

Norwell Planning Board Meeting Minutes
April 12, 2006 Regular Meeting

The meeting was called to order at 7:00 p.m. Present were Board Members Richard Parnell Barry, Karen A. Joseph and Charles R. Markham and Planner Ilana Quirk. Member Sally I. Turner joined the meeting at 7:10 p.m. Member Bruce W. Graham was absent.

DISCUSSION. Draft Agenda. 7:00 p.m.

Member Barry moved and Member Markham seconded that the Board approve the draft agenda. The motion was approved 3-0, with Members Graham and Turner absent.

DISCUSSION. April 6, 2006 Minutes. 7:00 p.m.

Member Barry moved and Member Joseph seconded that the Board vote to approve the April 6, 2006 minutes. The motion was approved 3-0, with Members Graham and Turner absent.

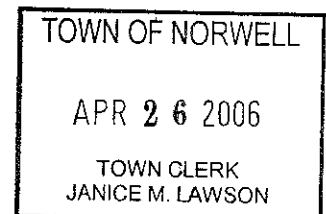
DISCUSSION. Trunnel Subdivision Modification. 7:05 p.m.

The Board reviewed the status of the project. The proper sequence of events would have been for the applicant to post surety and obtain endorsement of the final plans for the project, perform the approved work and then seek a release of surety. Instead, the applicant moved ahead and did the work without posting surety or obtaining endorsement of the final plans. The work involved, however, was minor in nature – the installation of a new driveway on Trunnel Lane and the closing of the existing driveway on Main Street.

Coler & Colantonio has opined that the work has been done properly. As a result, no surety would be required before endorsement of the final plans. Before endorsement occurs, however, the Board will need confirmation that the Board's decision was duly recorded and that the proper amendment to the Homeowner's Association to add the new lot to the Association was properly executed and recorded as required. Finally, the Board will the Mylars to be delivered and subjected to a final light table review.

Member Barry moved and Member Markham moved that the project will be ready for endorsement, without the posting of surety, provided that the necessary documentation is provided that the modification decision and the amendment to the Homeowner's Association have been recorded and that the Mylars are provided and subjected to a satisfactory light table review by the Board's engineering consultant.

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



DISCUSSION. Henry's Lane Subdivision. Endorsement/Field Changes. 7:10 p.m.

Applicant Donald E. Shute was present and presented three letters to the Board, requesting two field changes and an extension of time on the deadline for endorsement of the project.

Basin 2A Field Change Request.

Basin 2A was designed to have a 2-inch outlet pipe and this design was approved by the Planning Board's engineering consultant. The drainage calculations were based upon this design. During deliberations, the Board required, under Finding of Fact 15. Regulation §4.20 Drainage, that the outlet pipe be changed to a 3-inch pipe. The Board discussed the fact that this was an error. Applicant Shute presented a letter requesting that the outlet pipe size for Basin 2A be modified, via a field change by the Planning Board, back to the 2-inch pipe, as originally designed. Engineer Chessia has confirmed that he recommends this change.

Member Barry moved and Member Markham seconded that the Board vote to approve a field change to require that the size of the outlet pipe for Basin 2A shall be 2 inches.

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

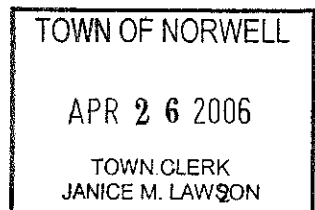
Utility Pole Relocation Field Change Request.

Condition 17 of the Board's decision approving the project required that any utility pole in the layout of the roadway shall be relocated prior to the pre-construction conference. The Board has changed this requirement, for more recent decisions, to require that such poles shall be relocated before paving occurs and before any occupancy permit occurs. The problem is that the utility companies will not begin the relocation process until endorsement of a plan occurs. If an applicant wishes to move forward quickly, following endorsement, the applicant will be delayed because the relocation process can take several months. To acknowledge this problem, the Board has adjusted the required timing for relocation.

Applicant Shute noted that the pole is located in the roadway layout, but not in an area that would be paved, but that he will make sure that compaction of the area of the hole left by the removal of the pole is the same as for the rest of the roadway.

Member Barry moved and Member Turner seconded that a field change be granted to amend Condition 17 of the Board's November 10, 200 decision to remove the requirement that the utility pole be relocated prior to the Preconstruction Conference and require, instead, that the utility pole shall be relocated prior to paving and prior to the issuance of any occupancy permit, provided that the compaction for the hole left by the removal of the pole be the same as for the other areas of the roadway.

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



Deadline for Endorsement.

The Board noted that plans were submitted for review and that a Coler & Colantonio, Inc. report was received on March 16, 2006 and that revised plans were received by the Planning Office on March 31, 2006 and still are under review. The current deadline for endorsement is May 9, 2006. Mr. Shute presented a letter, requesting that the deadline for endorsement be extended to June 9, 2006, to allow the review process to be completed. The Board noted that the project is making good progress toward endorsement.

Member Barry moved and Member Turner seconded that the deadline for endorsement be extended from May 9, 2006 to June 9, 2006.

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

DISCUSSION. Stormwater Drainage Subcommittee. 7:20 p.m.

Member Joseph gave a brief update on the progress of the Stormwater Drainage Subcommittee. The Subcommittee met on April 11, 2006 with a drainage consultant to discuss the timelines that the Town is required to satisfy to come into compliance with the requirements of the Clean Water Act. A new flyover was ordered, to assist in bringing the mapping up to date, as the last flyover occurred six years ago. No progress has been made in making a recommendation as to who should be assigned administrative and enforcement responsibilities.

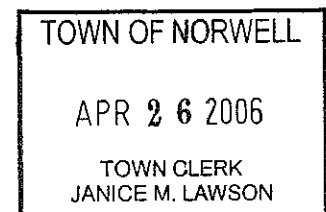
PUBLIC HEARING. Zoning Article. Aquifer Protection. 7:30 p.m.

Member Turner read the public hearing notice to open the public hearing. Water Commissioners Peter Dillon and Steve Ivas were present.

Mr. Dillon noted that the proposed amendments included a change to the Aquifer Protection District Map and changes to the text of Zoning By-law §4300; however, the Map article will be indefinitely postponed at Town Meeting. An increased water withdrawal amount has been approved by the State and, as a result, a new Zone II map will have to be drawn. For that and other reasons, the Commissioners will wait on the proposed map change and present a new map, hopefully in the Fall of this year.

Mr. Dillon reviewed the changes proposed to the text of Zoning By-law §4300. He noted that the intent is to bring the zoning by-law into compliance with current environmental protection requirements. The changes will promote greater recharge, while potentially allowing more impervious surface, and allow treatment plants and digital photography uses, provided that no chemicals are used.

The Planning Board members had no questions.



Mr. Donald E. Shute of 41 Fox Hill Lane asked what impact the proposed changes would have on utility lines. The Water Commissioners noted that this part of the by-law is not changing. Mr. Shute asked about the impact of the changes on horse farms. The Water Commissioners noted that there are no changes proposed.

Member Barry moved and Member Turner seconded that the Planning Board vote to close the public hearing on the proposed amendments to the Aquifer Protection District. The motion was approved 4-0, with Member Graham absent.

PUBLIC HEARING. Demolition Delay Zoning By-law Amendment. 7:45 p.m.

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

Historical Commission Chairman Joseph Carty gave an overview of what the two articles are requesting. First, the Demolition Delay By-law would apply to any structure, building or property in existence prior to 1930. Second, the delay period is proposed to be extended from six months to twelve months. Mr. Carty noted that people like old houses and want to save them.

Member Joseph asked for an explanation for why the 6-month delay period should be extended to 12 months. Mr. Carty stated that 6 months is not enough time to hold up demolition. He stated that a 12-month delay period would put the Commission in a better negotiating position.

Member Markham asked whether the 6 months is always used or whether the Commission sometimes responds in less than 6 months with a permit to allow demolition. Mr. Carty stated that the Commission often responds in less than 6 months. If a property is not of historical significance, the Commission responds quickly and allows demolition to go forward. Mr. Carty noted that the new people don't appreciate old houses.

Member Turner asked about the application of the by-law to "properties." Mr. Carty explained that this language captures stonewalls and vistas.

Member Turner expressed concern about someone who wants to subdivide and then is delayed for a year after they waited a period of time to subdivide. Member Markham noted that the developer could seek both at once.

Mr. Spencer Joseph of the Advisory Board stated the Advisory Board is against both articles. The Advisory Board is of the opinion that 6 months is long enough to delay people who want to take down a building and that additional delay is not warranted. An arrangement is either going to be made within the first 6 months or its not going to happen.

Member Barry stated that he sees no reason to rush to demolish a home and the 12 months does not seem too long to him. It is the developer who bears the expense.

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TOWN CLERK
JANICE M. LAWSON

Mr. Donald E. Shute of 41 Fox Hill Lane. Mr. Shute stated that it is not the developer who will bear the expense. It is the seller of the home. A developer/buyers will pay less for a property that is subject to this procedure. This type of proposal hurts older people who are trying to sell their homes. It will make the sale of property much more difficult for them. A year is a long time to hold a property.

Mr. Carter mentioned the Clark House, at the corner of Pine and Wildcat, and stated that this is an example of what they would spend up to a year to try to protect.

Member Turner noted that she would like to see architectural treasures preserved.

Mr. Joseph noted that the Advisory Board appreciates what the Historical Commission is trying to do, but still is opposed.

Member Barry moved and Member Turner seconded that the Planning Board vote to close the public hearing. The motion was approved 4-0.

PUBLIC HEARING. Zoning By-law §1642 Amendment. 8:10 p.m.

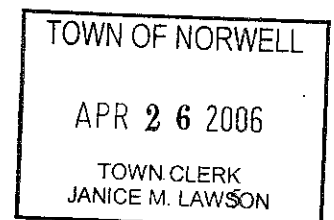
Member Turner read the public hearing notice to open the public hearing.

The Board of Selectmen is the sponsor of the article. Selectmen Merritt was scheduled to present the article. The Board of Selectmen was conducting a meeting elsewhere in Town Hall and the Planner went to the Selectmen's meeting and asked the Town Administrator if Selectmen Merritt would be attending. The Town Administrator stated that the Board of Selectmen was tied up.

The Planning Board reviewed the proposed article and asked members of the public in attendance for their comments.

Mr. Spencer Joseph of 128 Parker Street stated that he is personally very much in favor of the proposal. He noted that, while he is on the Advisory Board, the Advisory Board has not voted on this proposal. He noted that the Advisory Board wishes to have the Planning Board's input before discussing zoning articles. The Board discussed the fact that the Selectmen opened the warrant late to submit two of the three articles being discussed tonight. The three articles were referred 16 business days earlier, and, since the Planning Board must advertise the hearing twice over a 14-day period, tonight was the earliest opportunity to hear the articles. Mr. Joseph stated that the Advisory Board understands the problem that the Planning Board faces.

Mr. Joseph noted that he personally believes that the article would cut the Board of Appeals' workload in half and save the taxpayers the cost and delay of having a public hearing held each time that a nonconforming situation is proposed to be changed.



The Planning Board acknowledged a letter delivered at 7:10 p.m. this evening to the Planning Office from the Board of Appeals, setting forth the Board of Appeals' request that the article be postponed.

Mr. Donald E. Shute of 41 Fox Hill Lane. Mr. Shute stated that he believes that requiring the Board of Appeals to hold a public hearing each time that a nonconforming single or two-family dwelling owner wishes to make a change is a real burden, both as to the expense of the hearing and the delay involved. That requirement chills sales and improvements.

Member Barry noted that he is in favor of simplifying the process in this way.

Member Markham noted that he is in favor of simplifying the process also.

Member Turner noted that it is true that every time that there is a zoning change, more lots become nonconforming, but that is the way that it is supposed to be. She did not see a problem with requiring a hearing.

Mr. Joseph noted that, as a member of the Advisory Board, he will urge that no more zoning amendments be passed until this article is approved.

The Board reviewed the recent history of this article. In 2004, a By-Law Review Committee, appointed by the Selectmen, proposed an even a broader article, with greater authority for the Building Inspector. That article was co-sponsored by the Selectmen, Planning Board and Board of Appeals. Town Meeting approved the proposal; but, the Attorney General rejected the language, after approving the same language many times before, saying that different language is required now.

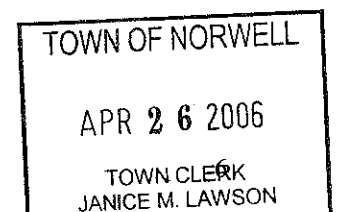
Member Markham noted that the current proposal is much narrower than the 2004 proposal approved by Town Meeting and seems to address only the most obvious situations that would seem to warrant immediately approval without a public hearing. It doesn't seem like a big deal to support this proposal.

Member Joseph stated that she would prefer to give the Board of Appeals another six months to review the article, as it has asked, especially since the Selectmen are not here to present the proposal.

Mr. Joseph stated that two years has gone by and he sees no reason to wait another six months or a year to address this problem.

Member Turner noted that she believes that the Board of Appeals objects to paragraph c and that she has a concern about that.

Member Barry moved to close the public hearing and Member Turner seconded. The motion was approved 4-0, with Member Graham absent.



DELIBERATIONS ON ZONING ARTICLES. 8:40 p.m.

Aquifer Protection District Article. Zoning By-law §4300. 8:40 p.m.

Member Barry moved and Member Turner seconded that the Planning Board vote to recommend to Town Meeting that the article to amend the text of the Aquifer Protection District Zoning By-law §4300 be acted upon favorably, with the understanding that the map article is to be withdrawn.

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

Demolition Delay Article. Zoning By-law §3400. Expand to 1930. 8:45 p.m.

Member Barry moved and Member Turner seconded that the Planning Board vote to recommend to Town Meeting that the article to amend the Demolition Delay Zoning By-law §3400 to expand the application of the by-law to any building, structure or property built on or before 1930 be acted upon favorably.

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

Demolition Delay Article. Zoning By-law §3400. Expand 6 months to 12 months.

Member Barry moved and Member Markham seconded that the Planning Board vote to recommend to Town Meeting that the article to amend the Demolition Delay Zoning By-law §3400 to expand the 6-month delay period to 12-months be acted upon favorably.

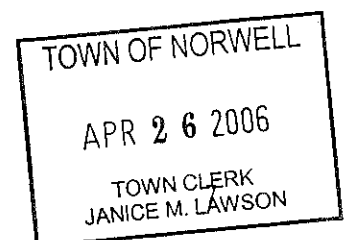
The motion was approved 3-1, with Member Joseph opposed and Member Graham absent.

Zoning By-law §1642. Expand Authority of Building Inspector. 8:45 p.m.

The members had a lengthy discussion. Member Markham noted that paragraphs a and d appear straightforward and should be recommended. Member Barry noted that paragraph a, b and d appear straightforward and should be recommended. Member Joseph noted that the Board of Selectmen did not appear to present the article and she thinks that the article should wait. She wanted to ask if Town Counsel ever heard back from the Attorney General about the proposed language.

Member Barry moved and Member Turner seconded that the Planning Board vote to recommend to Town Meeting that the article to amend Zoning By-law §1642 be acted upon favorably so as to adopt the options set forth in subparagraphs a, b and d, but not c.

The motion was approved 3-1, with Member Joseph opposed and Member Graham absent.



DISCUSSION. Adjournment. 9:00 p.m.

At approximately 9:00 p.m., Member Barry moved and Member Markham seconded that the Board vote to adjourn. The motion was approved 4-0, with Member Graham absent.

I certify that the Planning Board approved the above minutes by majority vote on
April 26, 2006.

Sally I. Turner
Sally I. Turner, Clerk

