan and other submittals to the Board of Health, Board of Water Commissioners, Building Inspector, Conservation Commission, Fire Chief, Highway Surveyor and Police Chief and requested their review and comment.
5. On October 29, 2004, the Planning Board received a memo from Fire Chief Paul Rosebach, dated October 28, 2004, indicating that he reviewed the October 1, 2004 plans and had the following comments:
 - (i) "The roadway width to be twenty-six feet and the cul de sac be a minimum of one hundred feet in diameter with the island not to exceed fifty feet in diameter;" and
 - (ii) "Hydrant spacing shall not exceed five hundred feet."
6. On November 18, 2004, the Planning Board received a memo from Water Superintendent John R. McInnis, dated November 15, 2004, on behalf of the Board of Water Commissioners, stating as follows:
 - 1) The existing 8" PVC water main, although not meeting current department standards, is acceptable.
 - 2) The relocation of the hydrant in the vicinity of station 6+00 shall be accomplished in the following manner:
 - a. Existing 6" hydrant branch to be cut and capped with an approved restraining gland and thrust blocked.
 - b. Existing hydrant gate box to be left in place.
 - c. Relocated hydrant to be reconnected to existing water main by means of a tapping sleeve and valve, new 6" hydrant branch to supply original hydrant. Restraining glands to be utilized on all joints.
 - 3) Detail sheet 11 "Typical Roadway Section " should be corrected to accurately depict existing proposed location of utilities. The existing water main is on the opposite



side of the road from the location depicted on the detail sheet, as are the proposed telephone, electric and cable services.

- 7) On December 3, 2004, the Planning Board received a technical report, dated December 2, 2004, from Professional Engineer John Chessia of Coler & Colantonio, PC., consisting of 23 pages.
- 8) On December 9, 2004, the Planning Board received a memo from Highway Surveyor Paul M. Foulsham and the Permanent Drainage Committee, dated December 7, 2004, indicating the following comments and issues:
 - i) Proposed storm-sceptor model #stc-450 shown on sheet 1 of 11 may be undersized for volume.
 - ii) Does existing discharge pipe with storm-sceptor cover Storm Water Phase II regulations?
- 9) On December 13, 2004, the Planning Board received correspondence, dated December 10, 2004, from Robin EE Baxter of 74 Harbor Lane objecting to any through connection from Turner's Way to Harbor Lane.
- 10) On December 21, 2004, the Planning Board received correspondence, dated December 20, 2004, from Richard Lane of 35 Harbor Lane object to any through connection from Turner's Way to Harbor Lane.
- 11) On December 22, 2004, the Planning Board received correspondence from Mr. and Mrs. Francis R. Murphy, Jr. of 34 Turner's Way objecting to a through connection from Turner's Way to Harbor Lane.
- 12) On January 5, 2005, the Planning Board received correspondence, dated January 4, 2005, from Robin EE Baxter regarding notice issues.
- 13) On January 5, 2005, the Planning Board received correspondence, dated January 4, 2005, from Edward Pecoraro of 85 Harbor Lane, regarding notice issues.
- 14) On January 11, 2005, the Planning Board received revised plans from the Applicant, prepared by BSC Group of 384 Washington Street, Norwell, MA 02061, consisting of 14 sheets for Turner's Way.
- 15) On January 10, 2005, the Planning Board received a bound document from the Applicant's engineer, enclosing the following: (i) BMP storm water form and hydrological report w/Operation and Maintenance Report; (ii) Complete set of soil test pit logs; (iii) 1983 subdivision plan; (iv) 1986 subdivision plan modification; and (v) a revised waiver letter.
- 16) On January 14, 2005, the Planning Board received a letter from the Applicant stated that the necessary abutters were notified by mail that the public hearing was continued to February 2, 2005.
- 17) On January 18, 2005, the Planning Board received a further revised waiver letter, via e-mail, from Engineer Crispin.
- 18) On January 26, 2005, the Planning Board received a supplemental engineering review from Engineer Chessia, regarding the January 10, 2005 plan revisions, consisting of 32 pages.
- 19) On January 31, 2005, the Planning Board received a draft Homeowners Association Trust instrument from the Applicant.
- 20) On January 31, 2005, the Planning Board received a copy of a disclosure statement from Sally I. Turner regarding an appearance of a conflict of interest under G.L. c.268A, §23(b)



- 21) On January 31, 2005, the Planning Board received additional abutter notification materials from the Applicant.
- 22) On February 2, 2005, the Planning Board received a revised Homeowners Association Trust instrument from the Applicant.
- 23) On February 2, 2005, the Planning Board received a copy of a disclosure statement from Karen A. Joseph regarding a potential appearance of a conflict of interest under G.L. c.268A, §23(b)(3).
- 24) On February 2, 2005, the Planning Board received an e-mail from the Health Agent indicating that all lots have perced and the soils are suitable.

Applicant David Turner made a presentation. 7:45 p.m.

He stated that the current proposal would modify the subdivision approvals granted in 1980 and 1986. Waivers from the dead-end street limit were granted during the 1980s. The current proposal would modify the prior approval for Lot 11 to further divide it, from a single lot with a dwelling, to six lots. He noted that the proposal would reduce the previously approved length of Turner Way by 98 feet.

He noted that his intends to build a community walkway and pier to provide access to the river for members of the homeowner association. He intends to restrict the lots with river frontage so that they will not be allowed to build additional walkways and piers.

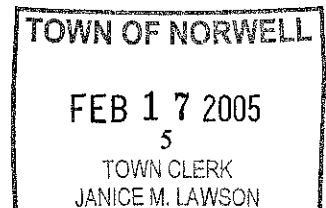
He noted that the water main is looped already and that the upper portion of the property is an esker and both the upper and lower portions of the site have Type A soil, which is appropriate for the proposed development, both for septic and the houses. He reviewed the proposed drainage swale details.

He stated that he wishes to rebuild the fire access, but does not want to pave it. He proposed graveling the access and then using stone dust. The HOA would be responsible for maintaining it and plowing it. He hopes that the lot owner where the access will go will use a portion of it for the lot's driveway, so that a portion of it would be paved and would look like a driveway and discourage trespassing vehicles.

He noted that the HOA will be responsible for roadway maintenance, repairs and plowing, drainage maintenance and repairs, maintenance and repairs for the retaining wall and maintenance and repairs for the walkway and pier to the river.

He emphasized his and his neighbors strong objections to any requirement that there be a through connection to Harbor Lane.

Member Ianiri asked if the stormceptor proposed would be new. Mr. Turner answered that it would be.



Member Graham asked how the dead-end street would work to provide emergency through access. Mr. Turner explained that there would be a gate at the edge of the property line and that the Fire and Police departments would have keys. He noted that he does not have any ownership or control over any portion of Harbor Lane and cannot build an emergency access connection beyond his property line to the paved portion of Harbor Lane. He stated that he believes that emergency access would be possible, unless there is a physical object on the Harbor Lane side that is in the way.

Engineer Chessia gave a brief presentation. He explained his review process and how the technical report is prepared. He emphasized the following issues:

- Drainage
 - i) The Applicant has an obligation to not increase the rate of stormwater runoff in post-construction conditions. There would be an increase, but a waiver request could be viable, since the runoff would be to a tidal area; but no waiver has been requested.
 - ii) He requested that the Applicant add volume to the drainage calculations for the houses and driveways.
 - iii) Additional detail for the drainage swale is necessary to assess its impact on the adjacent property.

- Waivers.

The waivers that are to be requested should be clarified. Also, they should be listed on the cover sheet for the plan.

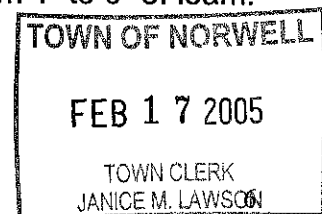
- Construction Plan

The Construction Plan is deficient as it does not adequately address storage issues and erosion and sedimentation control measures.

The Members asked questions and made comments.

Member Graham asked about the retaining wall issue and was informed that its location has been moved outside of the right of way for the roadway. Member Joseph asked that the relocation be detailed in a note, to avoid any confusion. Applicant Turner agreed to make that change.

Members Graham and Joseph asked that the specification detail for the shoulders for the Berm and for the Fire Access be changed from 4" to 6" of loam. Applicant Turner agreed to make that change.



Member Joseph asked about the drainage swale. Applicant Turner stated that there is rip rap underneath the grass and that the drainage has worked well for 25 years and there is not that much drainage from the Road. Engineer Chessia noted again his request that the houses and driveways be included in the calculations as they will increase the runoff.

The hearing was opened to the public to ask questions.

Ms. Cox asked about the proposed pier and if boats would be docked at it. Applicant Turner stated that only a single whaler would be docked at the pier and that all of the other boats would be moored in the river.

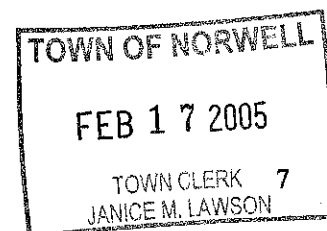
Mr. Pecoraro asked about the gate for the Fire Access. It is shown on the plan as being on his property. Applicant Turner apologized for the error and stated that the gate will be at the edge of his property line and the plan will be revised to show that. Mr. Pecoraro stated his support for the plan, provided that there is no through access to Harbor Lane. He stated a concern about increased traffic due the restoration of the Greenbush line.

Mr. Baxter stated that the plan seems to be a good one, but that he is opposed to a through connection to Harbor Lane. He stated his opinion that the Fire Access should be waived altogether since there is no corresponding connection on the other side leading to Harbor Lane. He asked whether the Board will require Mr. Murphy to make that connection. It was noted that such an application has not been made and is not before the Board. The Board can only act on what is before it.

Mr. Schenkein asked about the noise and traffic that would be generated during construction. Applicant Turner replied that it is his intention to construct the roadway improvements quickly and then required that the construction of the various homes occur on a staggered basis. He does not intend to build the houses and he does not intend to sell to one developer.

Mr. Whelan asked how the pier would be lit and whether there would be parking to support it. Applicant Turner responded that the pier would have only low voltage lighting that would point downward and that there will be no parking on the way to support the pier. The intention is for everyone to walk from the area homes. Member Joseph noted that the details for the pier are not before the Board and any issues relating to those details should be addressed in the Chapter 91 licensing process required for the pier.

Ms. Gibbons asked for detail on the swale and whether there would be access for Roubound Road residents to use the pier. Applicant Turner reviewed the drainage swale and stated that there would be no access for Roubound Road residents to the pier.



The Board discussed the Fire Access issue. All three members were in agreement that there should be a fire access lane that runs to the property line and that it should be graveled and have a stone dust surface.

The Applicant agreed to provide a cross-section for the Fire Access and to show the gate and include a detail on the plan for the gate's specifications.

Member Joseph asked Applicant Turner to explain how he wishes to proceed. Applicant Turner indicated that he intends to have his engineer prepare another set of revisions to the plans that conform to the comments made by Engineer Chessia and to include the items discussed this evening.

Engineer Crispin asked whether the Board agrees with the comments that Engineer Chessia made regarding the Construction Plan and the required erosion and sedimentation control issues. Engineer Crispin stated that he thought the detailed requested is unnecessary. Member Joseph noted that the regulations require the requested detail and are important to the Board. The rest of the Board agreed.

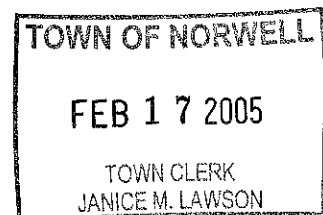
It was emphasized to Applicant Turner and Engineer Crispin that any revision to the plans and other materials must be submitted at least three weeks before the meeting at which the hearing is continued to, in order to provide Engineer Chessia with two weeks to review the materials and provide a report and to provide the Board with a week to review the report.

Applicant Turner made a written request that the Board extend the deadline for final action on the Turner's Way Subdivision from March 4, 2005 to April 15, 2005.

Member Graham moved and Member Ianiri seconded that the Board approve Applicant Turner's request that the deadline for final action on the Turner's Way Subdivision be extended from March 4, 2005 to April 15, 2005. The motion was approved 3-0, with Members Barry and Turner absent.

Member Graham moved and Member Ianiri seconded that the Board continue the public hearing to March 16, 2005 at 8:30 p.m. The motion was approved 3-0, with Members Barry and Turner absent.

At 8:50 p.m., the Board took a short recess before its next agenda item.



DISCUSSION. Indian Trail. 9:00 p.m.

All members, except Member Barry were present. Attorney Devin and Mr. and Ms. McInnis were present. Also present was Land Surveyor Paul Mirabito.

The Board reviewed the 1954 ANR Plan and noted that the plan uses Indian Trail as a boundary description, but does not state that it exists over Parcel D as shown on the Plan and asserted by Attorney Devin to be the historic location of Indian Trail. The deed that conveyed the land shown on the 1954 ANR Plan did not provide any rights to Indian Trail.

Attorney Devin stated that the 1954 Plan does not accurately show the location of Indian Trail and the plan is an aberration. He stated that the 1945 Grove Street Layout plan accurately and without question shows the location of Indian Trail.

Members Graham and Turner pointed out to Attorney Devin that the 1945 plan does not label the subject way as "Indian Trail" and that the 1945 plan shows a wood road that is in a different location than the location depicted on the 1954 ANR plan.

Attorney Devin introduced a letter from Surveyor Mirabito, stating his conclusion and opinion that the way on the Grove Street Roadway County Layout Plan dated 1945 accurately depicts the location of Indian Trail. He also provided a cross-section of proposed roadway improvements that would be 18 feet wide.

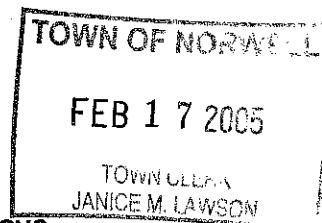
Attorney Devin introduced a letter from former Norwell Fire Chief Warren P. Merritt, stating that today's location of Indian Trail is the same as in the 1940's.

The Board informed Attorney Devin that it wished him to provide a certification that details the ownership and control by the McInnis to use and improve the way that they assert is Indian Trail. Attorney Devin stated that he would provide that information in the next two weeks and the Board agreed to continue the matter to March 2, 2005 at 8:45 p.m.

EXECUTIVE SESSION. Indian Trail Litigation. 10:00 p.m.

All members except Member Barry were present.

Member Graham moved and Member Ianiri seconded that the Board leave regular session and go into executive session to discuss strategy relating to pending litigation, in the matter of Stephen H. MacInnes (sic) and Lynne M. MacInnes (sic) v. Sally Turner, Bruce Graham, Herbert Heidt, Mark Bailey and Richard Twigg as they constitute the Town of Norwell Planning Board and the Town of Norwell, Land Court Department Misc. No. 275998, with the Board not to return to open session thereafter.



The motion was approved (4-0) and the roll call vote recorded on the motion was as follows:

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

An executive session took place and the minutes will not be available until after the litigation is resolved.

At approximately 10:20 p.m., Member Graham moved and Member Ianiri seconded that the Board end the executive session and adjourn. The motion was approved 4-0, with Member Barry absent. The roll call vote recorded on the motion was as follows:

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

I certify that the above minutes were reviewed and approved by majority vote by the Planning Board on *Feb 16*, 2005.

Richard P. Barry
James M. Ianiri, Clerk
attest
RICHARD P. BARRY

