



Office of Planning Board &  
Town Planner

**TOWN OF NORWELL**  
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## **Norwell Planning Board Meeting Minutes 4/10/2019**

The meeting was called to order at 7:00 P.M. with Chair Brendan Sullivan presiding. Also present were Board Members Donald Mauch Sr., Scott Fitzgerald, and Patrick Campbell, and Town Planner Kenneth Kirkland. Vice Chair Jamie Crystal-Lowry phoned in for the "Subdivisions and Land Developments" hearings. Mr. Fitzgerald left at 8:20 p.m., after the "Subdivisions and Land Developments" hearings. Also present was Town Administrator Peter Morin. The meeting opened in the Planning Office and then moved to Meeting Room 2 for the Zoning Bylaw Amendment hearings.

### **CALL TO ORDER/AGENDA**

*Motion by Mr. Mauch to open the meeting. Duly seconded and unanimously voted.*

### **APPROVAL OF MINUTES**

The minutes of the March 27, 2019 meeting were distributed and reviewed.

*Motion by Mr. Mauch to approve the Minutes of the March 27, 2019 meeting as submitted. Duly seconded and unanimously voted.*

### **BILLS**

The following invoices were presented for approval:

Chris Sullivan	Meeting Minutes (3/27)	\$150.00
W.B. Mason	Misc. Office Supplies	\$29.40
		\$7.10
Chessia Consulting	111-119 Washington St.	\$125.00
	OOB Estates	\$1,634.00
	Schooner Estates	\$1,759.00
Gatehouse Media	Legal Ads	\$1,260.48

The Board discussed the composition of the Gatehouse Media bill. Mr. Mauch objected to the PB paying for the legal ad for the public hearing on the citizen's petition regarding the Assisted Living Overlay District, citing the PB's limited advertising budget and that the petition had been drafted with the involvement of an out-of-state developer seeking to build a facility in Town. Mr. Mauch

also felt that the ad for the Bylaw Review Committee's recodification of the Town Bylaws should be paid for out of the Board of Selectmen's budget.

Mr. Kirkland indicated that his review of the records indicated that the PB pays for the legal ads for any public hearings concerning Zoning Bylaw amendments. He would prefer to see a centralized advertising account created for the Town to cover most such expenses, with appropriate set-asides for individual departments.

Chair Sullivan asked Mr. Kirkland to research the matter further, after which the Board approved payment of the first six invoices.

*Motion by Mr. Mauch to approve invoices 1-6 as submitted. Duly seconded and unanimously voted.*

### **SUBDIVISIONS AND LAND DEVELOPMENTS**

**Bay Path Square** – 3,500 sq. ft. Commercial Addition

#### ***Public Informational***

Site Plan Review / Approval not Required (ANR) Plan

Bay Path Square / 111-119 Washington Street

Assessor's Map 11B, Block 20, Lots 11-13

Josh White present for J.K. Holmgren Engineering on behalf of Owner Hajjar Management. Planning Board Engineer John Chessia and two area residents present.

Mr. White discussed the updates to the site plan they made in response to Mr. Chessia's comments regarding drainage and landscaping. They received Board of Health approval for a new septic system on the property in December.

Mr. Chessia briefly noted that there had been no soil testing in the specific location of the proposed leaching pit, and that a Stormwater Pollution Prevention Plan had not yet been submitted. Mr. Chessia also recommended that the Board consider a special condition regarding replacement of the landscaping removed from the northeast section of the property.

Ramona Caruso, 30 Grove Street, asked if a substantial buffer could be added to this section of the property. She indicated she did not directly abut the lot, but was not far from it, and was subjected to traffic noise as well as dog noise from A Fox & Hounds, which stands between her property and the lot under review.

The Board then discussed what would constitute an adequate replacement buffer in the northeastern section of the lot. Mr. Mauch supported in principle the restoration of buffers where trees or vegetation had been removed, and felt the onus was on an Applicant to come up with one that would be effective. Members Fitzgerald and Campbell supported the creation of a buffer with replacement trees, but Mr. Campbell also noted that trees themselves were not sound abatement tools. Ms. Crystal-Lowry noted prior landscaping issues with this Owner, and felt it was incumbent on the Board to ensure the area was planted with a continuous line of trees.

Mr. Kirkland felt that noise from the site could be mitigated to some extent by proper landscape architecture, but also pointed out that the corner of the property, once combined as proposed, was

about 300 feet from the rear corner of the Caruso lot, and there was already dense woodland between the two properties.

After further discussion regarding the effectiveness of a wall for noise abatement and whether to require the Applicant to come back with a landscaping plan, the site plan was approved with a special condition that the Applicant work with Town Planner Kirkland to design an adequate replacement buffer for the northeastern section of the lot. Mr. Kirkland indicated that the Zoning Enforcement Officer would have the responsibility of ensuring the buffer was properly planted and maintained.

Mr. Kirkland also advised that the Applicant had also submitted an ANR to combine an adjacent undersized lot they currently owned with the lot currently under site plan review. The ANR met the standard for required findings of fact, and was consistent with the Master Plan, Zoning Bylaw, and the Subdivision and Land Development Rules and Regulations. He recommended its endorsement subject to the condition that proof of filing with the Registry of Deeds be submitted to the Planning Office.

*Motion by Mr. Mauch to accept the ANR for 111-119 Washington Street. Duly seconded and unanimously voted.*

*Motion by Mr. Mauch to endorse the ANR for 111-119 Washington Street. Duly seconded and unanimously voted.*

*Motion by Mr. Mauch to approve the site plan review for 111-119 Washington Street with the condition that the Applicant work with Town Planner to establish a reasonable replacement buffer. Duly seconded and unanimously voted.*

After the vote, Ms. Caruso expressed concern that the PB had misunderstood the actual distance of her property to the lot. Mr. Mauch noted this concern, commented that the PB and Town Planner had duly noted her diligence in attending all meetings regarding the matter, and pointed out that the site plan had been approved with a condition requiring mitigation.

#### **Old Oaken Bucket Estates – 26-Lot Residential Subdivision**

##### ***Continued Public Hearing***

Definitive Subdivision Plan / Approval not Required (ANR) Plan

Winter Street, Cross Street, Old Oaken Bucket Road

Assessor's Map 9D, Block 49, Lots 1, 35, 62, & 65

Applicant John Kopacz present, along with Greg Morse, Morse Engineering. Attorney Walter Sullivan and Planning Board Engineer John Chessia also present.

Mr. Morse advised that they had received an Order of Conditions from the Conservation Commission approving the project, with a minor change with respect to the grading on Parcel H and the shifting of the location of a detention basin outside of the 50 ft buffer. Updated site plans were submitted to both the Commission and the PB.

Mr. Chessia felt that the few remaining issues could be addressed with conditions of approval, and he did not see the need for another round of changes. In response to a query from Chair Sullivan, he indicated that the detention basin had been moved further back from the bogs but was still the

same size; he did not believe the shift would change any stormwater outcomes but noted that the Board may want a final set of record calculations to reflect this shift.

Mr. Mauch commented that this would be a significant subdivision in the Town, and he would like to see the builder choose complementary home designs consistent with the Town's character. Mr. Kopacz noted this was also important to him, as he would be abutting the new homes.

Mr. Campbell noted that this development will allow the lowland bogs to remain in operation, which would be a win for all parties. Ms. Crystal-Lowry thanked the Applicant for working cooperatively with the PB throughout the hearings, which all members seconded. Mr. Kirkland also commented on the lengthy review process and thanked all parties for their diligence.

Mr. Kirkland briefly commented that the accompanying ANR had been submitted to adjust lot lines in response to Conservation Commission concerns that Infiltration Basin 1 (Parcel H) be entirely on the subdivision portion of the site. He indicated that the ANR met the standard for required findings of fact, and was consistent with the Master Plan, Zoning Bylaw, and the Subdivision and Land Development Rules and Regulations. He recommended its endorsement subject to the condition that proof of filing with the Registry of Deeds be submitted to the Planning Office.

*Motion by Mr. Mauch to accept the ANR. Duly seconded and approved by a 4-0 margin, Mr. Fitzgerald having recused.*

*Motion by Mr. Mauch to endorse the ANR as submitted based on the Town Planner's recommendation. Duly seconded and approved by a 4-0 margin, Mr. Fitzgerald having recused.*

*Motion by Mr. Mauch to approve the definitive subdivision plan for Old Oaken Bucket Estates. Duly seconded and approved by a 4-0 margin, Mr. Fitzgerald having recused.*

After a brief discussion concerning the associated waivers and conditions, the initial vote to approve the subdivision plan was rescinded and reinstated with the condition that the hearing be continued to May 8 to allow the Board time to consider and approve the waivers and conditions of approval. Attorney Sullivan signed on behalf of Applicant to assent to the continuation.

*Motion by Mr. Mauch to rescind the previous subdivision plan approval and approve the definitive subdivision plan for Old Oaken Bucket Estates with the condition that the hearing be continued to May 8, 2018 at 7:15 PM in order to approve the waivers and conditions as required. Duly seconded and approved by a 4-0 margin, Mr. Fitzgerald having recused.*

#### **Hitchin Post Lane OSRD – 7-Lot OSRD Residential Subdivision**

##### ***Continued Public Hearing***

OSRD Special Permit

Circuit Street

Assessor's Map 25A, Block 69, Lots 25 & 26

*Motion by Mr. Campbell to open the continued public hearing. Duly seconded and unanimously voted.*

Mr. Kirkland advised that an updated site plan for the conceptual conventional subdivision had been received at the Planning Office, and the Applicant had requested a continuation.

Highway Surveyor Glenn Ferguson advised that the Highway Department was planning on repaving Circuit Street over the summer, and pointed out the Town's five-year moratorium on digging up streets for utility installation, etc., after a paving project. He would like to work with the developer so they can do the necessary work before the repaving takes place. Mr. Kirkland will advise the Applicant of the pending work.

Roger Allaire, 264 River Street, commented that he and his neighbors did not want the project to move forward, and wanted the PB to deny it. Mr. Mauch asked if there was anything the developer could discuss with him and other abutters; Louis Balestracchi, 278 River, felt that applicant had deceived them in previous conversations, and he preferred to come see the meetings for himself.

*Motion by Mr. Mauch to continue the public hearing to May 8, 2019 at 7:30 PM. Duly seconded and unanimously voted.*

**Schooner Estates – 12-Lot Residential Subdivision**

***Continued Public Hearing***

Definitive Subdivision Plan

Stetson Road

Assessor's Map 29A, Block 76, Lots 4, 6, 8-11, 17, 18, 20, & 43.

Mark and John McSharry present for Stetson Road LLC; Al Loomis and Brad McKenzie present for McKenzie Engineering Group; also present was Planning Board Engineer John Chessia.

*Motion by Mr. Campbell to open the continued public hearing. Duly seconded and unanimously voted.*

Mr. Loomis advised that he had addressed most of Mr. Chessia's comments as to the construction plan and would like to set up a working session with Messrs. Chessia and Kirkland to address any remaining issues. Conservation Agent Nancy Hemingway had visited the site and indicated she was in agreement with the resource area delineation performed by Brad Holmes. Applicants have filed an ANRAD with the Commission and will be filing a Notice of Intent in the near future.

Mr. Loomis indicated that Agent Hemingway had commented on the siting of the houses outside of the buffer zones. They would be amenable to lot restrictions as to impervious area or amount of clearing, and willing to infiltrate some or all roof runoff.

In response to a query from Chair Sullivan, Mr. Loomis indicated they had had no recent conversations with the Steens or Mr. Griffiths. Mr. McSharry indicated he was working with the Steens on plantings and raised beds on their property as well as the adjoining lot. They have an agreement with Mr. Griffiths that just needs to be written out and signed.

Mr. Campbell asked if the Applicant had provided a document setting forth the proposed light pole locations; Mr. Loomis indicated he had. Mr. Campbell also asked about the location of a light at the subdivision entrance. Mr. Loomis stated there was a utility pole at the entrance which will have to be relocated; he would like to move it slightly further away from the Steen property, but Mr. McSharry noted that they may not have the final say in the pole's location.

In response to a query from Mr. McSharry, Mr. Kirkland indicated he was waiting for Town Counsel's feedback regarding the proposed HOA documentation.

*Motion by Mr. Mauch to continue the public hearing to May 8, 2019 at 7:35 PM. Duly seconded and unanimously voted.*

**Assisted Living Overlay District (ALOD) – Proposed Zoning Bylaw Amendment**  
***Continued Public Hearing***  
Citizens Petition

Petitioner Steve Regan present along with attorney Walter Sullivan and about one dozen local residents.

*Motion by Mr. Campbell to open the continued public hearing. Duly seconded and unanimously voted.*

Attorney Sullivan advised that they had provided an updated map of the proposed overlay district, along with a typed list of signers. They have also reached out to the Bylaw Review Committee, as requested. They will be proposing an amendment on the floor at Town Meeting to strike out the language in Section 2 of the article specifically defining the overlay district as including adjacent land "within 1500 feet."

Attorney Sullivan characterized an assisted living facility as a passive use that would allow seniors to remain in Town and noted that any specific project would be subject to special permit and site plan review requirements. He also noted for disclosure that he had been retained by both Petitioner Regan and Artis Senior Living, which is seeking to construct a facility in Town.

In response to a query from Mr. Campbell as to how the proposed overlay district was drawn, Attorney Sullivan indicated the intent was to identify an area of land sufficient to construct a facility. Chair Sullivan commented that the article specified a minimum three-acre lot size but also a minimum of 40 units, and noted that about 10 acres would be needed for a septic system that would accommodate a facility of that size. Attorney Sullivan replied that these facilities would require package treatment plants.

Mr. Mauch asked why the Petitioner had opted to pursue a citizen's petition creating an overlay district rather than amending the Zoning Bylaw to specify assisted living as a permitted use. Attorney Sullivan advised that Town Counsel Bob Galvin felt such an amendment could potentially have unintended consequences, and therefore recommended that the Petitioner propose the overlay district.

Mr. Mauch felt the idea of constructing an assisted living facility in Town to be desirable as the population ages, but was bothered by the magnitude of creating an overlay district to do so, as it ran the risk of residents in the district being caught unaware. He would prefer that the Petitioner apply for a special permit before the ZBA, as he believed the language in the existing bylaw may be sufficient to allow for this use, but he had not specifically discussed the matter with Town Counsel.

Attorney Sullivan advised he had been told by Artis that there were no sites strictly in the Town business districts sufficient to site a facility, and that some adjacent property would need to be used to build one.

Mr. Campbell noted that the current proposal roped a significant number of residential lots into the overlay district. He would like to see a more thoughtful assessment of the boundary, and suggested that the Petitioner work with Mr. Kirkland to draw a more tailored line. Attorney Sullivan replied that the district was drawn the way it was so as to avoid spot zoning.

Chair Sullivan asked how many potential sites the overlay as drawn with the 1500-ft buffer yielded; Attorney Sullivan believed it yielded one site but was not certain. Mr. Campbell commented that the site of St. Helens Church on Washington Street may become available for development; alternatively, he felt the Marsh property on High Street may be a suitable site without the overlay district. Attorney Sullivan pointed out that the Marsh property was in three separate zoning districts, and the parcel they would need for parking was not in the business district.

Lois Barbour, Chair of the Board of Appeals, asked if the proposal set forth a specific buffer requirement; Mr. Campbell did not believe there was a stipulated buffer, and Attorney Sullivan believed a buffer could be conditioned by the PB on a case by case basis.

Ms. Barbour felt that the siting of an assisted living facility would be a serious intensification of a residential use, and the standard 20-foot buffer for the business district would be insufficient. Attorney Sullivan reiterated that an adequate buffer would factor into the conditions imposed when the special permit is granted, but Ms. Barbour noted that the lack of a specific buffer requirement may open the door to litigation. Mr. Campbell agreed that this ambiguity was a cause for concern and felt he could not recommend the article without a specific number.

In response to a question from Glenn Bernstein, 237 High Street, Chair Sullivan clarified that the proposal was to establish an overlay district encompassing business districts 2-6 only, and that a two-thirds vote at Town Meeting would be required to approve it. Chair Sullivan also indicated to Ramona Caruso, 30 Grove, that her property would fall within the overlay district, and a facility could technically be sited on it if the article were approved at Town Meeting and a developer obtained a special permit for a specific project. Dave Doyle, 45 High, also asked whether developers would be able to site a facility on or near his property. Mr. Campbell felt that these questions spoke to the ambiguity about the boundary of the district, and that the current line was not the optimal line.

Mr. Mauch commented that at this time he was not comfortable with a yes vote, as this was a major proposal with impacts that would extend beyond the immediate Petitioner and proposal. He had researched Artis, and found them to be a reputable company, but still had concerns about the impact on residents and would like to see more feedback from the public.

Petitioner Regan commented that he has been canvassing residents since the beginning of the year, starting along Grove and High Streets, and continuing along Bay Path Lane. In cases where he was unable to speak to an occupant, he left contact information in mailboxes, and he plans three separate mailings before the Town Meeting. He has also reached out to the Council on Aging, the VNA, and other interested parties and found there to be interest in and growing demand for an assisted living facility.

Mr. Regan offered to provide the PB with letters of support from area businesses, as well as a report summarizing his own outreach efforts and the feedback he received. He acknowledged that the project had grown in scope with the need for an overlay district, and he may have made mistakes along the way, but he is continuing with his outreach efforts.

Ramona Caruso commented she had been told the Board of Selectmen had been discussing the proposal for the past year, and asked why she had only first heard about it last week. Town Administrator Peter Morin stated that Attorney Sullivan had talked to him just once about the proposal; there had been no ongoing discussions with the Selectmen, and they have taken no position on the matter. He also stated there had been no attempt to hide anything, and the article had recently been discussed with the Advisory Board in a televised meeting.

Mauch commented in closing that he agreed there was a need for these sorts of facilities in the area, but the way the proposal was written and how the district was defined needed to be tightened up to take into consideration the concerns expressed at the hearing.

*Motion by Mr. Mauch to continue the public hearing to April 17, 2019 at 7:40 PM. Duly seconded and unanimously voted.*

**Sign Bylaw Revision – Proposed Zoning Bylaw Amendment**  
***Continued Public Hearing***

*Motion by Mr. Campbell to open the continued public hearing. Duly seconded and unanimously voted.*

Mr. Kirkland advised that he and Building Inspector Thomas Barry had been tasked with amending the Zoning Bylaw regarding signage in response to enforcement issues and complaints from business owners in Town, with the goal of attaining more compliance with less enforcement.

The proposed changes draw some distinctions between regulations that would apply to Business Districts A (Norwell Center), B (Washington Street corridor), and C (Accord and Assinippi Business Parks), with allowances for hanging signs in Business A and curb-cut “pull-in” signs in Business B. Also proposed are an allowance for signage on awnings with specifics as to letter height, a reduction in the size of sale signs, an increase in the size of freestanding signs in Business B in exchange for the elimination of all A-frame signs, and an increase in the number of usable colors in Business B from three to six.

Mr. Kirkland indicated that existing prohibitions on lighting, movement, timing, and billboards, among others, would remain the same. The proposal also establishes a \$75 deposit for temporary non-political signs that would be refunded upon the timely removal of the sign.

Mr. Mauch thanked Mr. Kirkland for the additional information and clarifications he provided to the PB, but recommended he edit down the slide presentation provided to the PB before presenting it at the Town Meeting. He also suggested a revision to ensure that otherwise exempt signs posted by public entities be properly screened in residential districts, and that they consider adding an exemption to the prohibition on portable signs on wheeled trailers to allow for their use for charitable, athletic, or other one-time events provided the trailers be removed after 24 hours.



Mr. Mauch also noted that the proposal would more than triple the existing bylaw verbiage, and expressed concern this would make it more difficult to enforce. Mr. Campbell agreed that it may take some time for the Building Inspector to fully absorb the changes, but felt it would be manageable. Chair Sullivan noted that the increase in specificity may in fact make enforcement easier.

In response to a query from Chair Sullivan, Mr. Kirkland indicated that Town Counsel had recommended exempting political signs from the proposal given issues regarding political signage in neighboring Towns.

*Motion by Mr. Mauch to endorse the sign bylaw as submitted. Duly seconded and unanimously voted.*

### **MISCELLANEOUS**

Mr. Mauch briefly asked if Town Counsel Bob Galvin had written the owner of 350 Circuit Street regarding the replacement of a culvert with an area drain, as requested by PB vote in a previous meeting. Mr. Kirkland indicated he had not heard back from Town Counsel regarding this matter. Mauch strongly objected to the delay in the letter's issuance; Mr. Kirkland will follow up with Town Counsel.

### **NEXT MEETING**

April 17<sup>th</sup>, 2019 – Town Hall, Room 112, 7 pm

### **ADJOURNMENT**

*There being no further business, motion was made by Mr. Campbell to adjourn at 10:21 P.M. Duly seconded and unanimously voted.*

I certify that the above minutes were reviewed and approved by a majority vote of the Planning Board on April 17, 2019.

  
\_\_\_\_\_  
Scott Fitzgerald Clerk

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