



TOWN OF MEDWAY
WATER & SEWER COMMISSION
MEDWAY, MASSACHUSETTS

Commissioners

Cranston Rogers, Chair
Robert Wilson, Member
Peter Gluckler, Member

Meeting Minutes

December 10, 2012 – 6:30pm
Sanford Hall
155 Village Street, Medway MA

Present: Chan Rogers, Peter Gluckler, Robert Wilson, DPS Director Thomas Holder, Business Manager Sarah Pawluczzonek. Residents – Sean McDowell, Dan San Clemente, William D’Innocenzo, Paul McGann, Jim Boyan, George McMains, Anthony Mele, Keith Lawrence, Natalie Hudon, Michael Robinson, Caroline Anderson, and Joseph Lusk.

The meeting was called to order at 6:40pm by a motion from Robert Wilson.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0.

Chan Rogers introduced the group to the residents.

Chan explained that the purpose of the meeting was to be a discussion of the Industrial Road Sewer Betterments. He explained that the purpose of a betterment is to provide the residents the ability to tie into Town Sewer, which in turn increases their property value. Only betterment matters are to be discussed at this meeting, not payment, or other issues with the Town or construction projects. Payment is handled by the Treasury Office and will not be a part of this process. He explained that it is the intention of the Board to vote on as many abatement requests as possible tonight. The process of appeal is to file in the Norfolk County District Court, and recommends you consider getting legal counsel. The statutory rule for using total frontage to determine betterment apportionment is what was used to for this process.

Tom explained that there was a sign in sheet to sign and then we would hear from each party in order of the sign in sheet.

Chan Rogers asked the residents if there were any general questions outside of their own betterment case.

Dan San Clemente asked who was responsible for removing the lien from the deed, if abated.

Tom Holder answered that within ten days a response would be mailed from our office, and copied to the Town Treasurer and Assessor so that they could adjust the tax bill. If an abatement was granted, the Town would consider paying the fee to change the deed.

Dan San Clemente asked if there was a time frame to file an appeal.

Chan Rogers explained that abatements were due within six months of the date of the letter that went out in October 2012, and that appeals had to be filed within thirty days of the date on the abatement request letter with the Commissioner’s response from tonight’s meeting.

Tom Holder added that the Town had ten days to notify each resident of the Board’s decision. And that notification would come in the form of a signed abatement request application with a date that is the beginning of the thirty day allowed for an appeal.

1 & 2 Mayflower Lane

Dan San Clemente and Sean McDowell were called up to present their abatement request to the Board. They are the owners of 1 Mayflower Lane, and 2 Mayflower Lane, respectively.

Dan San Clemente explained that they shared the same issue as they are the two homeowners on this private way. They had three concerns. First, their private road, Mayflower Lane, connects onto Village Street, which has an existing sewer main running right by their street. Prior to the new sewer line going in, they had gone to the Town requesting the ability to connect to the sewer main on Village Street and were told to hold off until the new line went in. Secondly, the new sewer stub is in their neighbors property and so they would need an easement to connect. They had asked for easements from the Town back at the start of the project in 2008 and were not granted any. They feel it is unlikely that this neighbor would ever give them one as he has landscaped the area and is essentially non-accommodating in this matter thus far. Thirdly, they had a preliminary cost-analysis done and found it would cost them at least \$30,000-\$40,000 to connect as they would need pump systems. They feel that for these reasons they are not being bettered at all.

Chan Rogers said he was aware of their concerns, having spent some time with Tom Holder going over these matters and would like to table the rest of the discussion until after all the rest of the abatements were heard, due to this being a more complex matter.

Tom said that he could confirm based on a site visit that there is indeed a sewer system on Village Street passing Mayflower Lane.

Robert Wilson said he would like to see some more documentation before rendering a decision.

15 West Street

Mr. D’Innocenzo of 15 West Street was called up to present his abatement request to the Board.

Mr. D’Innocenzo explained that his business, Mobile Excavating, would have to connect to the sewer main by passing by a gas main and having a pump system which is not an affordable or easy job. He did not understand why they placed the pipe at this grade. His company does excavations but even this job was too challenging for them.

Tom Holder did confirm that the pipe was laid at a shallow depth, however he was of the understanding that all property owners were given the chance to select the placement of their stub. He said that in light of the complicated placement, the Town would be receptive to him placing his lateral connection in another location through his frontage directly into the sewer main to allow for a gravity connection.

Mr. D’Innocenzo asked who would pay for this connection.

Tom Holder explained that the resident pays for their own connection.

Chan Rogers read the statement from legal counsel “The owner would need to demonstrate that the connection is not possible by reason of its grade or level or any other cause cannot be drained into such sewer”.

Mr. D’Innocenzo asked if he really had any recourse in this matter.

Tom Holder explained that we could not assess his property on any other circumstances other than frontage.

Peter Gluckler requested clarification that the option to tie into another location with a gravity line does not affect the abatement.

Tom Holder answered that that was correct, it would just potentially lower the cost for the resident to connect.

Robert Wilson made a motion to reject the abatement request for 15 West Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

12 Alder Street

Paul McGann was called up to present his abatement request to the Board.

Paul McGann stated that he was only there to discuss the damage the project caused to his stone wall.

Chan Rogers explained to him that his complaint against the Town with regards to his stone wall damage would not have any bearing on a betterment abatement. It is a separate issue.

Tom Holder further explained that we cannot reconcile another claim against a betterment assessment.

Paul McGann stated that he was never asked where he would like the location of his sewer stub to be.

Tom Holder said he understood that was supposed to be the approach.

Paul McGann asked for direction from the Board on handling his damage claim.

Robert Wilson told him to deal with Tom Holder on the matter.

Tom Holder said we would mail him a claim form and a copy of the abatement form.

Chan Rogers asked him if in light of his claim being a separate issue, if he would like to withdraw his request for abatement.

Paul McGann signed for a withdrawal of the abatement.

79 West Street

Jim Boyan was called up to present his abatement request to the Board.

Jim Boyan explained that his property has 74 feet of frontage on West Street, and 40 feet frontage on Granite Street. The sewer runs on West Street so he does not feel he should be charge frontage on Granite Street as well. If we were to remove the 40 feet the abatement request would be \$1,898.40. This would leave his betterment amount at \$3,512.04.

Robert Wilson made a motion to abate 79 West Street for the amount of frontage on Granite Street which does not have the new sewer line.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

Jim Boyan asked how he would get the reduction off the deed.

Tom Holder told him that the Town Treasurer and Assessor would take care of that.

14 & 16 Granite Street

George McMains and Joan McDonagh of 16 and 14 Granite Street, respectively, were called up to present their abatement request to the Board.

George McMains explained that they would need to connect through wetlands, but he has heard that Mr. Holder spoke with the Conservation Agent, who says the connection is allowable.

Chan Rogers stated that wetlands do not prevent access.

George McMains further explained that when he met with our Conservation Agent, Karon Skinner-Catrone, she told him he would need to file a Determination of Applicability with the Massachusetts Department of Environmental Protection (DEP) to get their permission. This is not a guarantee that permission will be granted. Also spoke with Trufant & Sons to get a quote on the job and they stated to him that just to lay the pipe would be at least \$40,000 and in addition they

would need to deal with the rocky terrain, put in a temporary access road, and run an electric pump in the wetlands. They would not even estimate the whole job due to their feeling that it was not worth their time to do this job. His realtor told him that the \$40,000 alone to lay the pipe was already far greater than what his property value would become with a sewer connection. He could not afford to hookup this way and neither could his neighbor, Joan McDonagh.

Chan Rogers requested any plans that might have been submitted to show his property.

George McMains provided a full size drawing.

Tom Holder noted to the Board that this may be a circumstance where the property owner can demonstrate that the cost to connect is in excess of the benefit received.

Peter Gluckler requested that they provide the board with an estimate for a new septic system to compare to the cost of a Town sewer connection.

Joan and George claim that it would probably be about \$10-\$15k and is not in the wetland buffer zone.

Peter Gluckler requested a market analysis to see the improvement to the property value should they be on Town sewer.

Robert Wilson asked them to get a full estimate of the cost of connecting to the sewer.

Tom Holder offered to provide them with a list of drain layers to request quotes from.

Robert Wilson made a motion to postpone these abatements until requested documentation could be provided.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

18 Alder Street

Mr. Mele of 18 Alder Street was called up to present his abatement request to the Board.

Mr. Mele stated that his betterment was for \$71,091.08. At early pre-construction meetings he attended, it was mentioned that the Town would fund more of the project than the homeowners. Also they said betterments would be not to exceed \$15,000 per homeowner.

Tom Holder explained that the Town did fund 50% of the cost of the project.

Chan Rogers explained that the Town used lineal footage per the state statute to proportionately assess the betterment amounts.

Tom Holder further explained that the decision to go with a unit price assessment was transparent in several Board meetings, including a vote at Town Meeting. The formula was to take 50% of the cost and divide it against the total linear feet of frontage on the project.

Robert Wilson asked if his lot was sub-divideable.

Mr. Mele answered probably, but that with the betterment he would probably have to sell his whole parcel.

Chan Rogers requested that Mr. Mele offer the Board an alternative betterment figure to consider. He asked what Mr. Mele felt was a reasonable value.

Mr. Mele said he would get his property appraised and determine from the zoning by-laws, how many lots could be sub-divided from his total parcel, and then come back to present it to the Board.

All members of the Board of Water/Sewer Commissioners approved this and tabled the vote on his property.

Tom Holder said that the six months from the date of the betterment letter would be up by April 1, 2012 and so he would have until then to provide this documentation.

Mr. Mele stated that he planned to retain legal counsel as well. He asked how this would affect his taxes in the interim.

Tom Holder explained that there would be no interest to the 20 year apportioned betterment in the first year.

49 Alder Street

Jim and Keith Lawrence of 49 Alder Street were called up to present their abatement request to the Board.

Jim Lawrence explained that they were assessed for 250 feet of frontage but the Town owns 160 feet of it through an easement. There is nothing they can use that land for.

Robert Wilson stated that based on the opinion of our legal counsel there is not much we can do for you with regards to an abatement.

Keith Lawrence asked if the Town's legal counsel understood the type of un-useable easement this was.

Robert Wilson told them that they can always apply for an appeal at the Norfolk County District Court.

Keith Lawrence asked who the Town's legal counsel was.

Chan Rogers answered Barbara St. Andre.

Tom Holder answered that she was from Petrini & Associates.

Jim Lawrence claimed that this easement is not a simple easement, it has affected a lot of how they can use the land around it.

Chan Rogers told them that they had to prove that the cost to connect to Town sewer is in excess of the benefit received.

Keith Lawrence said he felt that the 95 ft of frontage not on the easement is what is fair for them to pay.

Robert Wilson explained that they still physically own that frontage.

Robert Wilson made a motion to reject the abatement for 49 Alder Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

4 Granite Street

Natalie Hudon of 4 Granite Street was called up to present her abatement request to the Board.

Natalie Hudon explained that her property has the Algonquin gas main running through it, and possibly a vernal pool. She spoke with the Conservation Agent, Karon Skinner-Catrone, who said that she would need to file a Determination of Applicability with the Massachusetts Department of Environmental Protection (DEP) to get their permission to connect through the wetlands.

Robert Wilson reiterated that legal counsel says that wetlands do not prevent a connection.

Chan Rogers asked if she knew what it would cost to connect and if she was requesting a full abatement.

Robert Wilson stated that the sewer pipe can be run under the gas main in most cases and through the wetlands. He requested they provide an estimated cost of connection much like was requested from 14 and 16 Granite.

Chan Rogers agreed that the Board would be willing to see documentation that could prove that the cost is in excess of the benefit received.

66 West Street

Michael Robinson of 66 West Street was called up to present his abatement request to the Board.

Michael Robinson explained that he had been at the last meeting in disagreement that an easement should be counted. I now understand from what I have heard here tonight that easements are counted in frontage.

Tom Holder stated that wetlands will not have any bearing on this abatement but the frontage calculation is in question. Of the 340 feet of frontage assigned there is in fact a 150 foot sliver belonging to Williamsburg Way. We should reduce the assessment by the 150 feet, leaving 190 feet. This reduces the assessment by \$7,119.00

Chan Rogers reiterated that Tom Holder had confirmed that 150 feet of frontage is not Michael Robinsons and so they could abate it. He requested to see a drawing of this property.

Robert Wilson made a motion to abate \$7,119.00 from the assessment for 66 West Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

9 & 11 Waterview Drive

Caroline Anderson and Joseph Lusk, own 11 and 9 Waterview Drive, respectively, and were asked to present their abatement request to the Board.

Joseph explained that because their properties are on a rounded corner it creates a larger frontage which is much higher than our other neighbors with the same size lots.

Peter Gluckler asked the Board to consider whether or not the formula applied created a reasonable assessment.

Mr. Lusk suggested that they are assessed the average of all their neighbors, excluding their own assessment. This would come to \$7,292.00.

Tom Holder explained that the linear frontage approach is used to be fair because we cannot come up with an arbitrary estimate for assessments.

Mr. Lusk said that their properties are small.

Robert Wilson answered that the betterment is not based on lot size.

Tom Holder suggested that one consideration would be to revert the assessment to the original single family residence amount of \$12,000.

Mrs. Anderson read the law stating that the cost cannot be in excess of the benefit received or disproportionate to similar properties. She felt it was not proportionate.

Tom Holder felt that if the Board was to average one neighborhood they would have to apply this same logic to all neighborhoods.

Peter Gluckler recommended that we go back to Town Counsel with this and ask them about the possibility of treating these like corner lots.

Tom Holder said that Town Counsel was pretty clear on this issue and will unlikely come up with a different opinion on it.

Robert Wilson stated that these properties are simply not corner lots.

Peter Gluckler made a motion to have Town Counsel do a draft motion of whether these properties are comparable to a corner lot.

Tom Holder made a friendly amendment to also have Town Counsel evaluate disproportionality of assessments.

Robert Wilson seconded.

Motion approved, unanimous vote, 3-0

1 & 2 Mayflower Lane (continued...)

Chan Rogers explained the need to wait until the end to revisit this matter due to its complexity so as not to tie up the other residents. Please brief the other members on your abatement request.

Sean McDowell presented a map of Mayflower Lane.

Robert Wilson asked how much each of their betterments is for.

Sean McDowell answered \$7,119.00.

Dan San Clemente answered \$12,007.38.

Tom Holder said that the primary evaluation is that they have the ability to connect to Village Street and had this ability prior to the project. The stub is near the 383 Village Streets property and is not practical for them to use. The owners could make a direct connection to the sewer main in Village Street at Mayflower Lane.

Sean McDowell stated that because the sewer line existed in Village Street when they bought their property, they were already bettered.

Tom Holder said that he would include a caveat to the abatement, if approved, that these properties cannot ever connect to the newly installed line. We could get Town Counsel's opinion on this.

Robert Wilson made a motion to contact legal counsel to get an opinion as to whether the betterment was already applied here through Village Street and whether the aforementioned caveat could be enforced.

Peter Gluckler seconded.

Chan Rogers said Nay.

Dan San Clemente said we have letters sent to Barbara St. Andre from years ago to which she never responded. When we finally got a response it was not much of an answer at all.

Tom Holder said that he realized that we would be making it more complicated to add in the aforementioned caveat. We will get an answer from Barbara.

Chan Rogers made a motion that the previous situation allowed them to hook up to the sewer originally so the new sewer is not a betterment and full abatement should be approved.

Robert Wilson seconded.

Peter Gluckler said Nay.

Motion approved, 2-1

33 Alder Street

Tom Holder explained that this abatement request is based on a claim that the town never paid him for an easement.

Robert Wilson said this has no bearing on a betterment and cannot be reconciled against it.

Robert Wilson made a motion to reject the abatement request for 33 Alder Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

14 Holbrook Street

Tom Holder explained that this request is similar to 14 and 16 Granite Street. They have frontage on West Street with wetlands to cross to connect, but are addresses on Holbrook Street due to a common driveway.

Robert Wilson read that they claimed a Town Engineer said they could never hook up to the sewer system.

Tom Holder said he has no verification of this but could reach out to see if it was Tata & Howard who said this.

Robert Wilson felt this should be investigated further before deciding.

Tom Holder showed them a map of this property.

Robert Wilson made a motion to contact the owners and request a cost estimate to connect to Town sewer to see if it is substantially more than the benefit received, and for the DPS to look into the Engineer's opinion, and then they could consider abatement afterwards.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

260 Main Street

Tom Holder explained that 260 Main Street had a new septic system installed as their argument for a full abatement.

Robert Wilson said that he feels this does not apply.

Robert made a motion that this septic system has nothing to do with the betterment itself and is rejected.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

395 Village Street

Tom Holder explained that 395 Village Street is not part of the betterment but 1 Ron Way is and the town made a mistake and assessed the wrong parcel.

Robert Wilson made a motion to abate 395 Village Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

72 West Street

Tom explained that 72 West Street has a certified vernal pool making it an unbuildable lot.

Robert Wilson made a motion to abate 72 West Street.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

84 & 86 West Street

Tom Holder explained that the Algonquin gas main runs through these two properties, as it does to many of the properties. They do have stubs to connect to the new sewer line. He showed the Board a map.

Robert Wilson made a motion to reject the abatement.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

93 West Street

Tom Holder explained that 93 West Street is another wetlands issue and so the cost of connecting would have to be proven to be more than the benefit received. The frontage has wetlands, and this home is on a common driveway. He showed the Board a map.

Robert Wilson made a motion that we request documentation from the homeowners as to the cost in order to consider the abatement further.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

Next Meeting

Robert Wilson made a motion to meet on January 14, 2013 in Sanford Hall.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

Robert Wilson made a motion close the meeting at 9:10pm.

Peter Gluckler seconded.

Motion approved, unanimous vote, 3-0

**Sarah Pawluczonek
Executive Assistant
Department of Public Services**