

Approved: 5-24-2021

**TOWN OF WINCHENDON
BOARD OF SELECTMEN SPECIAL MEETING MINUTES
WEDNESDAY, MAY 5, 2021
Town Hall, 2nd Floor Auditorium
109 Front Street, Winchendon, Mass.**

Present:

Michael Barbaro, Chair	Stephen Delaney, Interim Town Manager
Rick Ward, Vice Chair	Linda Daigle, Executive Assistant
Barbara Anderson	Taylor Tower, Administrative Assistant
Audrey LaBrie (remote participation)	
Amy Salter (remote participation)	

List of Documents Presented at Meeting:

- May 5, 2021 Memo from Planning Board to Selectboard re: Layout Approval (attached)
 - Mellen Road Action Steps to Accept Road (attached)
 - Mellen Road Roadway Acceptance Plan by McCarty Engineering, Inc. dated April 23, 2021 (attached)

Chairman Michael Barbaro called the meeting to order at 6:30 p.m. All rose for the Pledge of Allegiance. Barbaro announced that Ms. LaBrie and Ms. Salter were attending via remote participation, and that Edward Ford, Jr. of Brown Street was audio and video recording. He also announced that votes of the Selectboard will be taken by a roll call vote.

1. **SELECTMEN'S COMMENTS AND ANNOUNCEMENTS:** Anderson thanked everyone who came out to vote at the Annual Town Election and those who worked the polls. She also wished all the mothers out there a happy Mother's Day. Barbaro congratulated the candidates and also sent out a happy Mother's Day wish to all the moms.
2. **PUBLIC COMMENTS AND ANNOUNCEMENTS:** David Watkins of 235 Mellen Road asked if the layout of Mellen Road that is presented tonight will be changed; to which Delaney answered it will not. David Sweeney of 430 Mellen Road argued his belief that Mellen Road has always been a public road and expressed frustration with the process since 2018 to accept the road. He said that the homeowners do not own the land beneath the road and therefore, they cannot give easements. Barbaro explained that regardless of whether article 19 or article 24 is favored by the citizens, they are both essentially different methods of accepting the road. Article 20 must pass either way because those easements will be required to accept the road no matter which article of acceptance is voted to pass. He acknowledged the frustration of the residents and expressed that he feels the same; it has been an unpleasant process for all involved. He elucidated that when the developer of Mellen Road left, Approval Not Required (ANRs) were granted, and an agreement was settled upon with the Town in which the developer would pay the Town to lay a base road. He would then pay money into an account to the Town to get it accepted. Following that agreement, the developer then sold off the lots and did not put the money into the accounts for the road to get properly accepted, and the Town did not follow up at that time. Fast forward to a couple years ago when a DPW dump truck was damaged on an unaccepted road, thus opening an investigation into the officially unaccepted roads. Barbaro said that the Board is just trying to accept the road and be done with this whole debacle, and a step in that process is to obtain easements.

Watkins continued to argue the status of the road and said that ANR's cannot be issued on a road that is not Town maintained. He claimed that the Town's attorney is wrong and he does not

*Board of Selectmen Special Meeting Minutes
May 5, 2021*

understand road law. He also said that the easement will not be granted by the State in the required 120-day timeframe and that the road needs to be recognized by prescription.

Frank Fowler of 435 Mellen Road expressed frustration with the arduous process thus far to accept Mellen Road. Barbaro again acknowledged the frustration that the residents share with the Board, and explained that the more this issue is researched, the more problems are found. Things were not done correctly by representatives of the Town at that time, and now current representatives are just trying to fix the problem.

Bill Shea of 375 Mellen Road recognized the situation that the Board is in, noting that they are unfortunately now responsible for mistakes made by past representatives of the Town. He asserted that the Town was negligent and the burden of this negligence has been unfairly placed on the residents of the Town.

Barbaro again said that since this problem has been found, the Board has tried to address it. This is the process that they believe is best so that they can fulfill their obligation to accept the road. Things have popped up unexpectedly, delaying the process, but they are addressed and the process keeps moving forward. Taking a road by prescription goes to land court, which delays the process even further. It can also be challenged by anybody, thus laying the burden of proof on the Town. He apologized for the lengthy and complicated process to accept the road and asked residents to work together rather than arguing. He hopes to have this issue resolved as soon as possible.

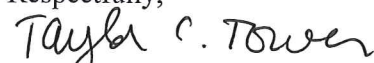
3. NEW BUSINESS:

- 3.1. Review Planning Board Recommendation to the Board on the "Mellen Road Roadway Acceptance" Plan dated April 23, 2021, as drawn by McCarty Engineering, Inc. and consider Vote to File Layout with the Town Clerk – Barbaro asked the pleasure of the Board. Anderson said looking at the approval of this particular plan, Articles 19 and 24 are for the acceptance of Mellen Road. Her issue with article 20 for the easements, is the State forest. She has been trying to find the deed from the Town to the State forest and has not been able to find it. She thinks once it is found, we might have a better answer. She is concerned that the easement will not be obtained from the State in the required 120 day turnaround time. Barbaro said he believes the forest was given to the State in 1965 and he assumes the easement would have been there. The easement must be obtained from the State through special legislation and he hopes that it is done in time. LaBrie and Salter said they wish to keep moving forward in a recordable fashion to get the road accepted the proper way.

Ward moved the Board of Selectmen approve to lay out the public way in accordance with the "Mellen Road Roadway Acceptance" plan dated April 23, 2021 as drawn by McCarty Engineering, Inc. as approved by the Planning Board and to file the said layout with the Town Clerk. This motion was seconded by Anderson and with a roll call vote of Anderson, aye, Ward, aye, Salter, aye, LaBrie, aye and Barbaro, aye, the motion carried unanimously.

- 4. OLD BUSINESS:** There was no old business.
- 5. ADJOURNMENT:** Ward moved to adjourn, seconded by Anderson. With a roll call vote of Anderson, aye Ward, aye, Salter, aye. LaBrie, aye and Barbaro, aye, the meeting adjourned at 7:01 p.m.

Respectfully,



Taylor Tower
Administrative Assistant

*Board of Selectmen Special Meeting Minutes
May 5, 2021*