

**Norwell Planning Board Meeting Minutes  
November 14, 2007**

The meeting was called to order at approximately 7:00 P.M. Present were Board Members Bruce W. Graham, Karen A. Joseph, Sally I. Turner and Town Planner Todd Thomas. Member Charles Markham arrived during the discussion on the Laurelwood Walking Trail. Member Michael J. Tobin was not present at the meeting.

**DISCUSSION: Draft Agenda.**

The Town Planner asked to add a discussion on the paving of the crosswalks in the Town Center. Member Turner moved and Member Joseph seconded that the Board accept the amended agenda as presented. The motion was approved 3-0.

**DISCUSSION: Regular Session Minutes, October 24, 2007.**

Member Joseph moved and Member Turner seconded the motion to accept the October 24<sup>th</sup> regular meeting minutes as presented. The motion was approved 3-0.

**DISCUSSION: Bills.**

Todd Thomas (Oct. Expenses)	\$ 123.85
W.B. Mason (Inv. #W33753-007)	\$ 42.57
Chessia Consulting (Inv. #300, Burns Ln.)	\$ 467.23
“ “ (Inv. #301, Trunnel)	\$ 221.78
“ “ (Inv. #302, Pinson)	\$ 179.73
TOTAL =	\$1,035.16

Member Joseph moved and Member Turner seconded that the bills be paid and that the payment vouchers be signed. The motion was approved 3-0.

**DISCUSSION: Crosswalk Paving in the Town Center.**

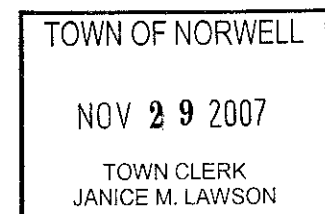
The Town Planner advised the Board that, due to scheduling, the crosswalks in the Town Center would likely not be paved until June. The Planner also noted that the CPC arranged for construction to commence on the base of the Town Clock before Thanksgiving.

**DISCUSSION: Cowings Lane/Cove – Name Change.**

The Town Planner related that Developer Eugene Mattie asked the Board to grant a field change for the name of his Summer Street subdivision from “Cowings Lane” to “Cowings Cove”. He added that only the Town Clerk’s Office had an unfavorable comment about the proposed name change.

Member Turner said that she agreed with the Town Clerk in that the change to Cowings Cove might be misleading since the development was not near the water.

Member Graham moved and Member Joseph seconded the applicant’s request to change the name from Cowings Lane to Cowings Cove. The vote affirming the motion was 2-1 with Member Turner opposed.



**DISCUSSION: Grove Street Land Donation:**

The Town Planner noted that the Selectmen asked for the Board's comments regarding a potential donation of land at the corner of Grove St. and Lantern Ln. An evaluation of the proposed donation, in the form of a draft letter to the Selectmen, was noted as being in front of the Board and awaiting its comments.

The Town Planner added that accepting the donation of the land may give the Town ownership rights to Lantern Lane and make it a stakeholder in any development proposal that relies on improving that private way in the future. The Town Planner concluded his remarks by asking the Board to direct him to finalize the draft letter to the Selectmen and formally recommend that the Town accept the land donation.

Member Joseph moved and Member Turner seconded that the Town accept the proposed donation at the corner of Grove Street and Lantern Lane since the land helps protect the Town water supply and adds to the inventory of open space. The motion was affirmed by a vote of 3-0.

Member Joseph moved and Member Turner seconded a motion to have Chairman Graham sign the draft letter once it is revised per the Board's instructions. The motion was affirmed by a vote of 3-0.

TOWN OF NORWELL  
NOV 29 2007  
TOWN CLERK  
JANICE M. LAWSON

**DISCUSSION: Laurelwood Walking Trail.**

The Town Planner provided the Board with a brief update on the Laurelwood walking trail. He noted that talks about minimizing trail impacts with Scituate have broken down and that the Norwell Conservation Commission informed him that they would not maintain any trails at Laurelwood. He added that the Town Administrator and Town Counsel were in the process of drafting a letter to Scituate, informing its Selectmen that the trail is part of a jointly approved subdivision and Scituate has bound themselves to its construction.

Member Markham said that he is not strongly attached to the trail's construction and said that he is not sure that Scituate cannot legally block the trail from being built on their property. He questioned the ability of the Scituate Planning Board to Scituate to the construction of the trail. He also suggested that the funds that were to be used for the construction of the trail might be better used as an endowment for trail maintenance or trail creation. He advised that the portion of the surety for the trail remain in place until the subdivision's drainage system was fixed.

Member Turner said that the trail was an important component of the subdivision's mitigation when the project was approved. She added that it was important to at least retain the walking connection from the cul-de-sac to Old Oaken Bucket Road.

Member Joseph noted that the grading where the planed parking area on Old Oaken Bucket Road was proposed was not tenable. Member Turner agreed and said that the parking is not an important component of this project. Member Graham said that he would like to see the promised amenities be provided by the developer, but that this

discussion was premature until the results of Town Counsel's pending letter to Scituate was known. Member Markham said that the Board should impose a deadline for the Selectmen to act on this matter.

**DISCUSSION: Impervious Surface on Henry's Lane (Cutcliffe).**

The Town Planner noted that Paul Cutcliffe asked the Board for an impervious surface determination for #16 Henry's Lane. He added that he reviewed the revised plan and it showed all the impervious surfaces on the lot. He cautioned that the area around the pool is now proposed as 3/4" crushed stone over a bed of sand. Assuming that the crushed stone was acceptable, the Town Planner recommended the Board give Mr. Cutcliffe a positive impervious surface determination.

Member Graham said that it was unrealistic to expect people to walk on 3/4" crushed stone around a pool, but his goal was to simply ensure that the area was not paved.

Paul Cutcliffe said that he hoped to install an alternative material to the crushed stone, but he was not sure what that material was going to be at this juncture. He said that he understood that he could not put an impervious surface in this location.

Member Markham said that he agreed with the Town Planner's recommendation and that the Board could only make decisions on what was in front of them, not what might happen in the future.

Member Joseph said she was opposed to the proposal, as the crushed stone would surely be paved at a later date. Paul Cutcliffe responded that his submittal complied with the Planning Board's guidelines. Member Graham agreed and said that the proposal does (on the face of it) comply with the Board's guidelines.

Member Markham moved to make a favorable impervious surface determination for #16 Henry's Lane. Member Turner seconded the motion but then amended it to add the provision that any additional work to the pool patio be of the same or greater permeability than the 3/4" crushed stone. A 3-1 vote affirmed the amended motion with Member Joseph opposed.

**DISCUSSION: Trunnel Lane Bond Reduction.**

The Town Planner introduced Steven Waitekaitis who was back before the Board asking for bond reduction for Trunnel Lane. Since the last meeting, Mr. Waitekaitis lowered the back catch basin and planed the surrounding pavement on the cul-de-sac. This work, while largely resolving the ponding issue that once plagued the cul-de-sac, was done without the required inspection. The Town Planner recommended that the Board ask Mr. Waitekaitis to either tear up and redo the work (with the appropriate inspection) or to bond the already completed work, ensuring its longevity when the road is put up for street acceptance. The Planner said that John Chessia drafted a bond estimate for the work for a minimum of \$1,500. The Planner added that the Board should also discuss the catch basin cleaning and dead trees that John noted on his last punchlist update.

TOWN OF NORWELL

NOV 29 2007

TOWN CLERK  
JANICE M. LAWSON

Member Graham said that he did not think the Board could have been clearer about the need for inspection. He said that he was concerned about the longevity of the work if the Town chose to accept the road. He added that he thought Mr. Waitekaitis should either redo the work or post adequate surety for it.

Mr. Waitekaitis responded that the catch basin was cut out and lowered, but the pavement was not cut other than around the edges of the catch basin. He said the pavement that was planed was done via infra-red and that less than a wheelbarrow full of material was removed from the work area.

John Chessia said that none of this work was done while he was on site and that he never gave the go-ahead to do the work without inspection. Mr. Waitekaitis reiterated that he did not cut the road and only heated the small section and raked it out. Mr. Chessia said that if the pavement was only heated, pavement failure would likely only result right around the catch basin.

Member Markham said the Board should be consistent and require that the applicant bond uninspected paving work. He agreed with Member Graham that it could not have been clearer that this work around the catch basin was to be inspected. Member Joseph agreed with Member Markham.

Member Graham proposed leaving \$5,000 with the Town to guarantee the catch basin work for ten years. Member Joseph agreed with Member Graham. Mr. Waitekaitis said that he was amenable to leaving the funds as Member Graham explained.

Member Graham said that the catch basins should be cleaned before the street is put up for acceptance. He also said that Steven should arrange to replace the dead trees in the spring. Mr. Waitekaitis agreed.

Member Graham said that he was comfortable reducing the surety down to \$8,000. Mr. Waitekaitis agreed to coordinate his preferred form of replacement surety with the Town Planner.

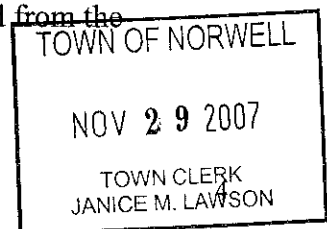
Member Joseph moved and Member Markham seconded to accept the applicant's request to reduce the surety for Trunnel Lane (in a manner to be later determined) to \$8,000. The vote affirming this motion was 3-0-1 with Member Turner abstaining.

**DISCUSSION: Barrel Lane Modifications w/ Paul McAuliffe.**

Attorney Paul McAuliffe and Developer Don Shute appeared before the Board to discuss Barrel Lane. Town Counsel Robert W. Galvin was present for the discussion.

Attorney McAuliffe submitted a letter to the Board chronicling his client's requested changes to the Barrel Lane Certificate of Vote. Attorney McAuliffe asked the Board to:

1. Eliminate any references to the Land Court case from the Certificate of Vote;
2. Remove the two ANR lots that do not touch the subdivision road from the subdivision filing;



TOWN OF NORWELL  
NOV 29 2007  
TOWN CLERK  
JANICE M. LAWSON

3. Removed the 15-lot limitation;
4. Remove the requirement for the conservation parcel;
5. Remove funding requirements for the homeowners association;
6. Calculate the drainage for the ANR lots separately; and
7. Calculate the impervious surface numbers in the aggregate and not per lot.

Member Graham and Member Joseph replied that Mr. Shute asked for the ANR lots to be folded into the subdivision filing. Mr. Shute said that he could legally ask for ANR endorsement now. Member Graham agreed with this assertion.

Town Counsel suggested that the Board and Mr. Shute agree on a hybrid language that calls attention to the Land Court case but also notes its outcome. Member Graham said that he is unwilling to change the language unless the plan is modified.

Attorney McAuliffe said that Mr. Shute has the frontage and the area for an additional lot. Member Graham replied that any lot limitations were based on the drainage, which was very tight for the Barrel Lane Subdivision.

Attorney McAuliffe replied that Mr. Shute did not want to be compelled to create a conservation parcel. Member Graham replied that he had no problem with the conservation lot being added to an existing building lot. Member Turner said that such a change would need to be accomplished with a revised subdivision plan.

Upon Attorney McAuliffe's request that the Board reconsider the requirement that the homeowner's association be funded with \$10,000 of seed money from Mr. Shute, Member Graham, Member Markham and Member Joseph refused and said that such funding was standard protocol and that the funding was directly linked to the complexity of the drainage system proposed.

Attorney McAuliffe said that Mr. Shute would like to change the impervious surface restrictions from lot based to an aggregate number for the entire subdivision. Member Graham said he did not like the impervious surface requirements either and would rather rely on conservative drainage assumptions during the permitting process. Member Joseph said that the plan should be modified if Mr. Shute wanted to change the approved drainage. Member Graham agreed and said he would be happy to revisit the impervious surface requirements if the plan is modified and the drainage works when using conservative assumptions.

Member Joseph asked about the scheduled December 10<sup>th</sup> court date. Town Counsel said that the parties could request a stay for the court date while a settlement is negotiated. Attorney McAuliffe agreed to a stay so they could discuss Barrel Lane again at a later date when the Board is better prepared for the conversation.

Upon a question by Member Graham, Town Counsel agreed that a majority of the requested changes are material and will require that the plan be modified. Member Graham asked about the significance of a modified plan when the original plan was under

appeal. Attorney McAuliffe said that the modified plan should be considered under the 1986 Planning Board Rules and Regulations. Town Counsel responded that a modified plan might have to be filed under the current regulations, but would need to confirm this opinion.

The Town Planner was instructed to schedule further discussion on Barrel Lane for the next meeting agenda.

**PUBLIC HEARING (CONT.): John Neil Drive Ext. Subdivision.**

The continued John Neill Drive Extension public hearing commenced at 8:45 with the Clerk reading the public hearing notice and noting the following submittals:

1. On August 16, 2007, the Planning Office received two email comments from Highway Surveyor Paul Foulsham on the Subdivision Plan. The two comments, resulting from questions from the Town Planner regarding retaining walls and guardrails within the right-of-way, were as follows:  
    “If I had to choose, the guardrail would be the most acceptable. We already have a guardrail around town and deal with it when need be. Maintenance on a retaining wall would be expensive when the time comes. If the road were to remain private that would be fine by me.”
2. On September 5, 2007, the Planning Office received an email from Conservation Commission Member Gregg McBride stating:  
    “The applicant may wish to proceed with an approved wetland line from the SOOC, but the Commission is not obligated to accept the line under the bylaw. In addition, if the Planning Board requires that they remove the current circle at the end of John Neill drive (and they should), the wetland line in that area will need to be delineated so that the removal is properly permitted. This may be obvious to everyone, but the PB and the Commission should be very clear with the applicant that both regulations apply.”
3. On September 25, 2007, the Planning Office received the comments of Building Inspector Tim FitzGerald on the Subdivision Plan, dated April 30, 2007, as revised through September 14, 2007, dated September 25, 2007, as follows:  
    “No problems here...”
4. On October 1, 2007, the Planning Office, as the result of a question posed by the Town Planner, received the comments of Water Superintendent John McInnis on the Subdivision Plan dated April 30, 2007, as revised through September 14, 2007, dated October 1, 2007, as follows:  
    “There would be no water pressure change in the area with two additional homes drawing water from a short main extension. Actually, there could be a slight improvement in overall water quality, with the additional homes drawing water from the EOL (end of line).”
5. On October 31, 2007, the Planning Office received the comments of Chief of Police Theodore J. Ross on the Subdivision Plan, dated April 30, 2007, as revised through October 10, 2007, dated October 30, 2007, as follows:  
    “Please note that I have no objections at this time to the proposed John Neil Drive Extension Definitive Subdivision proposal.”

TOWN OF NORWELL

NOV 29 2007

TOWN CLERK  
JANICE M. LAWSON

6. On November 5, 2007, the Planning Office received the verbal comments of Water Superintendent John McInnis on the Subdivision Plan, dated April 30, 2007, as revised October 10, 2007, as follows:
 

“When the plans are next revised, please ensure they comply with the initial comment of the Water Department. Also, “Note 1.5” on page 7 of the plan should be revised to just refer to Mueller, not American Darling or Clow”.
7. On November 14, 2007, upon a question from the Town Planner regarding the shearing of the existing cul-de-sac, the Planning Office received an email from Conservation Commission Member Gregg McBride stating:
 

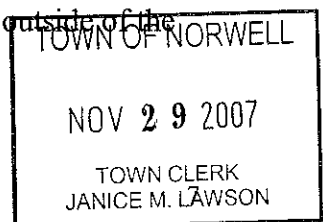
“I can’t definitively say that we would or would not permit the cul-de-sac change for John Neil Drive (although I expect that we would). The point I was making in the previous emails is that the applicant does not have a valid permit under the local bylaw for any work on the sub-division. In addition, the wetland line previously approved did not extend to the area of the cul-de-sac, so that the work cannot proceed without an amended filing under the Superceding Order of Conditions (OOC). The applicant wants to proceed on the Superceding OOC from DEP because he understands that the approved line is incorrect and a new filing will trigger a re-evaluation of the line. In any case, it would be very helpful if the PB can put the applicant on notice that a Notice of Intent under the bylaw is required for the entire project and (at least) an Amendment to the Superceding OOC for the cul-de-sac is required.”
8. On November 14, 2007, upon a question from the Town Planner regarding the plowing of the proposed cul-de-sac, the Planning Office received verbal comments from Highway Surveyor Paul Foulsham stating:
 

“The plowing crew would end up plowing and sanding/salting the proposed extension to John Neill Drive if built, even if it was private, as a matter of convenience. A pass and re-pass easement may not be needed as his crew currently plows and sands/salts Barstow Ave (a private way) for the same reasons the John Neill Drive Extension would be plowed and sanded/salted. There was no known legal easement on Barstow and the Town has plowed it for over 30 years. If Town Counsel suggests an easement for the Town’s plows to turn around on the proposed John Neill Drive Extension, he is amenable to it being drafted.”
9. On November 14, 2007, upon a question from the Town Planner regarding the plowing of the proposed cul-de-sac, the Planning Office received verbal comments from Town Counsel Robert W. Galvin (“Town Counsel”) stating:
 

“A simple easement would need to be granted to the Town for care and maintenance of the roadway related to snowplowing. This easement could take the form of a simple pass and re-pass easement and should state that the Town has the right but not the obligation to snowplow the proposed John Neill Drive Extension cul-de-sac.”

The applicant’s engineer, P.E. Greg Morse, spoke about the current plans for the subdivision. He noted the following:

1. Changes in the lot layout and grading, including 3:1 slopes on the outside of the basin, which reportedly reduced impacts to the wetland buffer;



2. The intent to keep the existing cul-de-sac intact;
3. The plan provided 2' of cover over a ductile iron drainage pipe;
4. The drainage analyzed the existing Circuit Street culvert;
5. An updated waiver letter was noted;
6. Revised plans would comply with Water Department comments, and
7. A valid Order of Conditions still exists through 2009 using the old wetland line.

Member Graham said that he would like to see the existing cul-de-sac sheared. Greg Morse replied that they would comply with this request. He added that the removal of the existing cul-de-sac was permitted in a previous filing with the Conservation Commission and that the Department of Environmental Protection ("DEP") would look favorably at the reduced scale subdivision project.

Member Graham said that the Planning Board has no jurisdiction over wetlands. He added that if the applicant would like to pursue the Planning Board permitting based on the assumption that DEP will not require changes to the project, they would do so at their own risk. He reminded the applicant's engineer that any changes to an approved subdivision for wetlands issues would require Planning Board modification of the original approval.

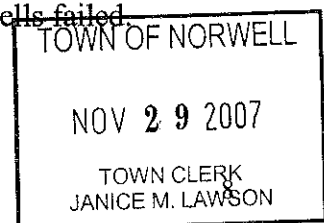
Resident Fran Nelson of 48 John Neil Drive asked why trees are being cut down and why a "logging" road off the cul-de-sac has been cut. Greg Morse replied that this work was done to create an access road to the unrelated ANR lot on Circuit Street.

Mr. Morse said that all of John Chessia's original concerns have been satisfied. Member Graham said that he intended on closing the public hearing at the conclusion of the next hearing.

Member Graham then polled the Board about requiring the applicant to shear the existing cul-de-sac, knowing that the turning easement would remain. Member Markham agreed that the existing cul-de-sac should be sheared after confirming that the Town would plow the private way and be granted an easement to do so. Member Joseph said that she would like to see the existing cul-de-sac sheared. Member Turner agreed that the cul-de-sac should be removed, but added that the removal should not take place until the new road receives its final topcoat of asphalt. Attorney Hawthorne said no permits, other than a general road permit, would be required to complete this work.

Member Graham asked about Mr. Chessia's review comments regarding soil logs and tests pits. Mr. Chessia said that the soil logs under the drainage basin should be submitted. Mr. Morse agreed to this request.

Member Graham asked if the drainage calculations work if no credit was given for the drywells for roof runoff. Mr. Chessia said that the drywells were only proposed to meet other DEP requirements and that the drainage calculations do not rely on the drywells. Mr. Chessia confirmed that there would not be any flooding if the drywells failed.





Resident Fran Nelson of 48 John Neil Drive said that the proposed project is an encroachment on his property and that plans for a private cul-de-sac limit public rights. He also asked if a dead-end sign would be required.

Resident Robert Napoli of 51 Old Pottery Lane said the proposed project presents a public safety issue. He said that motorists commonly mistake John Neil Drive for a through way and that sidewalks should be required around the proposed cul-de-sac. He added that he was upset about the logging road and wanted a gate put across it immediately.

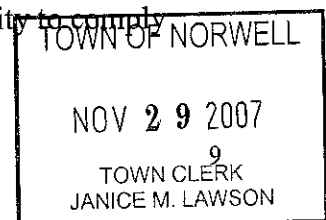
Member Graham said that the unrealistic Operation & Maintenance ("O&M") plan that the proposed drainage was based on required that the new road remain private because the Town does not have the capacity or the resources to maintain the proposed O&M schedule. He added that any salt free zone condition imposed by the Conservation Commission would result in the Town violating its own permitting conditions (due to the Highway Surveyor's inability to separate salt from the road sanding mix) and polluting the wetlands if the road were proposed as a public way.

Member Turner asked the general public in attendance about shearing the existing cul-de-sac. Mr. Nelson said that he does not want the existing cul-de-sac sheared. Mr. Napoli said that he also does not want the existing cul-de-sac sheared, provided that sidewalks are installed along the proposed cul-de-sac. He added that if sidewalks are not required, then he wanted the existing cul-de-sac sheared.

Member Markham asked that the proposed landscaping not draw attention to the new development and that the transition between the two streets be indistinguishable. He asked for additional street trees where the cul-de-sac is sheared. He also asked that a condition be imposed that stipulated that the new development never be a gated community. He also asked that a pedestrian easement be drafted for the benefit of the inhabitants of Norwell to use the private cul-de-sac and full right-of-way for the same general purposes as a town way.

The Board then discussed the requested waivers on the required waiver request letter. It was agreed that a waiver for the traffic analysis would be given. It was also agreed that a waiver for minimum cover over pipes would be given, provided that the pipe was ductile iron and the cover was at least 2'. It was agreed that a waiver for the plan's scale requirements would be given.

Member Joseph said that she was opposed to granting a waiver for the typical road construction cross-section due to the riprap proposed within the right-of-way. Mr. Morse said that it was impossible to comply with the typical roadway cross-section without this waiver. Member Graham noted that the Highway Surveyor did not care about the steeper slopes, riprap or guardrail within the right-of-way as long as the road was to remain private. Mr. Chessia said that if the Board did not grant this waiver, a subdivision in this location was not possible. He then questioned the public benefit of granting this waiver. Member Graham said that the Board could deny the project for its inability to comply



with the typical road cross-section, provided that the applicant could not get construction permission and/or easements from the abutting landowner. Member Turner said that she would like to see mediation offered in order for her to grant this waiver.

Member Joseph said that the typical road cross-section waiver, the basin slopes, and the no net loss of soil requirements were the major waivers that the Board should consider. Mr. Morse said that the 3,286 cubic yards of soil that were slated to be removed could be kept on site, but the end result of that would not be visually appealing.

Member Graham said that, with the understanding that the road was to remain private, he found the 3:1 basin slope waiver to be acceptable as the steeper slope was located on the outside of the basin and abutted a wetland. Member Joseph said that it was important to word the decision that the steeper slope was only allowed due to the specific site conditions. Member Graham said that Member Joseph makes a good argument that any street, regardless if it is covenanted as a private way, can be put up for street acceptance per State Law. However, he is amenable, in this instance, to riprap or a retaining wall within a right of way because he believes the street will remain private due to the political realities of Town Meeting looking at the covenant before voting to accept the street.

Member Graham said that he would be inclined to grant the typical roadway cross-section waiver if the road was to remain private. Member Joseph said she was opposed to granting this waiver. Members Markham and Turner agreed with Member Graham, provided that there were clear public benefits.

Members Graham, Member Markham and Member Turner said they would grant the waiver allowing a net loss of soil from the site. Member Joseph declined to comment.

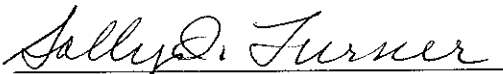
After a brief discussion on scheduling and a site walk, Member Graham moved to extend the deadline for final action until March 28, 2008. Member Joseph seconded the motion and it was affirmed by a vote of 4-0.

Member Graham moved to continue the public hearing until January 9, 2008 at 8:00 P.M. Member Joseph seconded the motion and it was affirmed by a vote of 4-0.

#### **ADJOURNMENT.**

At 11:00 P.M. Member Markham moved and Member Turner seconded that the Board adjourn. The motion was approved by a vote of 4-0.

I certify that the above minutes were reviewed and approved by majority vote by the Planning Board on November 28, 2007.

  
Sally I. Turner, Clerk

