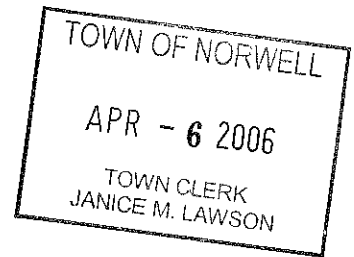


Norwell Planning Board Meeting Minutes
March 22, 2006 Regular Meeting



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

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

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

DISCUSSION. March 15, 2006 Minutes. 7:00 p.m.

Member Turner moved and Member Markham seconded that the Board vote to approve the March 15, 2006 minutes. The motion was approved 4-0, with Member Joseph absent.

DISCUSSION. Bills. 7:05 p.m.

The following bills were presented for approval:

Coler & Colantonio Review Fee Bills	
Barrel Lane:	\$ 615.06
Hawthorne Lane:	\$ 235.84
Holly Berry Trail:	\$ 583.14
Lot 54 Longwater:	\$ 221.26
Marsh Site Plan:	\$2,540.86
Trunnel:	\$ 518.47
400 Washington:	\$2,708.82
400 Washington:	\$1,736.68
134 Washington:	\$ 974.38

Member Turner recused herself.

Member Barry moved and Member Markham seconded that the Board vote to approve payment of the above listed bills and sign the necessary vouchers. The motion was approved 3-0, with Member Turner abstaining and Member Joseph absent.

DISCUSSION. 13 and 21 Barstow Avenue ANR Plan. Hoover.

The Board reviewed a plan entitled "Plan of Land Barstow Ave/Stetson Rd/Norwell, MA," dated February 16, 2006, as revised through March 11, 2006, and prepared by PLS

Patrick Roseingrave of CCR Associates, 40 Mears Ave, Quincy, MA and the draft decision prepared by staff.

Member Barry moved and Member Turner seconded that the Planning Board vote to endorse the plan entitled "Plan of Land Barstow Ave/Stetson Rd/Norwell, MA," dated February 16, 2006, as revised through March 11, 2006, and prepared by PLS Patrick Roseingrave of CCR Associates, 40 Mears Ave, Quincy, MA and to adopt the staff recommendations set forth in the March 14, 2005 draft decision.

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

DISCUSSION. Pinson Lane Easement Petition. 7:10 p.m.

The Board reviewed the March 15, 2006 draft staff report, regarding a petition by the developer of Pinson Lane to obtain a drainage easement or license from the Town.

Member Barry moved and Member Turner seconded that the Board vote to recommend that an independent engineering opinion be obtained, as noted in paragraph one of the draft report. The motion was approved 4-0, with Member Joseph absent.

Member Barry moved and Member Turner seconded that the Board vote to recommend the independent appraisal as noted in paragraph two of the draft report. The motion was approved 4-0, with Member Joseph absent.

Member Barry moved and Member Turner seconded that the Board vote to recommend that the requested drainage easement be granted under the terms and conditions noted above and in paragraph three of the draft report, provided that the Highway Surveyor and Permanent Drainage Committee also confirm that the necessary drainage capacity is available.

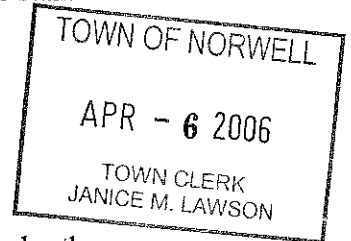
Member Turner moved and Member Barry seconded that the Board vote to recommend that a license not be granted as requested for the reasons stated in paragraph four of the draft report. The motion was approved 4-0, with Member Joseph absent.

Member Barry moved and Member Turner seconded that the Planning Board make the findings and recommendations set forth in the draft report and as voted above. The motion was approved 4-0, with Member Joseph absent.

A copy of the final report is attached hereto.

DISCUSSION. Holly Berry Street Acceptance. 7:15 p.m.

The Board reviewed and discussed the March 21, 2006 draft report prepared by staff.



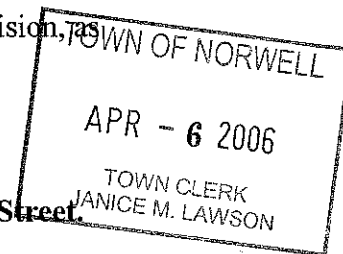
Member Graham moved and Member Markham seconded that the Board vote to report favorably on the findings set forth in Section I of the draft report. The motion was approved 4-0, with Member Joseph absent.

The Member discussion Section II of the draft report and determined that additional language should be included to indicate that the information about the Town's resources to deal with drainage maintenance was gathered from the Highway Surveyor on specific dates when the Planner met with him. Member Graham wished to add language indicating that a drainage failure during cold weather would cause black ice on Holly Berry Trail and Grove Street. Member Turner wished to add that the developer did not appeal the drainage maintenance conditions included in the Board's decision.

Member Barry moved and Member Turner seconded that the Planning Board vote to report its recommendation to the Board of Selectmen that Holly Berry Trail not be accepted as a public way for the reasons set out in the March 21, 2006 draft decision, as changed above. The motion was approved 4-0, with Member Joseph absent.

A copy of the report is attached hereto.

PUBLIC HEARING. Citizens Petition to Rezone a Portion of Washington Street.



Clerk Turner read the public hearing notice to open the public hearing. Chairman Graham explained the public hearing process to the petitioners and members of the public.

Attorneys Walter Sullivan and Steven Guard were present to represent the petitioners. Attorney Sullivan made a presentation and explained that the petitioners wish to have a strip of Washington Street, near Jacobs Lane, changed from Residential B to Business B.

Attorney Sullivan reviewed the 9 parcels that are proposed to be rezoned as Business B and stated that only 2 of the parcels have sufficient area to satisfy existing zoning requirements and all but 2 are already developed. He stated that, as a result of these circumstances, the structures on the parcels would remain and not be torn down redeveloped and any proposed business uses would be confined to the existing structures.

Attorney Sullivan stated that, while a home occupation business use is available in the Residence B District, the property owners wish to expand their businesses beyond what is allowed for home occupations and take advantage of the opportunities that a Business District Zone has to offer.

Attorney Sullivan stated that the current zoning is a bubble of residential uses on Washington Street in an otherwise uniform strip of business uses on in a 400-foot deep business strip on Washington Street.

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Attorney Sullivan stated that any business uses changes would be benign and not adversely impact the neighborhood. Even if a number of parcels were to be combined, the resulting parcel still could not satisfy dimensional requirements.

Attorney Sullivan reviewed the circumstances for the individual parcels. Number 447 conforms to dimensional requirements and is presently partially in a business district and partially in a residential district. Number 489 also satisfies dimensional requirements, but he stated that does not have a flat surface and is impacted by a steep slope.

Attorney Sullivan stated that the petitioners are motivated to request this change due to the dramatic changes that have occurred on Washington Street. The parcels fronting on Washington Street are no longer usable as residences. Traffic is too heavy now for a family with children. The area has been impacted by the addition of the Stop and Shop across the street. The area once was residential and now is heavily commercial.

Attorney Sullivan argued that now is time to link the parcels in question with the rest of the 400-foot business strip on both sides of Washington Street.

Attorney Sullivan acknowledged complaints that Number 483 is overused now, but noted that it is a home occupation and simply exercising those rights. To the extent that there is a problem, then enforcement could occur.

Attorney Sullivan noted the restriction for home occupations, on the number of employees, is restricting the natural growth of the petitioners' businesses and the petitioners are losing business opportunities as a result of the restrictions.

Attorney Sullivan explained that the owner of Number 461 misunderstood when he bought his parcel and thought it was zoned for business. It wasn't obvious to him that the parcel was residential and that he could only have a home occupation.

Attorney Sullivan argued that the proposed change would not adversely affect persons in the rear of the existing district. He noted that if the line had been uniformly drawn in the first place, it would have been in the business district to begin with.

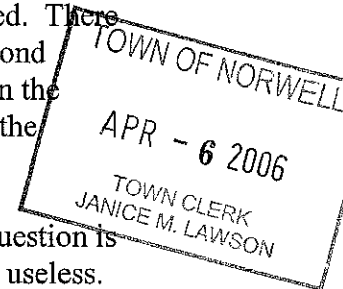
Attorney Sullivan explained that there was a meeting with the neighbors and he is aware of a concern that the corner lot at 3 Jacobs Trail would use a driveway on Jacobs Trail. He argued that it would be used as a single lot and would not use Jacobs Trail.

Attorney Sullivan argued that, except for the concern about the present trucking uses at Number 483, there is no reason to fear that incompatible uses would occur because of the size of the parcels.

Attorney Sullivan summarized that the petitioners wish to obtain the benefits of a business district zone because the residential benefits for their land have been undermined by the changes in the area.

Member Graham read a conflict of interest disclosure into the record that had previously been filed with the Town Clerk.

Member Turner noted that she is familiar with the area in question and researched the history of the zoning that occurred in the 1950's. She presented a map made from assessing map excerpts of the business strip zoning for Washington Street. She pointed out that the planners for the Town clearly acted very deliberately to create buffers to protect the existing residential neighborhoods when the business strip was created. There are at least three neighborhoods that were protected in this manner: the Jacobs Pond neighborhood, Brentwood and Ridge Hill Lane. The clear goal of the planners in the '50's was to provide business opportunities along Washington Street, but not at the expense of the residents in the existing neighborhoods.



Member Turner noted that the home occupation use available to the parcels in question is still quite valuable. This is not a situation where the parcels have been rendered useless.

Member Barry asked about the trail next to Number 141 Washington Street. He was informed that it is a trail leading to Town Conservation land.

Member Markham asked if the petitioners are owners of the land that is the subject of the petition. Attorney Sullivan stated that they are.

Chairman Graham opened the meeting up to questions and comments from the public.

Mr. Ronald Mott of 15 Wendall Avenue. Mr. Mott stated that he has nothing against the petitioners and would be happy to support a variance for Number 483 Washington Street, but he is concerned about the impact on his property and on the neighborhood if the rezoning were allowed, especially as to the increased traffic that would result in the neighborhood. He is opposed to the change.

Mr. Ron Keefe of 7 Wendall Avenue. Mr. Keefe stated that he is sympathetic with Mr. DeWolfe and wants to help him, but not in this way because he is not confident that the change would have no impact on the neighborhood. He stated that he is especially concerned about including 3 Jacobs Trail in the rezoning, as that would allow more traffic on Jacobs Trail. All traffic should be on Washington Street, not Jacobs Trail, because Jacobs Trail is the only way in or out of the neighborhood. Traffic is already a negative for the neighborhood. Any more traffic would be an adverse impact. He disagreed with Attorney Sullivan that any one is losing business opportunities because the neighborhood has been zoned as it is for many years.

Mr. Robert Alvanas of 20 Prouty Avenue. Mr. Alvanas noted that he is a life-long resident and remembers that the zoning happened in the 1960's and deliberately provided a buffer for the neighborhood from business uses. He stated his view that allowing the proposed rezoning would result in over development near the neighborhood and that he is opposed.

Ms. Nancy Dooley of 50 Prouty Avenue. Ms. Dooley noted her belief that allowing home occupations in the area to be rezoned should be sufficient.

Mr. Daniel DeWolfe of 461 Washington Street. Mr. DeWolfe noted that he is a petitioner and uses his property for a hair salon. He stated that the zoning status of the property was misrepresented to him when he purchased it. He believed that it was a Business B District. He stated his belief that his business cannot survive as a home occupation. He will lose his home, business and go bankrupt. He stated that he has been in Norwell for 30 years and that he believes that he is being required to give up his rights. He stated that the town is taking half of his revenue away. He noted that he cannot have a receptionist and that he was misled by his attorney and by the town and it's not fair.

Chairman Graham stated that he was empathetic to Mr. DeWolfe's situation, but the record should be clear that no one is taking any rights away from him. His situation is horrible, but the rights that he wants were never in place. In acting on the petition, to make a recommendation to Town Meeting, the Planning Board must look at the long-term perspective. The concerns about the potential for a strip mall in the future must be considered.

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Mr. Arthur Lunny of 34 Jacobs Trail. Mr. Lunny asked if Mr. DeWolfe has legal redress against someone.

Chairman Graham noted that the public hearing cannot address that issue.

Ms. Cynthia Smellie of 135 High Street. Ms. Smellie stated that she lives near Accord Park and if you live or near Route 53, then there will be business uses nearby. She stated her belief that the Town's guidelines will protect the residents and fear of traffic is a poor excuse to say no.

Mr. Albert Feneck of 50 Doris Avenue. Mr. Feneck stated that he is a long-term resident. The area is already overdeveloped, due to the Stop and Shop. He stated that his mother was killed a year ago in a traffic accident on 123. He stated he had a barbershop near Stop and Shop and had to relocate. He noted that he successfully relocated. He was sympathetic to Mr. DeWolfe, but moving is an option. He noted that he also could potentially support a variance for Mr. DeWolfe, but not this whole sale rezoning effort.

Mr. Arthur Lunny of 34 Jacobs Trail. Mr. Lunny noted that there are over 90 homes in the Jacobs Trail neighborhood. The Fire Department has had trouble getting into the neighborhood in the past. There are tractor-trailer trucks serving the antique shop now and that is a hazard already. He asked the Planning Board to recommend against the petition.

Mr. Julie Burke of 35 Brantwood. Ms. Burke noted her belief that the neighborhood needs to continue to have a buffer from business uses on Washington Street. There are many children in the neighborhood and they use the streets. She stated that she feels that her neighborhood is under siege. It is a great neighborhood and very close knit. More

business uses would crowd the families out. She asked that the Planning Board stop the petition and asked about the process.

Chairman Graham explained that the Planning Board only makes a recommendation to Town Meeting. This matter will go to Town Meeting with the recommendation and then require a two-thirds affirmative vote to be approved.

Ms. Joanne Lannon of 34 Brantwood Road. Ms. Lannon stated that she is against the proposal.

Ms. Teresa Keefe of 7 Wendall Avenue. Ms. Keefe asked when the Planning Board will make its decision.

Chairman Graham explained that the public hearing must be closed first and then the Board would deliberate toward a decision, either tonight or at a future public meeting.

Ms. Ann Burke of 18 Brantwood. Ms. Burke stated that she understands people's fears, but thinks that everyone should have a right to do business and there should be a middle ground.

Chairman Graham noted that there are mechanisms that allow some zoning relief to be granted by the Board of Appeals.

Mr. Paul Dooley of 50 Prouty Avenue. Mr. Dooley asked if a variance would be available.

Chairman Graham stated that there was not way to know, it would depend upon what relief was sought and what is available under the by-law.

Ms. Cynthia Smellie of 135 High Street. Ms. Smellie asked if the small parcels could be put into one ownership and then have a larger use.

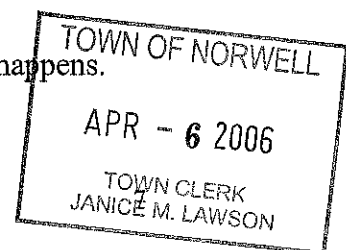
Chairman Graham stated that he couldn't speculate on the use, but certainly one entity could buy all the parcels and combine them.

Mr. Ellsworth Price of 16 Prouty Avenue. Mr. Price noted that there only one way into the Jacob Trail neighborhood.

Mr. Ron Keefe of 7 Wendall Avenue. Mr. Keefe noted that he is concerned about a Wal-Mart and egress issues.

Mr. Francis Smith of 25 Leigh Road. Mr. Smith stated that he lives near Jacob Pond and wants to keep it protected. More business will mean more runoff and more contamination.

Chairman Graham noted that Board of Health rules will apply no matter what happens.



Ms. Karen Yee of 5 Doris Avenue. Ms. Yee noted that she moved here from Quincy because it was too crowded and she wanted some room and quiet. She is opposed to the change.

Ms. Teresa Lunny of 34 Jacobs Trail. Ms. Lunny noted that even the home occupations break the rules, some of them are not even owner occupied and it's hard to get enforcement.

Mr. John Commesso of 39 Jacobs Trail. Mr. Commesso objected to the fact that he was not notified of this meeting. He stated that his side of town gets all the problems and Norwell is losing its feel. Just because there is traffic now, is no justification for adding more. The neighborhood should come first. If the change is allowed and causes problems, there would be no going back.

Mr. James Burke of 18 Brantwood Road. Mr. Burke noted that business uses can be a real problem, with dumpster being emptied at 2:00 in the morning. He noted that there is a problem with home occupations not being owner occupied.

Mr. Paul Dooley of 50 Prouty Avenue. Mr. Dooley stated that the neighborhood's quality of life should be taken into account. He asked the Planning Board to recommend against the petition.

Chairman Graham asked Attorney Sullivan if he wished additional time to reply.

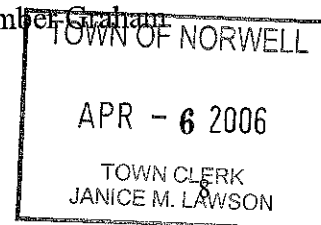
Attorney Sullivan noted that use variances are not allowed and the petitioners are seeking redress so that they can expand their businesses. He thought that changing the home occupation by-law to create more rights would not be successful. He stated again that he believes that size of the lots would prevent great change from happening. The antique shop owners have taken steps to prevent large trucks from accessing the neighborhood.

A resident stated that there was an 18-wheeler truck in the neighborhood near the antique shop tonight.

Chairman Graham asked if there was more comment and there was none. Chairman Graham thanked everyone for their input.

Member Barry moved and Member Turner seconded that the public hearing be closed. The motion was approved 4-0, with Member Joseph absent.

The Board discussed the petition. Member Turner stated that she could not see doing this to the existing neighborhood. Member Barry stated that he is against for the same reason. Member Markham stated that he thought that rezoning was the wrong way to solve the problems of the petitioners and hope that there was zoning relief that could assist them and impose conditions to protect the neighborhood at the same time. Member Graham noted that he could not support the petition.



Member Barry moved and Member Markham seconded that the Board vote to send a report to Town Meeting recommending against approval of the petition for the following reasons:

- 1) The Town's planners wisely carved out buffers for existing residential neighborhoods when the business strip for Washington Street was created. It does not appear wise to the Planning Board to remove such a buffer and that is what this petition would do.
- 2) The home occupation by-law does allow some business uses at the parcels that are the subject of the petition and this does create value for the parcels and a market for them.
- 3) If the petition were approved, the Jacobs Trail neighborhood could and likely would be adversely impacted.

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

DISCUSSION. Affordable Housing Partnership Membership. 8:55 p.m.

Member Graham noted that he has resigned from the AHP, as time will not permit him to continue to devote the time necessary. The other board members are in a similar position. Member Graham noted that it is possible for a non-board member to be appointed. Member Markham stated that he wants some representation and would be in favor of a non-board member being appointed. The board members agreed to search for someone and, if someone cannot be found, to consider asking the Mariner to run a story noting the need.

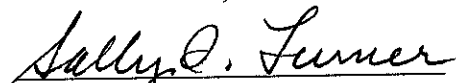
DISCUSSION. Burns Lane. 9:00 p.m.

The Planner reviewed the numerous inquiries that have been made about a parcel that may be for sale on Burns Lane. No plan has been received as yet.

DISCUSSION. Adjournment. 9:05 p.m.

At approximately 9:05 p.m., Member Barry moved and Member Turner seconded that the Board vote to adjourn. The motion was approved 4-0, with Member Joseph absent.

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


Sally I. Turner, Clerk

