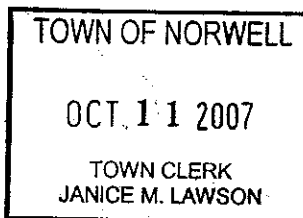


**Norwell Planning Board Meeting Minutes  
September 26, 2007**



The meeting was called to order at approximately 7:00 P.M. Present were Board Members Bruce W. Graham, Karen A. Joseph, Charles Markham, Sally I. Turner and Town Planner Todd Thomas. Member Michael J. Tobin arrived during the discussion on Blackthorne Lane.

**DISCUSSION: Draft Agenda.**

Member Markham moved and Member Turner seconded that the Board accept the agenda as presented. The motion was approved 4-0.

**DISCUSSION: Regular Session Minutes, September 12, 2007.**

Member Markham moved and Member Turner seconded the motion to accept the September 12<sup>th</sup> meeting minutes as presented. The motion was approved 4-0.

**DISCUSSION: Bills.**

Monadnock Spring Water (Inv. #79587)      \$10.00

Member Joseph moved and Member Turner seconded that the bill be paid and that the payment voucher be signed. The motion was approved 4-0.

**DISCUSSION: 15 Blackthorne Lane / Chapter 91 Dock Permit.**

Member Graham said that the Planning Board has limited authority under Chapter 91 for water dependent uses like the dock plan for 15 Blackthorne Lane. Upon a motion made by Member Turner and seconded by Member Joseph, the Town Planner was directed to draft a letter for Chairman Graham's signature citing that the Board had no comments regarding the Chapter 91 application for a private dock. Member Joseph moved that the Planning Board sign the Chapter 91 license application by Robert Salamone at 15 Blackthorne Lane as proposed. Member Turner seconded the motion and a 5-0 vote affirmed it.

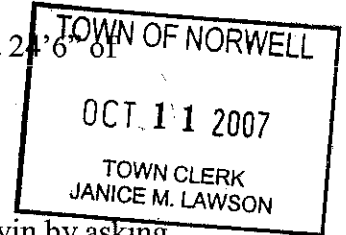
**DISCUSSION: ANR Discussion with Fire Chief Reardon.**

Member Graham began the discussion by noting that he had a conversation with Fire Chief Reardon in the preceding week about road widths for private ways preexisting the Subdivision Control Law. Fire Chief Reardon said that the only reference to street width in the Fire Code or Building Code was a requirement for 18' of road width. Chief Reardon said that 18' of road width allows him to fully set up the ladder truck which requires 16'4".

Member Turner said that it is important that a fire truck cannot only pull into a road, but is able to leave the site without backing out. Chief Reardon agreed but pointed out that

he has time to back fire trucks out of tight spots after the emergency has passed. He said he is more concerned about locations where he would have to back an ambulance out of a driveway since the exit is often under emergency conditions. He also noted that the ladder truck has a turning radius of sixty degrees. Chief Reardon commented that fire trucks and ambulances continue to get wider, with ambulances currently at 8' wide and the ladder truck at 8' to 9' wide.

Upon a question from Member Joseph, Chief Reardon said that he needs a 24' 6" of pavement width to turn the new ladder truck around a cul-de-sac.



**DISCUSSION: ANR Discussion with Town Council.**

Member Graham began the discussion with Town Counsel Robert W. Galvin by asking for an explanation of the Official Map. Counsel Galvin said that the Official Map is a mechanism to make known what roads are private and what roads are public.

Town Counsel responded to questions about the discontinuance of many private roads via Article 52 of the 1972 Town Meeting. He said that none of the properties fronting on these roads were "locked out" because Norwell's zoning bylaw defines a street as either private or public. "Lock out" would only happen if the zoning bylaw described a street as being a public way.

Member Joseph said that we should update the Official Map. Counsel Galvin said that updating the Official Map is the responsibility of the Town Clerk. Counsel Galvin said that MGL Chp. 41 §81E specifies that the Town Clerk should issue a Certificate of Action certifying any and each change in the Official Map. Member Markham said that a vote should be placed before Town Meeting to update the map and to provide an appropriation for the work.

Counsel Galvin said that the distinction for "private lanes" should be removed from the next Official Map since Massachusetts' law recognizes only public ways, statutory private ways, and private ways.

Counsel Galvin said that public ways, private subdivision ways, and other private roads previously deemed to be of suitable width, grade, and construction are presumed to be sufficient for ANR endorsement. Counsel Galvin further clarified that the Planning Board could not deny ANR endorsement for a lot on a pre SCL private road, when a previous Planning Board had already determined that the road was sufficient for ANR purposes for a lot further from a public way than the lot in question.

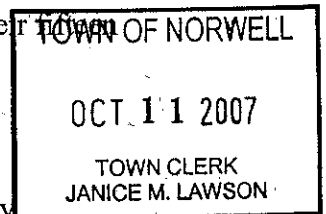
Counsel Galvin also recommended the Board not codify a fixed policy for ANRs on private roads, because he valued the flexibility the Board had in making determinations on a case-by-case basis. Counsel Galvin did agree that such a codified policy could ensure that peer review is required for road improvement plans.

Member Joseph mentioned that the Board revised their Rules and Regulations in 2006 and pavement width has not been waived below 26' since the new regulations were promulgated. Counsel Galvin said that the new rules and regulations do have merit and that the Board could consider this when determining the required street width for ANRs on private ways. He also cautioned that the Planning Board should not establish standards which are more restrictive or onerous than those required for town ways. Counsel Galvin opined that if the Board required greater improvements to a private road than an existing Town Way, it could be challenged and would likely be overturned.

Member Graham asked Counsel Galvin if the Board should determine in advance what the land rights of the property owner are in relation to the project proposed. Counsel Galvin said that the Board should never insert itself into a discussion on specific property rights because it has no standing to make such a legal determination and attempting to do so was a waste of the Board's time. He feels that the Board should rule on applications based on their merits. He added that it is incumbent upon a neighboring property owner to sue for damages if their land was included in a development without their permission.

Member Graham confirmed that the only ways shown on the Official Town Map should be public ways, private ways that preexisted the Subdivision Control Law, and new subdivision roadways. Town Counsel said that he did not think the Town could remove any roads from the map that had already been depicted thereon. Town Counsel again suggested that the Town eliminate the private lane distinction when the map is revised. He said that the private lanes should likely be shown as private roads.

The Board thanked Town Counsel for his time and his written response to their questions on the subject.



**DISCUSSION: Punchlist Contingency Percentage.**

Member Graham told the Board that he instructed the Town Planner to survey surrounding communities to ascertain what contingency percentage they use when estimating remaining subdivision work. He added that the 15% contingency that Norwell requires was on the low side when compared to surrounding communities. Member Graham said that he would like to see the Board increase the contingency percentage it uses when estimating remaining subdivision work to 50%.

Member Markham said that he prefers a cash form of surety and he is concerned that increasing the contingency percentage would have the unintended result of developers utilizing a bond for their project surety, as opposed to cash. The Town Planner responded that he had good luck with bonds as opposed to cash on some of the older subdivisions. Member Joseph responded that the Planner should not be spending any significant time on older subdivisions.

Upon a motion made by Member Tobin and seconded by Member Markham, the contingency percentage was increased from 15% to 50% with the understanding that

subdivisions with outstanding surety would not be required to increase the amount held by the Board. A vote of 4-0-1 affirmed the motion with Member Turner abstaining.

**DISCUSSION: White Barn ZBA Letter.**

The Planning Board discussed final changes to the Chapter 40B White Barn Village Project draft letter. The Town Planner was instructed to make the dictated changes and prepare the finalized letter for Chairman Graham's signature.

**DISCUSSION: CPC Clock Update with Alison Demong.**

The Chairperson of the CPC, Alison Demong, appeared before the Planning Board to update them on the progress made to site the Town Clock. Mrs. Demong said that the manufacturer recently completed the clock and that John Cavanaro, P.E., had finished the plans, placing the clock on the edge of the crosswalk on the eastern corner of River and Main Streets. Mrs. Demong said that the Board of Selectmen had authorized the location earlier in the evening.

Member Turner said that she is concerned with the planned bulb-out and that the clock might be at risk if it is sited too far out into the road. Member Joseph agreed with Member Turner and recommended a six to eight inch reveal on the new vertical granite curbing around the clock. Member Joseph also suggested the use of bollards to protect the clock.

**ADJOURNMENT.**

At 10:20 P.M. Member Markham moved and Member Turner 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 October 10, 2007.

  
Sally I. Turner, Clerk

Pshare/ Minutes/ 2007/ September 26, 2007.doc

