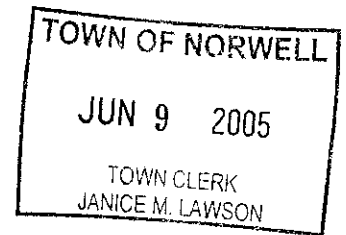


Norwell Planning Board Meeting Minutes
May 25, 2005 Regular Session



The meeting was called to order at 7:00 p.m. Present were Board Members Richard Parnell Barry, James M. Ianiri, Karen A. Joseph and Sally I. Turner and Town Planner Ilana Quirk. Member Bruce W. Graham joined the meeting at 7:30 p.m.

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 Graham absent.

DISCUSSION. Minutes. 7:00 p.m.

May 11, 2005, 2005 Minutes

Member Ianiri moved and Member Barry seconded that the Board vote to approve the May 11, 2005 minutes. The motion was approved 3-0, with Member Joseph abstaining and Member Graham absent.

May 23, 2005 Minutes.

Member Ianiri moved and Member Barry seconded that the Board vote to approve the May 23, 2005 minutes. The motion was approved 3-0, with Member Turner abstaining and Member Graham absent.

DISCUSSION. Bills. 7:05 p.m.

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

Coler & Colantonio, Inc.	
Barrel Lane:	\$3,410.26
Cedar Point:	\$ 65.00
Holly Berry:	\$ 280.24
Joshua's:	\$ 642.50
Laurelwood:	\$ 89.24
Pinson:	\$ 850.68
Turner's Way:	\$ 159.60
Trunnel:	\$1,560.30
Wildcat:	\$2,158.59
Winslow:	\$ 90.08
Planner: Mileage.	\$ 45.37

The motion was approved 3-0, with Member Turner abstaining and Member Graham absent.

Member Barry noted that the bill for Trunnel is \$1,565.30, not \$1,560.30. Member Ianiri moved and Member Barry seconded that the Board clarify that its earlier motion was to approve the bills as set forth in the bills, rather than in the agenda. The motion was approved 3-0, with Member Turner abstaining and Member Graham absent.

DISCUSSION. Parker Street ANR Plan. 7:10 p.m.

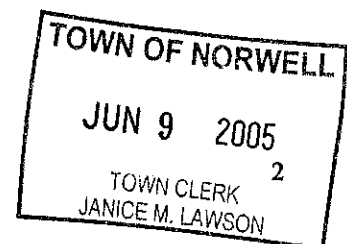
All members, except Member Graham, were present. The Board discussed the "Approval Not Required Plan Parker Street, Norwell, MA," dated May 16, 2005, Prepared by Professional Land Surveyor Kevin J. Kiernan of Allen & Major Associates, Inc. of 25 Wareham Street, Middleborough, MA 02346. Surveyor Kiernan, Applicant Brian Wallace and an attorney representing the applicant, who did not identify himself, were present.

The Board reviewed the ANR Plan and a draft decision prepared by the Planner. The only issue identified by the Planner was that the application was not signed by a manager for the Limited Liability Corporation identified in the application as the owner of the property, nor was any documentation provided to indicate that applicant was authorized by the owner to sign the application on behalf of the owner. This defect was raised with the Applicant and Surveyor Kiernan by the Planner on May 18, 2005. Applicant Wallace stated that he faxed over an assent on May 24, 2005. The Planner and Planning Office Assistant Arlene Donaghey both indicated that the fax was not received by the Planning Office.

The Board members discussed the potential of the Board endorsing the ANR Plan and holding the endorsement in escrow until the proper documentation confirming the assent of the owner to the application is received. Member Joseph noted that the Subdivision Regulations require that owner be identified on the ANR Plan and that it appears that only the applicant is identified on the Plan. The Members reviewed the Plan with the Applicant and Surveyor Kiernan and it was determined that the owner indeed was not identified on the ANR Plan. Member Turner stated that she would be reluctant to endorse a plan that did not identify the owner, especially where the proper documentation setting out the assent of the owner to the application is not in place.

The Board Members asked Applicant Wallace whether he wished to withdraw the ANR Plan or whether he wished the Board to proceed to a vote on the ANR Plan. Mr. Wallace asked whether he would have to pay another application fee if there were a withdrawal. The Board indicated that if there is a withdrawal and then a reapplication, then it is the Board's policy to require a new application fee.

Mr. Wallace indicated that he would withdraw the ANR Plan. He left the meeting, indicating that he would file a withdrawal with the Town Clerk and then submit it to the Planning Board.



DISCUSSION. 7:20 p.m. Planning Questionnaire.

Member Barry noted that he is working to reply to a planning questionnaire received by the Board and asked for the members input. The Planner distributed another copy of the document and the members will review it and discuss it at a future meeting.

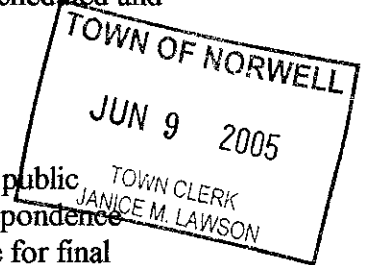
DISCUSSION. Donovan Farm. 7:25 p.m.

The Planner noted that another letter has been received from the Donovan Farm Homeowners Association regarding drainage and landscaping concerns that individual unit owners have. The Planner suggested that the same reply be made to this letter as to previous letters, to indicate that, when the Board receives a surety release request, the Board will review all items guaranteed under the surety and take the appropriate action. The Board agreed that the letter should be sent.

The Board moved the meeting from Room 112 to the Gym, as previously scheduled and posted.

PUBLIC HEARING. Winslow Commons. 7:30 p.m. Gym.

All members were present. Member Barry read the legal notice to open the public hearing. The Planner noted that the Applicant's engineers submitted correspondence requesting the Board to continue the public hearing and extend the deadline for final action. Member Barry read the correspondence into the record.



Member Joseph asked Mr. Shute about the purpose and timing of the requested delay and whether a new plan set with new land is proposed. Mr. Shute stated that a vernal pool likely exists at the property and that applicant is in the process of purchasing additional land that may be used to relocate the proposed roadway.

Member Joseph asked again about the timing of when the plans would be ready. The Board noted that it wishes to save everyone time and money by keeping the number of plant sets to as few as possible. Mr. Shute said that he understood and believed that the plans would be ready in July. The Board discussed the fact that, if new land is added to the application, then the project would have to be advertised again and processed under the new regulations. Mr. Shute agreed that this would be the case.

Member Joseph asked Mr. Shute about the wetlands line for the Property. Mr. Shute stated that an approved wetlands line exists, but it will expire in November of 2005. He noted that he understands the timing issues involved with the project.

Mr. Peter McClelland, the President and Treasurer of Persevere Corporation, the applicant, submitted a written request to the Board that the deadline for final action be extended to October 28, 2005. Member Ianiri moved and Member Turner seconded that the Board vote to approve the applicant's request that the deadline for final action be extended to October 28, 2005. The motion was approved 5-0.

The Members discussed the continuation of the public hearing. The Applicant has asked that it be extended to the Board's August 3, 2005 meeting. The Board emphasized to the Applicant that the deadline for receipt of revised plans would be noon on July 13, 2005.

Member Ianiri moved and Member Barry seconded that the public hearing be continued to August 3, 2005 at 7:30 p.m. The motion was approved 5-0.

PUBLIC HEARING. Wildcat Hill. 7:50 p.m.

All members were present. Engineer Sue Barry Pace was present as the Board's engineering consultant. The Applicant was represented by Attorney William Constable, Vice President for the applicant corporation CASA Development, Inc. and for the owner corporation A.W. Perry, Engineer Bradley McKenzie, Wastewater Consultant Thomas Jordan and Builders Jay and Paul Gallagher.

Member Barry read the public hearing notice. Member Ianiri recused himself. Member Barry announced the submittals received since the May 11, 2005 portion of the public hearing. The Planner distributed a memo she prepared detailing the area for each lot, its upland, wetlands and what area is devoted to a drainage basin.

Engineer McKenzie gave an overview of the recent submittals, which address drainage and other concerns, and reviewed the water main agreement reached by the Applicant with the Board of Water Commissioners. He noted that the sample documents of a sewer trust and homeowners association has been provided to the Board. Attorney Constable agreed that the applicant would assent to having Town Counsel review the final documents, if the project is approved. The Board will vote on whether to assent to Town Counsel's review of the documents, if the project is approved, despite a potential conflict by Town Counsel.

Engineer McKenzie emphasized that the Applicant is very aware that the project must undergo review by the Conservation Commission, but prefers to finish the subdivision process first and proceed to Conservation later.

Member Joseph asked Engineer McKenzie about the overall drainage picture and whether there would be an increase in rate or volume. Engineer McKenzie stated that there would be no increase.

Member Turner raised the issue of the drainage easement held by the Commonwealth along Route 3. Engineer McKenzie noted that both Coler & Colantonio and the Building Inspector are satisfied that the easement is not being used as part of drainage system and merely is being used as a slope easement. Member Turner noted that she continues to be concerned about this issue and what will happen in the future.

Member Joseph raised the issue of the application of the nutrient loading policy and whether the Board should require confirmation from DEP that the policy does not and is

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not being applied to the application for a groundwater discharge permit. The Board discussed this issue with the Applicant and noted that the Applicant's wastewater expert has stated several times that, even if the nutrient loading policy were to apply to the project, the project more than satisfies the policy.

Member Barry and Member Turner asked the Applicant about the details that will be required, if the project is approved, in the conservation/construction plan. Engineer McKenzie noted that the Applicant is prepared to satisfy the requirement that this plan be provided, if the project is approved, but that the Board's rules do not require that the Applicant provide that plan before approval.

Chairman Graham invited members of the public to make comments and ask questions.

PUBLIC COMMENT PERIOD

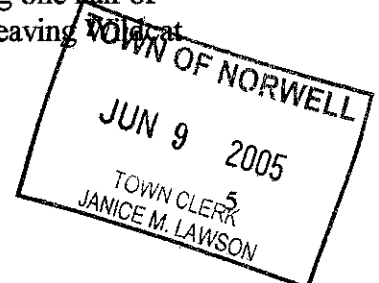
Mr. Mark A. Lupo of 52 Wildcat Lane stated his concern about the plans by the State to widen Route 3 and that there would be a race between the State and the Applicant to see who acts first. He stated his concern about the impact on the ultimate lot purchasers, along Route 3. The Board made the point that it can only act on the plan before it.

Mr. William F. Malloy, Jr. of 31 Wildcat Lane expressed his understanding that the State plans to widen Route 3 and to go outside of the existing right of way, which would impact four of the proposed lots. It is his understanding that the State will go forward within the next four years.

Attorney Constable stated his understanding that the Route 3 widening is part of the Governor's new priority plan, but it is his understanding that widening will occur in the existing right of way.

Mr. Kevin McCord of 37 Wildcat Lane noted his traffic concerns. His concern is that the road is dangerous now and will only be made more dangerous by what is being proposed. Member Joseph noted that the traffic report indicated that the present Level of Service will not be made worse by the project and that the sight distances satisfy industry standards.

Engineer McKenzie noted that it is the Applicant's position that the applicable regulations did not require the preparation and submission of a traffic report, but that the Applicant did one any way to make sure that the project would be properly and safely designed. The traffic report resulted in a relocation of one entryway for Road A and the plan as designed will satisfy industry standards for sight distance. He also stated that, while, again, the Applicant does not believe that the current rules impose a requirement that off-site improvements be made, the Applicant has agreed to reconstruct approximately 200 feet of Wildcat Lane to soften the grade and level it out where it would intersect with Road A. In addition, the Applicant will be repaving one half of Wildcat Lane to install the water main to Old Pottery Lane and will be leaving Wildcat Lane better than its current condition.



Mr. Malloy noted his continuing concerns about the amount of fill that would be brought to the property. He requested that the Applicant install a sidewalk to connect the other Wildcat Lane neighborhoods. Chairman Graham noted that there is nothing in the regulations that would require this. Mr. Malloy asked why the "public good" is not being addressed in this project as it is in other projects. Chairman Graham noted that the projects that Mr. Malloy referred to were seeking waivers. When a waiver is sought, the Planning Board is required to determine whether granting the waiver is in the public interest. The project at hand is not seeking any waivers. If the project satisfies all of the requirements of the Board's regulations, then the project must be approved.

Attorney Christopher Daly of 14 Old Pottery Lane noted his concerns about truck traffic and the volume of fill to be brought to the site. Attorney Constable noted that 37-yard trucks would be used and would have less impact than smaller trucks. Attorney Daly asked about road damage to Wildcat Lane by the trucks. Attorney Constable stated that the Applicant would be responsible for damage done to the road.

Chairman Graham explained the approval process again and noted that the Planning Board can only enforce its regulations and no more. If the project satisfies the regulations, then the project is entitled to approval. If abutters have issues with the project, they must address what regulation that is implicated and that is not being followed.

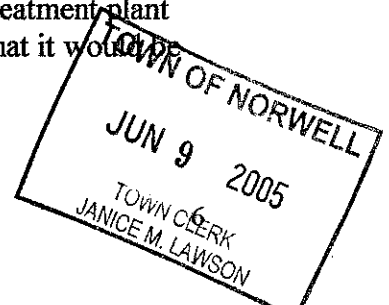
Mr. Malloy responded that the traffic report should be amended to reflect the impact of the project during construction. Engineer McKenzie responded that traffic reports do not usually look at that issue and that the Board's regulations do not require that this be done.

Mr. Daly asked why the traffic report did not look at his intersection. Engineer McKenzie noted that there was an updated report and that the report more than satisfies the Board's regulations.

Mr. Lupo noted that the Applicant has gone above and beyond what it has to do in this project, but he continues to have concerns. He stated that the land is so wet that it will require 50,000 cubic yards of fill and a wastewater treatment plant. He stated that he believes there must be a better use of this property. He suggested that the Applicant consider building retreat lots.

Ms. Diane Malloy of 31 Wildcat Lane stated that she is concerned about the future uses of area sites, including the land adjacent to the site for affordable housing and the land across the street from the site for a cemetery. She expressed her concern that the treatment plant will end up with excess capacity since it will be built for 5-bedroom houses, but the houses will be occupied on average by only two parents and two children. She stated her concern about the use of the plant for other uses.

Ms. Abigail Childs of 55 Tiffany Road asked about the ownership of the treatment plant and Attorney Constable explained the proposed ownership structure and that it would



similar to a condominium association. He stated that DEP will require repairs and upgrades and other requirements.

Ms. Malloy expressed her concern that the upkeep for the treatment plant sounds very expensive and that it would seem to be difficult for 43 lot owners to handle. She asked what would happen in the event of a catastrophic failure.

Attorney Constable stated that, if there were a catastrophic failure, insurance would be in place to provide funds to handle the problem. On a practical note, there would be tanks in place that could store effluent in the event of an emergency and that they could be pumped. He noted that during the absorption period, the Homeowners Association and DEP would require proration of costs. At about a the 2/3ds sold point, the plant would be turned over to the residents.

Mr. Lupo asked Attorney Constable to estimate the cost of building the treatment plant. Attorney Constable stated that he was not prepared to provide that information and did not see how it was relevant.

Member Turner asked if the Applicant would be willing to build a sidewalk over the water easement that runs to Centennial Way. Attorney Constable stated that that seems like a fine idea and the Applicant would consider it; however, the present easement does not allow that use and so the owners of the land involved would have to give their permission. If that permission were available, the Applicant would strongly consider putting in a trail.

Ms. Malloy asked if the roadways would be private or public. Attorney Constable stated that the intention is to ask the Town to accept the ways as public at some point, but acceptance is uncertain and until and unless they are accepted the Homeowners Association would be responsible for the roadways.

Ms. Malloy asked about the water main extension and where it will run to and whom it will benefit. Attorney Constable stated that it would run from Centennial Way to Old Pottery Lane. He stated that the Water Department would be better able to respond to who would be benefited, but it is his understanding that the connection would link two parts of the Town and be of great benefit to the Town, both in improving local water quality and pressure and providing redundancy within the water system for the whole town, in the event of problems with any one part of the system.

Mr. Malloy asked a question about the draft decision, dated May 23, 2005. There was a typo that misidentified a portion of the property as being in the Zone II, when it is in the Zone III. The correction has already been made.

Member Barry asked whether a tot lot could be provided so that women could take their children to it. Attorney Constable stated that would premature at this time. It would be better to wait until the various neighborhoods want to act in concert with one another.

Member Joseph noted that imposing the requirement can create liability problems and costs for the homeowners.

DISCUSSION REGARDING DRAFT CONDITIONS

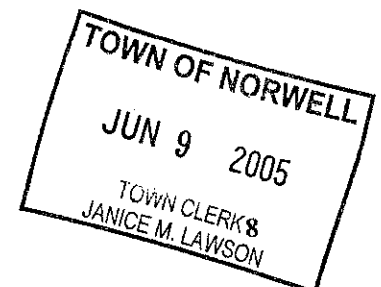
Attorney Constable noted that he wished to be heard regarding a number of the draft conditions set forth in the May 23, 2005 draft decision. It was explained that the conditions are only in draft form and that each one would be considered individually by the Board at the appropriate time.

Attorney Constable stated that he was concerned about draft conditions 8-12 and wanted to see the requirements in them imposed, not before endorsement, but before the sale of any lots. It was noted that the conditions cannot be imposed at the point of sale without the contemplated covenants. He explained that he does not mind providing a Homeowners Association; however, he would prefer a restrictive covenant that would require that it be provided before sale or building, rather than endorsement. He explained that he is not sure if this proposal or a different one will go forward and he does not want to spend money on documents he won't use. Chairman Graham noted that the Board imposes conditions assuming that the project will be built.

Attorney Constable stated that imposing a requirement that the treatment plant must be built before any lot is sold or any house built is reasonable. However, he wants the ability for the project to go forward in phases, so that the entire road and drainage system need not be built before lots can be sold and built upon. Attorney Constable requested that the Board use language that would allow the project to be constructed in phases. The Board noted that this is the first time that this has been suggested and that this suggestion would require further engineering review. The engineering review would examine whether the necessary drainage to support a phase is being provided

The Board noted its concern that the drainage basins be constructed and in place and working and that as-builts be provided for the drainage because the lots are very tight. (The lot area memo distributed at the beginning of the meeting noted that the average upland for each lot is only 1.19 acres and a full acre is required.) The Board noted that it has imposed this requirement in the past. If there are to be phases of construction proposed, the Board would have to have the drainage analyzed to see which phases would require what drainage and so on.

Attorney Constable objected to draft condition 15 and stated that he did not want to agree that the basements must be constructed above the high groundwater mark. Engineer McKenzie suggested that the Board impose a requirement that the additional runoff be recharged on the lot. Similarly, Attorney Constable objected to draft condition 44 that a modification be required if there are any grading or contour changes. He would prefer the requirement that no adverse impact on the drainage may occur. The Board discussed at length how to achieve that goal.



Attorney Constable noted that, as to draft condition 20, the Applicant is proposing the names Hillside Circle and Bayberry Lane for the Roads.

Attorney Constable objected to draft condition 48 and stated that a three-year requirement to build the project is not enough time and he would suggest a five-year limit. Chairman Graham noted that the three-year limit is very reasonable and is routinely imposed by the Board and he sees no reason to treat this project differently. There is a provision for an extension under certain circumstances. Applicants must decide whether they wish to go forward or not.

The Board and the Applicant discussed whether the hearing should be closed. Attorney Constable noted that he did wish to discuss draft conditions further and so the hearing should not be closed. Attorney Constable requested in writing that the deadline for final action be extended to August 19, 2005.

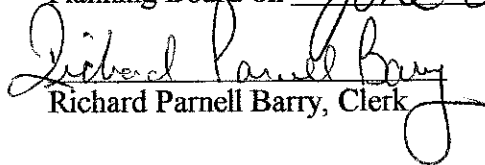
Member Joseph moved and Member Turner seconded that the deadline for final action on the Wildcat project be extended to August 19, 2005, at the applicant's request. The motion was approved 4-0, with Member Ianiri absent.

Member Joseph moved and Member Barry seconded that the public hearing be continued to June 22, 2005 at 7:30 p.m. The motion was approved 4-0, with Member Ianiri absent.

Adjournment. 10:55 p.m.

At 10:55 p.m., Member Turner moved and Member Barry seconded that the Board vote to adjourn. The motion was approved 4-0, with Member Ianiri absent.

I certify that the above minutes were reviewed and approved by majority vote by the Planning Board on June 8, 2005.


Richard Parnell Barry, Clerk

