

Norwell Planning Board Meeting Minutes  
April 26, 2006 Regular Meeting

The meeting was called to order at 7:00 p.m. Present were Board Members Richard Parnell Barry, Bruce W. Graham, Karen A. Joseph and Charles R. Markham and Planner Ilana Quirk. Member Sally I. Turner joined the meeting at 7:15 p.m.

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

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

**DISCUSSION. April 12, 2006 Minutes. 7:00 p.m.**

Member Barry moved and Member Joseph seconded that the Board vote to approve the April 12, 2006 minutes. The motion was approved 4-0, with Member Turner absent.

**DISCUSSION. Bills. 7:00 p.m.**

The Board noted that there are insufficient funds to pay the 400 Washington Street bill. The applicant has been notified of the deficit. The Board noted that authorization of payment would mean the bill would be paid up to the balance in the account and then, when additional funds are received, authorization will be in place for the accountant to pay the remainder, without the need for further action by the Board.

Member Barry moved and Member Joseph seconded that the Board vote to authorize payment of the following bills:

Corporate Express (Folders/Post-Its):	\$ 6.65	
(Name Plate):	\$ 8.18	
Mileage (Planner):	\$ 35.17	
Coler & Colantonio, Inc.:		
Barrel Lane:	\$ 217.50	
Black Pond/Clapp Brook:	\$ 217.50	
Henry's Lane:	\$2,392.34	
Holly Berry Trail:	\$ 199.86	
Longwater Drive (Lot 54):	\$ 222.33	
Tunnel Driveway Mod.:	\$ 219.08	
104 Washington St.:	\$3,488.48	
134 Washington St.:	\$1,014.41	
400 Washington St.:	\$2,868.66	(Insufficient funds exist)
Wildcat Hills:	\$2,584.62	

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

**DISCUSSION. Affordable Housing Partnership Membership. 7:05 p.m.**

Member Graham reported that he received an email from the AHP chairman stating that Neil Farmer of River Street was interested in serving as the Planning Board's appointee to the AHP. Member Graham sent Mr. Farmer a letter asking that he write to the Planning Board setting out his background and his interest and stating that Mr. Farmer should be prepared to attend a board meeting for a brief interview. The letter is expected by the Board's May 10, 2006 meeting.

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

The Board tabled discussion until the arrival of Engineer Chessia.

**DISCUSSION. Turner's Way Modification. Surety Reduction. 7:10 p.m.**

The Board reviewed the April 14, 2006 surety report of Coler & Colantonio, Inc., which recommends that the Board continue to hold \$27,600 to guarantee completion of the project. The Town is holding \$55,450 in cash surety.

Member Barry moved and Member Markham seconded that the Planning Board vote to release \$27,850 in surety to the developer and to continue to retain cash surety in the amount of \$27,600. The motion was approved 4-0, with Member Turner absent.

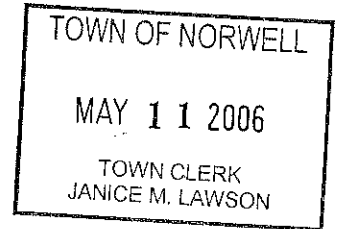
The Board briefly discussed Mr. Turner's letter, dated April 3, 2006, regarding street trees and decided to table the discussion until Mr. Turner arrives. Mr. Turner arrived later and discussed street trees with the Board, but no vote was taken. Member Turner recused herself from the discussion and was not present.

**DISCUSSION. Agenda. Reconsideration. 7:15 p.m.**

Member Turner moved and Member Barry seconded that the Planning Board vote to reconsider the agenda to add reconsideration of the vote taken regarding zoning article to amend Zoning By-law §1642. The motion was approved 5-0.

**DISCUSSION. Trunnel Subdivision Modification. 7:15 p.m.**

Member Turner recused herself from the discussion and left the meeting. Engineer Chessia brought the Mylars that were delivered to his office today by McKenzie Engineering and delivered a memo stating that the Mylars are in order and are ready for endorsement. The Board noted that the Certificate of Vote, Driveway Easement and Homeowners Association Amendment have not yet been recorded and that the Mylars can be endorsed, but would have to be held in escrow until after satisfactory evidence has been provided that the required documents have been recorded.

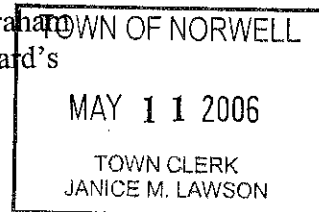


Member Joseph moved and Member Barry seconded that the Planning Board vote to endorse the Mylars, which consist of two sheets prepared by McKenzie Engineering, are labeled and dated as follows: Sheet 5, the Grading & Drainage Plan, dated February 20, 2003, as revised through April 14, 2005; and Sheet 6, the Roadway Plan and Profile, dated February 20, 2003, as revised through March 23, 2005; with the provision that the endorsed Mylars shall be held in escrow by the Planner until evidence has been provided that the Certificate of Vote, Driveway Easement and Homeowners Association Amendment have been duly recorded.

The motion was approved 4-0, with Member Turner recused and not present for the discussion.

**DISCUSSION. Planning Board Budget. 7:25 p.m.**

Member Barry noted that the Planning Board's request that the line item for the salary of the clerical assistant for the Planning Office be moved from the Selectmen's budget to the Planning Board's budget was not recommended by the Advisory Board in the printed warrant and it appeared to him that the Board of Selectmen's proposed budget would eliminate the position. The Board reviewed the warrant and determined that the Advisory Board did recommend against moving the salary line item to the Planning Board unless there is an override; however, the line is in the Selectmen's budget. Chairman Graham indicated that he would contact Selectmen Mariano and ask why the Planning Board's request was not honored.



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

Member Barry read the public hearing notice to open the continuation of the public hearing. Member Turner rejoined the meeting and read the February 12, 2006 letter received from Donald E. Shute, the authorized representative of the owners and applicants, stating that the application is withdrawn.

Member Joseph moved and Member Barry seconded that the Planning Board vote to acknowledge and accept the withdrawal notice and forward it to the Town Clerk. The motion was approved 4-0, with Member Markham abstaining.

**DISCUSSION. Henry's Lane. Water Easement Field Change Request. 7:35 p.m.**

The Board reviewed the applicants' April 26, 2006 letter requesting a field change to eliminate the required water main easement extension from Henry's Lane toward Mt. Blue Street. The Board reviewed Water Superintendent John McInnis' April 25, 2006 e-mail, which stated that:

The water easement, after reconsideration, did not appear viable. The cul de sac is surrounded by wetland and the abutting properties that front Mt. Blue Street are already developed lots.

Member Barry moved and Member Joseph seconded that the Planning Board vote to grant the requested field change and eliminate the requirement that there be a water main

easement to allow an extension from Henry's Lane to Mt. Blue Street, based upon the Water Superintendent's recommendation. The motion was approved 5-0.

Mr. Shute provided the Board with a copy the Storm Water Pollution Prevention Plan, so that the Board would be aware of the progress that is being made. The Board thanked Mr. Shute for the information.

**DISCUSSION. Engineering Consulting Services. 7:45 p.m.**

Engineer John Chessia announced to the Planning Board that he is leaving Coler & Colantonio, Inc., at the end of June, to open his own engineering consulting firm. It is an amicable separation and there will be a continuing relationship between Engineer Chessia and C&C, with Engineer Chessia providing occasional consulting work to C&C and with C&C providing support services on occasion. Engineer Chessia noted that he would like to remain the Board's engineering consultant. He indicated that C&C has told him that it would not request that the Board continue with C&C as there is no one at C&C at this time that does this kind of work. Engineer Chessia stated that his hourly rate would go down, of course, but that he would, for a period of time, be the one doing all of the work. If he needed assistance, then he would hire the same people at C&C who do the work now, including traffic engineers.

Chairman Graham asked about Engineer Chessia's capabilities and Engineer Chessia indicated that he would be backed up by C&C and probably by a second firm that he is talking with that he likely will have a similar reciprocal relationship with. Engineer Chessia stated that he will have the necessary hardware and software and will work out of an office on his property in Norwell.

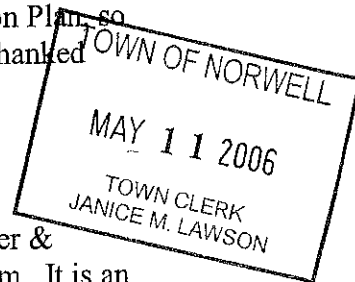
Chairman Graham asked Engineer Chessia to provide a letter about the change and the terms under which his new firm would operate and include a summary of what his new firm's capabilities would be.

**DISCUSSION. 104 Washington Street Letter. 7:50 p.m.**

The Planning Board reviewed an April 18, 2006 letter to the Planning Board from Mr. James Barnum and Ms. Debra Barnum, received on April 24, 2006, together with a copy of a March 19, 2006 letter from the Barnums to the Board of Appeals, all regarding 104 Washington Street. The Board reviewed a April 26, 2006 draft letter of response, to assure the Barnums that their letters now have been received and reviewed by the Planning Board and notifying them of the next appointment that the Planning Board has to discuss the project.

Member Joseph moved and Member Barry seconded that the Planning Board vote to send the April 26, 2006 letter to the Barnums. The motion was approved 5-0.

**DISCUSSION. Zoning Article to Amend ZBL §1642. 7:55 p.m.**



Member Turner reviewed the history of Zoning By-law §1642 and the efforts since 2002 to amend it to grant the Building Inspector more authority. She stated that she feels that the current effort is confused and was proposed by the Selectmen at the last minute. Member Markham noted that Town Meeting voted for a much broader version of what is proposed at this point. He noted the importance of trying to effect what Town Meeting already has approved. The Board noted that the 2004 proposal was proposed by a Town-wide Zoning By-law Review Committee and then sponsored by all Town boards and was rejected by the Attorney General, even though the proposal consisted of language that had been approved by the Attorney General's office in the past.

Member Turner read from the AG's rejection letter and stated that she agreed that the Building Inspector should not be given such broad discretion. She noted that the proposal before the Town is too broad. The discussion was briefly suspended as Town Counsel joined the meeting to discuss Holly Berry.

TOWN OF NORWELL  
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TOWN CLERK  
JANICE M. LAWSON

**DISCUSSION. Holly Berry Street Acceptance. 8:10 p.m.**

Town Counsel joined the meeting, to inform the Board that the Holly Berry Street Acceptance Petition has been withdrawn. The Board thanked him for that information.

**DISCUSSION. Zoning Petition to Amend Zoning By-law §1642. 8:10 p.m.**

The discussion on reconsideration continued. Town Counsel noted that he prepared the article that is under discussion for the Selectmen at the Selectmen's request. He told the Board that the language in the article has been accepted by the AG's office previously and will be this time as well. He believes the language satisfies state law requirements. Town Counsel left the meeting.

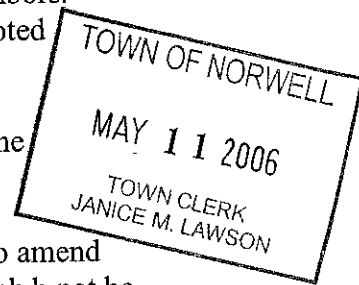
Member Turner noted that she particularly objects to subparagraph c of the proposed article. The Board noted that the April 12, 2006 vote to recommend the article expressly recommended that subparagraph c not be adopted. Member Turner reviewed subparagraph a and noted that she did not have a problem with it. Member Turner reviewed subparagraph d and noted that she didn't believe that she would have a problem with this language either.

The Board discussed subparagraph b and its implications. Member Turner stated that she has a problem with allowing the Building Inspector to have the authority allowed in subparagraph b. Member Graham noted that subparagraph b allows an addition that conforms to current requirements, even though the rest of the structure does not conform and he does not have a problem with that. Member Turner stated that if a house is nonconforming as to frontage and someone wants to have a conforming addition elsewhere to the house, she believes that the neighbors should be notified and that there should be a public hearing. Member Graham noted that there is expense and time involved in using this process and it promotes appeals and litigation. Member Turner stated that she believes using the hearing process prevents litigation. Member Joseph stated that it prevents litigation because it gives the Board of Appeals a mechanism to

impose conditions, like additional landscaping and fencing to appease the neighbors. Member Joseph stated that she objects to subparagraph b and that is why she voted against the report that was voted on April 12, 2006.

Member Joseph asked if Member Turner wished to make a motion relative to the reconsideration of the article.

Member Turner moved that the April 12, 2006 vote to recommend the article to amend Zoning By-law §1642 be amended to add the recommendation that subparagraph b not be adopted by Town Meeting. Member Markham seconded the motion. The motion was approved 3-2, with Members Barry and Graham dissenting.



**DISCUSSION. 134 Washington Street. Webb Site Plan. 8:35 p.m.**

Mr. Webb was present and Chairman Graham asked him to provide an overview of what is happening at his property and asked if he intended to withdraw his modification and just build the project the way it was approved. Mr. Webb stated that he does want to make some changes to the original approved plan and move forward with a modification of some kind. He stated that he now has lowered the grade at the property three feet, he has removed asphalt and narrowed the entrance to the property from 27 feet to 24 feet and installed a streetlight and moved the handicap parking spaces.

The Board discussed the various changes with Mr. Webb, at length. The Board noted that Mr. Webb has now made changes that are different from his latest plan, which is dated March 7, 2006. If he wishes the new changes to be approved, then he will need to provide a new plan that reflects the changes that he wants to be approved.

Mr. Webb stated that, while construction was ongoing, he realized that it made more sense to put the handicap parking spaces out back, so that they would be closer to the elevator. Member Joseph asked why Mr. Webb did not have his engineer and architect both review the plans before he presented them to the Town for approval, so that that kind of conflict could have been worked out as a design issue. Mr. Webb stated that he would not ask that question now.

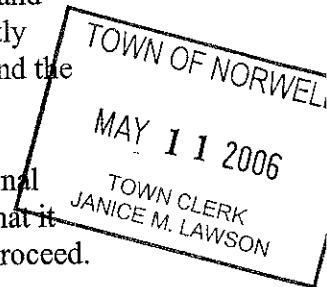
Mr. Webb stated that he made changes to the project that were not on the approved plan because he felt that they were improvements and that he built a great project and didn't see what the problem was. Member Joseph noted that Mr. Webb should have returned to the Town to obtain review and approval of the changes that he wanted to make before proceeding with them. He changed the parking and the grading at the site, impacting the drainage system. Mr. Webb stated that he did not want to take the time and spend the money that it would have cost to interrupt the construction project while it was underway in order to present the changes that he wanted made and have them reviewed by the Town.

The Board noted again that a plan is necessary that reflects what it is that Mr. Webb is doing. Mr. Webb stated that he wants the grading reflected on the approved plan and the

parking and lighting and entrance changes reflected on the latest plan. The Board told Mr. Webb that it cannot review a hybrid proposal that takes part of one plan and part of another. Mr. Webb needs to present a plan that reflects what he wants site plan approval for.

Mr. Webb stated that he could just go back to the original plan that was approved and build that because he thought that that would cost him less than having to constantly provide new plans to reflect the changes that he is making and pay his engineers and the Town's engineer.

Member Graham pointed out that building the project in accordance with the original plan has always been an option for Mr. Webb and that doing the project the way that it was originally approved would have been the most cost effective way for him to proceed.



The Board discussed the project's review fee account, which is at a deficit. Mr. Webb stated that he did not bring his checkbook to the meeting. He asked how much review fee money would be necessary to finish the project. Member Graham noted that the original thought was that Mr. Webb was going to just propose a modification that showed a change in the location of the handicap spaces. If that had been the case, then there would not have been a large review fee bill. Instead, the reviews indicated that the grading requirements were off and that the drainage system approved was not therefore not to the proper design. The Board reminded Mr. Webb that the more plan revisions and problems with the revisions that there are, the more that it will cost him.

The Board told Mr. Webb that he needs to either build the project in accordance with the original approved plan and withdraw his application for a modification or he needs to provide a plan for review that reflects what he wants to have approved. If he intends to go forward with the original plan, then he just needs to address the deficit in the review fee account. If he intends to provide a revised plan for review, then he needs to address the deficit in the account and provide additional review fees to pay for the new review.

Mr. Webb stated that he intends to present an as-built plan that will reflect the grading that was originally approved and the changes that he wishes to make. The Board agreed that, if that is the case, then \$1500 in review fees probably would cover the existing deficit and the cost of reviewing the as-built plan. If the changes are more extensive, then more money will be necessary.

As a result, no further review will proceed, until a revised plan and at least \$1500 in review fee funds are received.

**DISCUSSION. Barrel Lane. Possible litigation. 8:50 p.m.**

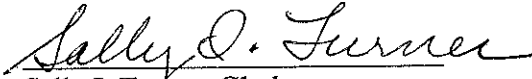
The Board noted that Mr. Shute has indicated an intention to appeal the conditional approval of the Barrel Lane project, for a stated purpose of extending the deadlines for endorsement and completion as Mr. Shute is uncertain how long it will take him to resolve the record ownership issue relating to a portion of the land.

The Planner reminded the Board members that, if they are served with a complaint and summons, then they should note the date of service and bring both the summons and the complaint materials to the Planning Office, so that Town Counsel can be informed.

**DISCUSSION. Adjournment. 9:00 p.m.**

At approximately 9:00 p.m., Member Joseph moved and Member Barry seconded that the Board vote to adjourn. The motion was approved 5-0.

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

  
Sally I. Turner, Clerk

