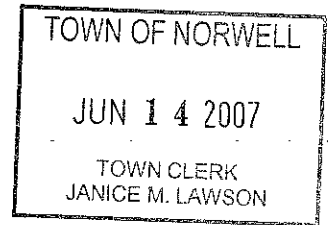


**Norwell Planning Board Meeting Minutes
May 23, 2007**



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, Michael J. Tobin and Town Planner Todd Thomas. Member Markham was not present at the onset of the meeting, but arrived in time to vote on the Circuit Street ANR plan.

DISCUSSION: Draft Agenda.

Member Graham moved to add a discussion to the agenda on M.G.L. Chapter 39, §23D (commonly referred to as Mullin's Rule). Member Turner moved to add a discussion to the agenda on the definition of pre-existing non-conforming. Member Joseph moved and Member Tobin seconded that the Board accept the amended agenda as presented. The motion was approved 4-0.

DISCUSSION: Regular Session Minutes, May 9, 2007.

Member Joseph moved and Member Tobin seconded the motion to accept the May 9, 2007 minutes as presented. The motion was approved 4-0.

DISCUSSION: Bills.

Monadnock Spring Water (Inv. #469629) \$ 35.60

Member Turner moved and Member Tobin seconded that the bills be approved for payment and the vouchers signed. The motion was approved 4-0.

DISCUSSION: ANR PLANS, Circuit Street (Raimondi).

The Town Planner noted that the April 26, 2007 revised May 1, 2007 "Plan of Land Off Circuit Street in Norwell Massachusetts" was technically compliant with the Planning Board's requirements. The Planner also noted that on April 25th, the Planning Board informally deemed that the fronting wetland does not prohibit adequate access.

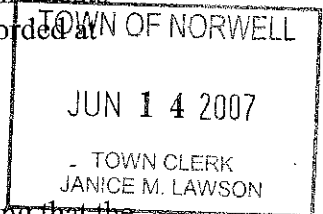
Member Graham said that he believed the wetland representation on the plan was accurate and asked for a motion to endorse the plan as not requiring approval under the Subdivision Control Law. The motion was made by Member Turner and seconded by Member Joseph. A 5-0 vote affirmed the motion.

DISCUSSION: Holly Berry Surety Review.

The Town Planner provided the Board with the balance remaining in Holly Berry's surety account, as well as the remaining cost of work to complete the subdivision per Technical Consultant John Chessia's May 22, 2007 letter. Mr. Chessia told the Board that the largest percentage of remaining work not being credited dealt with the subdivision's sidewalks, which were constructed after the paving deadline and without inspection. Member Graham noted that the Town Planner had provided the Board with minutes from February 15, 2006 Planning Board meeting, where the developer, Michael Solimando, previously agreed to bond the sidewalk in the amount of \$2,500.00. Mr.

Solimando asserted that the sidewalk was built to acceptable standards and noted that it had not failed after being subjected to two winters. Mr. Solimando, however, could not offer paving tickets to prove that the weather was above 40 degrees and not raining when the paving occurred. When questioned, Mr. Chessia could not say if it was reasonable to assume that the sidewalk pavement would not fail in the future, based on the past two-freeze/thaw cycles. Member Joseph said that the Board had required that sidewalks be inspected on other projects, so it was only fair that the Board required it here. Members Graham, Joseph, Markham, and Turner agreed that the Board should honor the \$2,500 bond agreement from 2006. The Board noted that Mr. Chessia's updated estimate of the cost of remaining work put the paving at over \$4,600 because of the increase in crude oil prices. The Board agreed to keep the value at \$2,500 as an accommodation to Mr. Solimando. Upon a motion made by Member Joseph and seconded by Member Markham, \$2,500.00 was to be set aside for the sidewalk in matter to be determined at a later date and the remainder of Holly Berry's surety balance was to be refunded. The vote affirming the motion was 5-0.

Member Markham began a brief discussion on the required funding of the homeowner's association, after the Town Planner noted that the account was \$2,000 under funded. Mr. Solimando said that the 2004 payment was never made because the homeowners did not close on the lots until Dec. 2004 / Jan. 2005. Member Graham said that the closing dates were irrelevant because the HOA document stipulated that a deposit for 2004 was required. The Holly Berry homeowners in attendance agreed that they were amenable to making up for the missing contribution by extending the payment terms by an extra year (through 2025). Upon a motion made by Member Joseph and seconded by Member Markham, a 5-0 vote stipulated that the homeowner's association funding requirements be changed to years 2005 through 2025 and that the amended document be recorded at the expense of the Applicant.



SITE PLAN REVIEW: 75 Washington Street.

The Town Planner began the discussion on 75 Washington St. (SSMC) by noting that the project was before the Planning Board for final comment in anticipation of the Applicant's May 30th decisive hearing with the ZBA. Member Graham said that when the Applicant was last before the ZBA, they were ordered to return to the Planning Board to more fully address the four issues raised in the Planning Board's November 14, 2006 letter. Technical Consultant John Chessia added that his May 15, 2007 Supplemental Engineering Review also only addressed these four issues.

Mr. Chessia said that an agent of the Town (as required) did not witness the submitted soil test pit log. Member Graham noted that the witnessing of the test pit was an issue for the ZBA to decide on, but should be included in the Board's letter. Member Graham stated that he did not believe that the number of parking spaces contained in the leased gravel lot was material. He added that the paramount issue was if the project tripped the requirements of the Aquifer Protection District. It was decided that the letter to the ZBA for this project would advise them to seek Town Counsel's opinion if the entire site was subject to the recharge provisions of the Aquifer Protection District bylaw, or solely the

expanded parking area. Attorney Walter Sullivan, representing the Applicant, claimed that the existing parking lot and building was grandfathered from the Aquifer Protection bylaw via M.G.L. Chap. 40A, §6, Clause 1.

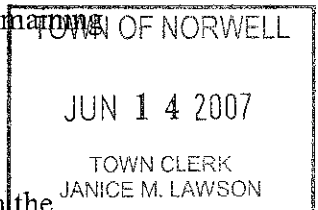
It was decided that the additional parking lot screening proposed by the Applicant, via Consultant Steve Ivas's Planting Plan, was sufficient. The Town Planner was instructed to have the letter to the ZBA accompanied by Mr. Ivas planting plan as an enclosure, illustrating where the twenty white fir trees were to be located.

The Applicant also was amenable to a Zoning Board of Appeals condition that the existing top and subsoil of the detention basin be removed and backfilled with highly permeable gravel and that this backfill material would be a contractor requirement. Attorney Sullivan further agreed to *in-situ* sieve testing of the backfill material to confirm its permeability.

The Town Planner was instructed to work with Chairman Graham in drafting the letter to the ZBA about the remaining issues with the SSMC parking proposal. It was agreed that this letter would be drafted by Friday May 25th.

PUBLIC HEARING: Sgt. William Calway Subdivision (Continued).

Member Turner, functioning in her role as Planning Board Clerk, read the public hearing notice for the subdivision. The Town Planner noted that he had received a written request from the Applicant to withdraw the subdivision and return the remaining review fee money. Upon a motion made by Member Turner and seconded by Member Markham, it was unanimously voted to close the public hearing, to grant the Applicant's request to withdraw the Sgt. William Calway subdivision, and to return the remaining \$4115.92 in review fee money to the Applicant.



DISCUSSION: Henry's Lane Drainage As-Built.

The Town Planner informed the Board that this item was being removed from the agenda, as the drainage work and corresponding submittals were not completed in ample time before the meeting.

INFORMAL DISCUSSION: Otis Hill Conservation Comments.

The Town Planner informed the Board that the Conservation Commission voted on the value of the potential open space parcel on Otis Hill Road, presented at the May 9th Planning Board meeting. This open space parcel may be offered in exchange for the dead end road waiver needed for Otis Hill Road to be extended via Peter Travi's potential subdivision. The Town Planner noted that the 7-0 vote of the Conservation Commission deemed that this land was not valuable in their opinion.

Member Joseph instructed the Town Planner to be proactive about forwarding information about the land in question to both the Applicant and the Planning Board. He

was instructed to look at both the Open Space Plan and the Master Plan for maps that show priority preservation areas or habitats in this location.

A discussion again took place on a second point of access for the potential subdivision. It was decided that Peter Travi might be able to offer a second point of access for the property though his existing lot which fronts on Mount Blue Street. Member Joseph mentioned that there might be sight distance issues with a second point of access in this location.

DISCUSSION: Mullin's Rule (agenda addendum)

Member Graham said that it would be prudent for the Board to formally adopt M.G.L. Chap. 39 §23D (Mullin's Rule) now that it had passed Town Meeting. He noted that the Board had previously voted to adopt Mullin's Rule, predicated on it passing Town Meeting. Upon a motion made by Member Joseph and seconded by Member Markham, a 5-0 vote bound the Planning Board to M.G.L. Chap. 39 §23D (Mullin's Rule), as described in Article 7 of the Annual Town Meeting.

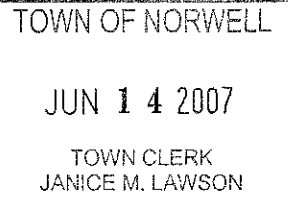
DISCUSSION: The Definition of Pre-existing Non-conforming (agenda addendum)

Member Turner asked about the definition of pre-existing non-conforming. Member Graham confirmed that a lot with pre-existing non-conforming status was created when a zoning bylaw was passed making a once confirming lot non-conforming.

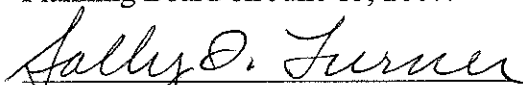
Member Turner then asked how the definition of pre-existing non-conforming relates to the creation of lots like the 120 Forest Street (Sheehan) ANR plan. The Town Planner noted that neither the existing lot with the newly created setback issue, nor the new lot, was grandfathered in any way by a pre-existing non-conformance. Member Graham noted that he would follow-up with Town Counsel on 120 Forest Street when he next spoke with him. Member Tobin questioned on what grounds the Board would potentially challenge a building permit being issued for 120 Forest Street, since the lot being created was technically conforming. The Town Planner replied that he thought the challenge could be based on ZBL §2412, which states, "No lot shall be created nor shall an existing lot be changed in size or shape... so as to result in violation of the requirements set forth in [the] Intensity of Use Regulations."

ADJOURNMENT.

At 9:25 P.M. Member Turner moved and Member Tobin seconded that the Board adjourn. The motion was approved by a vote of 5-0.



I certify that the above minutes were reviewed and approved by majority vote by the Planning Board on June 13, 2007.


Sally I. Turner, Clerk

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