

Town of Medway
Water and Sewer Commission Meeting
155 Village Street
Sanford Hall

October 22 , 2012

Members Present: Chan Rogers, Robert Wilson, and Peter Gluckler
Others Present: Thomas Holder and Judi LaPan

(The minutes for the meeting are from an audio tape.)

26 Milford St.

The Board of Selectmen was present to discuss the replacement of a pipe.

This pipe is right on this front lawn.

There was a question about where is the curb stop?

The applicant noted that the excavation will not be on the curb. It will be right on the applicant's front lawn.

There was a question if the applicant would you be willing to put a bond.

The applicant noted yes, with conditions on why it would need to be replaced such as damage.

This is negotiable.

The applicant wants to see the written statute since he does not feel that this exists.

The real question is if the town thinks the pipe is too old and the DPW Director digs it up and looks and determines that the pipe needs to be repaired, then a decision would need to be made.

It was recommended that this be taken under advisement for seven days and then report back to the applicant.

Tom Holder suggested that the demolition permit can be issued and then a decision needs to be made if the applicant is going to be held to the new policy.

The applicant responded that he is not going to be responsible for a policy that will be instituted in the future.

This policy was voted on by the Water and Sewer Commission.

The applicant noted that this is not a policy. This is a building permit that qualifies as new construction and the water line will go from the main to the house. The applicant believes he is following protocol based on new construction. The applicant responds that there is nothing about that in the regulations. It does address regulations about a water service. This is an existing water service. It is active and functioning. We are not building a new water service.

The Water and Sewer Commission responded that delaying this by a week will not hinder the applicant. This is a unique situation.

The question was asked if there could be an agreement to proceed to shut the water off and start with demolition. The applicant needs to do this.

Tom Holder is fine with that and he wants the applicant to move forward. Tom would like the procedure that he is supporting to be carried out in the spring.

The service will need to be turned on and home will be ready in December. This will be a modular home. The plumbing is complete.

There was a question about why the seven days delay? What needs to be answered within the seven days?

The Water and Sewer Commission responded that the question to be answered is, do we uphold Section 7 paragraph 2 or do we exempt the applicant from it?

The policy was changed on August 20, 2012, but it has not been published.

The applicant noted that he has been running around trying to seek permits since May. The policy needs to be clarified.

The Commission noted that they have written and revised a number of their policies.

There was a response of a Board of Selectmen member that the intent is not a good idea. The town should maintain that pipe. What we need to decide is if we are going to keep this as a town responsibility or a resident's responsibility. These are taxpayers. The Town owns this pipe. We are not Boston, or Framingham. This is not a demolition in the normal sense. This is not fair to these property owners. There are time sensitive issues. Time is of the essence. This needs to happen and should be addressed this week. There needs to be broader discussion of the policy.

The Board of Selectmen needs to protect the town from liability. Can we defend this or will we need to settle out of court.

The representatives of the Board of Selectmen want the Water and Sewer Commission to address the policy in the future.

The question is do we exempt him from the policy.

Member Rogers wants to know that the general belief is to help him get this done.

The Commission wants to discuss this among themselves and make a decision.

It was communicated that both of the applicants submitted applications when the policies were being put in place.

Two of the members of the Water and Sewer Commission did not know that this document existed.

The applicant responded that this is a scary thought and a real problem.

This can be postponed and voted on at the end of hearing the sewer abatements.

Abatement Applications:

The Water and Sewer Commission informed the public that they will allow 15 minutes for each abatement.

18 Alder St.:

The resident seeking abatement was from 18 Alder St.

The resident received a betterment tax of \$71,000. He is concerned about the betterment tax.

The bill is due November 1, 2012. He does not feel this is fair.

The DPW noted that the treasurer will put this on as a betterment and will be put on their deed.

The Board of Assessor's has the ability to make an adjustment.

Mass General Law specifies that there is no interest after the first year.

One of the Commission members wanted clarity about wanted clarity about who are eligible for abatements. It was noted that in 2003, there was a \$12,000 cap.

The resident asked, if there is an automatic lien on property, will this prevent him from selling it.

Tom Holder responded, absolutely not.

The applicant communicated that he has five lots based on the new bylaw. He will be putting this up for sale. The entire property is zoned industrial. There are no wetlands on property. A professional appraiser went over property, this is virgin clean land. The property has sewer line. There is no building on property. This is only land. There was an appraisal completed and the applicant did not want to disclose the amount.

The Commission will make a decision on this at the end of the meeting.

1 & 2 Mayflower Lane:

The residents from 1 & 2 Mayflower presented a document for the Commission to review. This will be kept for the record.

The applicants were:

Daniel SanClemente, 1 Mayflower Lane

Shawn McDowell, 2 Mayflower Lane

The residents explained that they have three reasons why their abatements should be granted. The first reason is that this has been an ongoing issue for many of years. When the project did go through, we went to town hall seeking an extension to Village Street and we were told that they did not want this to happen due to the new line coming in. This assessment is unwarranted. The existing Village line which we have access to and was confirmed by Mr. Damico. We in fact can connect. The map and diagram was shown. The neighbor at 383 and 381 Village were able to connect before new line was put in. With the new line put in, the connection pipes are on the neighbor's line. There are not proper easements. There would be a cost to obtain an easement. If we could have connected through the original line, we would not have to be now through the neighbor's yard. The residents also stated that they are not looking to connect until there is a need since there is a cost for this. The betterment gives the land owner and opportunity and alternative choice if the system fails, his cost would be \$35,000. Septic replacement would be \$15,000. This would be a cheaper alternative. This is only 450 ft. of pipes with proper easement. There would also need to be a back-up pump. The cost is extraordinary; we are not bettered by this. There was also a question about how this was determined. 1 Mayflower Lane was assessed at \$12,007.00. This is useless property and a private way. The end cap is at 283 Village.

Tom Holder notes that the applicant made clear points.

The Commission is not sure if they can consider abatements below \$12,000.

Tom Holder communicated that the Water and Sewer Commission needs to determine if betterment is applicable to these properties at all.

If there was a line on Village which they could have connected, this does have bearing on whatever decision is rendered.

Member Wilson communicated that the Commission will make a decision on each individual case.

The Commission will take this under advisement.

16 Granite Street, Mr. McMains:

14 Granite Street, John McDounough:

These residents were presenting together.

The discussion began with the residents explaining that there are issues with the Frontage. They have frontage on West Street. A map was shown to indicate the wetlands on the property. The abatement was \$7925.00. The Conservation Commission will need to look at if a sewer line could be put in near the wetlands. The Commission agent was contacted and it was indicated that the sewer line does go through the wetland and would allow for the line. The resident indicated that they are 1100 ft. away from West Street to edge of house. The resident does not see how he can to connect and then the cost to hook up would be more than betterment. There is a shared driveway. The Commission was also made aware that there is an easement through the properties.

There was a suggestion that this would be a hardship and not betterment. This is an unusual set of circumstances.

Tom Holder explained that the deadline of November 1, 2012 still applies, although the Water and Sewer will not rendered decision prior to this date. The residents will automatically be placed into the 20 year betterment plan and this betterment has been recorded on deed and property. Once the Commission renders their decision, the assessor's will make the necessary adjustment. There is no interest incurred within the first year. If it rolls into a 20 year and the residents wants to pay over 10, it needs to be worked out by collector.

The Commission will take this under advisement.

11 Waterview Drive Caroline & John Anderson:

The resident noted that there situation is similar. They are on for discussion and will be heard at the end of the meeting.

The Commission will take this under advisement.

Mr. D' Innocenzo-Mobile Excavating, 15 West Street:

Mr. D' Innocenzo communicated that his issue is that when the sewer main went in, it was not low enough and ran right into the gas main and in result had to lift the pipe and had to put in a pumping system. Though they could go under, the town went over. This is a business owned area. The

assessment is almost \$50,000 over 20 years. He has some wetlands on this property. The abatement amount is \$46,036.20 based on his frontage.

There was a question asked about if there is a low point on West St. which you could access.

Mr. D' Innocenzo believes that if he were to go under the system, he will run into obstacles due to the gas lines, water pipes and power lines for electrical. He would not attempt to do it and if he did, it would cost a lot of money.

The Commission will take this under advisement.

79 West St. Jim Boyan:

Resident, Mr. Boyan explained that he filed the abatement on the first and his reasoning is that he wants to amend the difference in the frontage. The town is charging him 114 feet of frontage for the sewer assessment. When he had a surveyor read this, it was noted that he has 40 feet of frontage on Granite Street and 74.24 feet of frontage on West Street. There is no sewer on Granite. It is his understanding that he should not be charged when the property description indicates frontage is on West and Granite St. The resident spoke with Mr. Smith to have him clarify where the street meets and he confirmed it is from the stone marker, thus being 40 ft. The resident provided photographs. The abatement is for \$5410.00.

The Commission asked what it would be without Granite.

This resident responded that it would be 74.2 with only frontage on West St.

It was communicated that the connection originally asked to be pushed down further. He was told this, my lateral needed to come off of West St.

The resident has not connected. The photos showed granite street and boundary lines. The resident explained that he has a functional septic system. The resident wants an abatement of the 40 ft.

The stone boundary was noted and measured and stakes are still standing.

Mr. Flaherty was there at that time and advised on this.

This is pretty straightforward.

The Commission will take this under advisement.

Jim & Keith Lawrence- East Hill Associates:

49 Alder St.

The owners at 49 Alder received their betterment charge and it was calculated on road frontage. This was indicated as 255 feet. There was a plan provided which showed the town has taken drainage easement of 35 ft. and 157ft. drainage easement. The plan was referenced by the map. The drainage easement was noted.

The applicant communicated that they ended up with 65 ft. of usable frontage. They would like the betterment based on 65 ft.

The applicant is in the process of putting up a business. This should be ready at the beginning of the year. This business is storage for trash disposal business.

The Town has a drainage easement of 157 ft. wide and 35 ft. deep. There is a culvert for water retention. There is a guard rail for 35 feet.

The original amount was \$12,102.32, and the applicant believes it should be \$3,084.90.

The Commission noted that they will need some legal advice on what is considered frontage.

The Commission will take this under advisement.

4 Granite Street-Nancy Hudon:

The resident was present to explain that their abatement is \$4508.70. There is 95 feet of frontage on West St. This property is on septic. There are wetlands and gas lines present on property. The resident is concerned that the DPW may not be able to have a sewer line put there. The resident did leave a message with the Conservation Commission. The resident wanted to understand if this is even feasible.

The easement is on a bit of their property. The easement is railroad, electric and gas. The majority of it is off property, but some of maps show it on her property.

The Commission will take this under advisement.

66 West Street-Michael Robinson,:

The resident, Mr. Robinson was present. A copy of the abatement was provided to all members. The resident is questioning the amount of frontage at 340 ft. He also wanted to mention that there is one building on parcel and there will be no other burden on the sewer line due to the wetlands on property. There could not be any further construction. He believes the linear frontage is less. He viewed the map from the assessors and there is a large easement that belongs to a neighboring lot and not him. This will need to be verified.

The brown shaded area is a wooded marsh being wetlands. A stream does run through his property and is considered part of the frontage. The majority of the land is not buildable.

The Commission will take this over advisement.

11 Waterview, Mr. & Mrs. Anderson:

Mr. & Mrs. Anderson from 11 Waterview were present to explain their reasoning for abatement. The assessment value for betterment was disproportionate to the other homes in the area. Their assessment is \$13,050 and the average in the neighborhood was \$7722. The resident explained that they have the same capacity as other homes. The actual footage is smaller, but they are paying the largest fee in comparison to the neighborhood. The residents noted that they are paying almost twice as much.

This is 68% higher. The applicant has already hooked up.

The Commission will take this under advisement.

84 & 86 West Street Mr. Parella:

The residents were not present to speak on behalf of their abatement. The abatement request was \$23,000. This is for two parcels. The applicant did provide a written narrative about the abatement. The secretary read the reasoning for abatement. The reason is due to the large frontage on the property. There is a tributary and gas line. The frontage on 86 West Street is 200ft. The frontage on 84 West Street is 287 ft.

The Commission will take this under advisement.

Follow-Up Discussion:

Tom Holder would like to have Judy put together a spread sheet and the Commission will then have Town Counsel provide opinion on each abatement. The town may end up absorbing the amount in abatements in what the Commission decides. The town will not go out and reassess. The town split is 50/50. The Town portion is 1.375 million minus whatever the Commission decides to grant. The town will need to increase the amount for which they borrow.

The Commission noted that they want to be fair across the board.

Tom Holder communicated that the warrant article was written and the Water and Sewer Commission can grant these abatements for financial reasons down to \$12,000 for residential properties.

The Commission agrees that there was no foresight about the issues that were heard this evening.

There must be some legal precedent. The issues on these cases involve easements, wetlands, and frontage issues. The Commission with guidance from Town Counsel will have to determine the validity. The Commission will need to set up another date to discuss the recommendations from Counsel.

The Commission discussed the timeline for rendering a decision. The Water and Sewer Commission is not sure about the recourse if the abatement is not given.

It was communicated that there is no consequences on the Water and Sewer part for how many possible granted and those not granted. There is no appeal process. The applicant cannot go to the Board of Selectmen, but they could probably go to court. Town Council should advise us on this.

The W& S commission wanted to know if the DPW will pay Town Counsel. The legal opinion can be forwarded to the members but without discussion from email.

The next meeting date will be in the middle of November.

66 West St.:

The Commission was in receipt of abatement for the Williamsburg property, which is adjacent to animal hospital. There is a certified vernal pool. This owner has two parcels. One of the parcels 72 West Street is the vernal pool. This is not building lot. The applicant is looking for a \$15,000 parcel abatement.

66 A West St.:

It was indicated that the buildings are no longer there. The map is not accurately reflective. The Commission would need to decide that whatever lot has the vernal pool; it is not a buildable lot. This needs to be discussed further with the Board of Assessors. The location of the vernal pool is confusing.

It was also noted that there is no betterment on 70 West Street.

The Commission would like to see better maps on this. This abatement will probably be warranted.

The Commission will take this under advisement.

14 Holbrook Street, Dan Cence:

The resident was not present. It was communicated that the applicant did attend a meeting a year ago to discuss that there are wetlands on the property. He believes there is no hookup on West Street. They share a private drive and two homes are on it and the property splits, with frontage on West and Granite.

The Commission will take this under advisement.

395 Village St., Mr. McDonald:

The resident was not present. The resident received abatement on 395 Village St. The issue is that there is no sewer access. There was a betterment and lien when this is not on town sewer. The name on parcel is same as 1 Rob Way. It was inadvertently on Village Street and not 1 Rob Way. There was a mistake with the address.

Tom Holder questions if there is a sewer line for Mayflower to connect. There is a Village St. line but there may be a gap.

Rob Way was not assessed and the assessors would need to do this.

The Commission will be take this under advisement.

Discussion:

26 Milford Street:

Discussion continued in relation to 25 Milford Street. Tom Holder provided a brief synopsis of the earlier discussion. The documents which were discussed earlier in the evening and the old regulations have been on the website for a long time. The predecessors created that document, but those are what are out there. There was a discussion about the regulations and a vote was taken back in August 20, 2012 which pertained to this.

Tom continued explaining what is commonly done in other communities such as Franklin, Wayland, Framingham, Needham, are the best management practices calls for that during the demolition process of a property, that being totally demolished, and building new construction, requires that the existing water and sewer service be cut and capped at the main by the owner or developer and not the town. All agree that this is the right thing to do but the discord is whether or not the owness should be placed on the property owner to pay for that since there is a significant cost to cut into the street, trench, cut and cap and reconstruct.

Prior to a couple of years ago, this was not the approach that the town took. Tom indicated that he did bring this to the town since it is done in several other towns. This was also why he brought it to the town back in August. While this was going on in August, there were two applicants one at 26 Milford Street and one at intersection of Village Street and Island Road.

Currently, 26 Milford Rd. is a resident that has purchased and committed to have a modular home constructed. The modular home is being built and will be delivered in December. Tom communicated that the regulations do not call for the property owner to do this. Those regulations do not speak to this point directly.

The building inspector was present earlier in the meeting and on the form it indicates this being a new property and you are demolishing and constructing new and this requires a new water and sewer service. The owner pays for this.

The applicant is expressing that the regulations do not specifically say that. They want to utilize the service again. Tom Holders point is that the condition of the water and sewer pipe is highly questionable and that the fact that they are building a new home, there is nothing that is salvageable. It is a complete demolish and will build brand new.

Tom believes a new service should be put in and the old one abandoned and capped at the main. The problem is such that 26 Milford Street is looking for a decision as soon as possible since the home will be delivered. He is not prepared financially to do what the DPW is wanting him to do.

The Water and Sewer Commission is being asked to look at the policy which was promoted and voted and should rightfully occur. The Commission needs to decide does this apply to them, should there be a grandfather period. There were a lot of people that spoke against it and some spoke in support.

There is more of a review that needs to be done to solidify this a little more. Maybe there needs to be a policy statement which needs to be voted and added as an addendum. The applicants need to clearly understand the regulations.

We are in the right direction to implement this, so if we allow the two applicants that came in as the regulations were changed get a break and do not have to comply. This is still in place moving forward.

The policy could be distributed to the various departments to make them aware of what we are doing and then the Commission could make another vote with the addendum. The document could then be published. The proper thing to do is move in the right direction, but do we need to move ahead with these two applications, not necessarily.

There was a question about what is the risk or integrity to the water line if we go ahead and allow. Tom noted a couple of concerns:

1. The applicant will put in a brand new copper pipe and he will have pressure problems due to the calcification from the iron pipe. There is a concern it will leak and also there is a concern that it will disturb everything. The applicant will then call the DPS due to poor pressure which then the DPS will go out there because the regulations say we will go out and repair the pipe. The town would have to pay to cover the cost.

This is about a \$4,000.00 job, new pipe and flow fill and compact fill used, new lines.

Member Wilson noted that the applicant communicated that if he knew this prior to, he would have applied for this within the mortgage he getting. He does not have the money to do this. Another problem is that this is the policy which is read and is public, the residents own curbside to home and we own from curb to main.

Member Rogers responds that a new homeowner pays to get the new pipe to the main and it doesn't matter what is in between. This should be the guideline we use. This should be resolved and not worry about it being consistent with any guideline which is developed. Each case is different.

The Commission will look to develop a guideline down the line and have town counsel prepare the language as an addendum to and actually included to 1994 regulations. Then it would not be contested.

There was a question about if what the applicant is doing now is in compliance with the existing bylaw.

It is tricky since the language expresses that it is a tear down and the applicant claims it is an existing building. The electric and gas companies are calling it a remodel. They are not making him cap.

There was another question about if the applicants needed to pay to tap in way back then?

Tom Holder responded that what would happen is that the town would install and bill the owner. Town forces would do this. Now, the property owner does this.

The concern of the water and sewer commission is that the pipe is old and will not last.

There was a question about what prompted him to come in tonight?

The applicant applied to get a permit signed and he came to the DPW office and he was not pleased about the response which was provided that we needed to sign the demolition permit and during public comments during the Board of Selectmen, those two individuals spoke and voiced concerns. The Board of Selectmen responded that they heard the residents but are not ready to make comments and wanted to convene a meeting with the Water and Sewer Commission.

The Water and Sewer Commission noted that the regulations were only in the meeting minutes. Nothing has been updated since then.

Member Wilson recommended that we change our approach to allow the applicants to tie in to curb stop.

Tom Holder communicated that this document was not published enough. It was only part of the minutes. We need to do a better job communicating the regulations.

Member Rogers communicates that we would accept making an exemption.

Tom holder communicated that the regulations do not address or define demolition and new construction and what they mean.

The Commission did vote on the policy, but clearly we need to expand the policy.

The discussion included that this will be given further consideration until thus time when the Commission has a formal policy written with definitions. The Commission will consider it further, but not until a formal amendment is crafted and approved, and will not implement new policies and practices until such time.

Member Wilson wanted to know what the process to get something is like this published.

Member Glucker responds that we have approved the policy but it has not been implemented. This is the purview of the Department of Public Services.

Member Wilson disagrees, the applicants are looking for something beyond the building department.

Member Rogers communicated that I can give them reason for exemptions from the standard policy.

Judy LaPan excused herself to get the regulations.

Member Gluckler is comfortable with the policy that was passed a couple of months ago, but he does not know why that policy is not published.

Tom recommended that the Commission could consider the policy statement which was voted on last August of 2012 and that until such time, as this is converted into an approved regulation with addendum to follow.

There would be a formal policy written and have something official that we are considering this further and until such time, until an amendment is approved we will not craft and implement until such time.

Tom Holder prefers that regulations are approved by the Water and Sewer Commission.

The regulations referenced were paragraph one and two section 7 for existing services.

Member Wilson communicated that the Commission could allow these two applicants to move forward with the understanding that the policy statement will be considered further at a later date with addendums.

Member Gluckler suggested that we make a recommendation instead of an approval and not act until it becomes a published amendment regulation.

Member Wilson noted that the DPS did consider this demolition to be new construction.

Tom Holder communicated that there needs to be a balance.

Member Gluckler wanted to know if we could approve this under the past policy.

The discussion concluded.

On a motion made by Bob Wilson and seconded by Pete Gluckler, the Water and Sewer Commission voted unanimously to recommend that until such time as the demolition policy statement which was established August 20, 2012 is made into a published regulatory amendment, the Department of

Public Service will not enforce that policy statement and that the Commission recommends that the DPS not enforce that policy statement.

Adjourn:

On a motion made by Peter Gluckler and seconded by Bob Wilson, the Water and Sewer Commission adjourned their meeting. (there was no time indicate)

Respectfully Submitted,

Amy Sutherland

DRAFT