

## **Procedures for Changing a Class VI Road to a Class V Road As Part of a Subdivision or Site Plan Approval**

This procedure is intended to provide an applicant for subdivision or site plan approval, the Planning Board, and the Board of Selectmen with a uniform procedure when a request to reclassify a class VI road as class V is presented to the Board of Selectmen and the Planning Board for the purpose of providing access to a proposed development. This procedure is not intended to limit the factors either Board may deem relevant to the review of such a request.

The adoption of this procedure or an applicant's compliance with its requirements does not guarantee the approval of a Planning Board application or the layout of a road by the Board of Selectmen. Similarly, approval of the request by one Board does not obligate the other to approve the request.

The following procedures are to be taken in the chronological order provided:

### **1. Planning Board**

The applicant applies to the Planning Board for "Design Review" for the proposed Site Plan/Subdivision, as provided in RSA 676:4, II (b). The submission requirements for Design Review are outlined in the Subdivision and Site Plan Review Regulations.

After the Design Review meeting with the Planning Board, the Planning Director will provide a memo to the Applicant outlining any concerns, issues, questions, or comments the Planning Board raised at the meeting that should be addressed by the Applicant. The Planning Director will forward a copy of the memo to the Board of Selectmen, Roads Committee, Conservation Commission, Police Department, Fire Department, and Town Engineer for their information.

### **2. Board of Selectmen**

The Applicant petitions the Board of Selectmen to lay out a class V road over the existing class VI road pursuant to RSA 231:8 and RSA 231:28. (If approved, the layout will have the effect of reclassifying the road as class V).

The application must include the following information:

- 1) Names and addresses of landowners, including those owners listed under RSA 231:10 (tenants for life or years, remaindermen, reversioners, and holders of undischarged mortgages of record whose mortgages are dated not earlier than 20 years prior to the date of filing the petition) who abut the section of the class VI road to be upgraded, names and addresses of the owners of property that is accessed by the class VI road and proof of a title search of those properties abutting the portion of Class VI road to be upgraded;
- 2) Fees for abutter notification, newspaper public hearing notification, Town legal review of material, and engineering review of material;<sup>1</sup>
- 3) Plans (10 large copies, 30 small copies, and 1 small copy for each abutter) prepared by a licensed engineer, surveyor, and/or wetlands scientist showing:
  - a. Location of the property and abutting properties,
  - b. Location of wetlands, steep slopes, waterbodies, conservation land, and stone walls along and abutting the property and class VI road,
  - c. Layout and design of the road that meets the requirements of §205-41, Appendix B, and Appendix C of the Subdivision Regulations;
- 4) Drainage study and calculations (2 copies) regarding the class VI road;
- 5) Copies of any legal agreements with abutting landowners if additional ROW is required for the design of the road to Town standards, if applicable;
- 6) Explanation of why there is an “occasion” to layout the class V road;
- 7) Other material that is relevant to the proposal; and
- 8) The selectmen may require additional information upon review of the application.

Upon receipt of the application, the Board of Selectmen will send the material to the Fire Department, Police Department, Conservation Commission, Roads Committee, Town Counsel, and the Town Engineer for review and comment. These entities will have 30 days from the date of receipt in which to provide written comment back to the Board of Selectmen of their issues, concerns, and/or comments. Providing this information does not preclude any of the Boards, Commissions, or Departments from further participation before either Board.

Within 60 days of receiving the layout petition, the Board of Selectmen shall hold a public hearing. Notice will be provided to all owners of property abutting or served by the class VI road at least thirty (30) days prior to the public hearing pursuant to RSA 231:10.

As part of the public hearing, a site walk of the proposed layout will be conducted. At the public hearing, the Applicant shall present details of the proposed construction, reconstruction or repairs, and provide information as to the estimated costs unless all such costs are to be borne by the Applicant.

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<sup>1</sup> Fee amounts for Board of Selectmen process are based on the adopted Planning Board fees

Within 60 days after the scheduled public hearing the Board of Selectmen shall make a determination as to whether to grant the petition subject to conditions of approval or deny the petition. All approvals shall be subject to the following conditions, in addition to any others imposed by the Board of Selectmen:

- 1) The town shall not incur any costs associated with upgrading the road to class V construction standards.
- 2) The layout shall not become final until:
  - (a) the Director of Public Works or his agent has determined that the road has been designed to the town's class V road construction standards,
  - (b) the subdivision/site plan plat has been signed by the planning board and recorded at the Merrimack County Registry of Deeds, and
  - (c) following a public hearing, the Board of Selectmen determine all conditions of approval have been met.
- 3) The Applicant shall be liable for all attorney's fees, costs and damages for which the Town may become liable to third parties as a result of the layout.

A written copy of the Board of Selectmen's decision will be provided to the applicant and the Planning Board.

### **3. Planning Board**

The Applicant files the application for Site Plan or Subdivision Review with the Planning Board, in accordance with the Planning Board's regulations and schedules. The application must include the Board of Selectmen's decision approving the layout, including the approved layout configuration.

The Planning Board will follow their adopted rules, regulations, and procedures for Site Plan/Subdivision applications and either approve, approve with conditions, or deny the application. Any conditions imposed by the Board of Selectmen as a requirement of the layout shall be included in the Conditions for Planning Board approval.

### **4. Board of Selectmen**

The applicant shall provide the Board of Selectmen with acceptable evidence that the conditions of the Board of Selectmen's approval of the application to layout the class V road have been met. The Board of Selectmen shall hold a public hearing prior to determining whether the conditions have been met.

Within 20 days of determining to grant the application and lay out a class V road over a class VI road, the Board of Selectmen shall file a return of layout with the Town Clerk pursuant to RSA 231:16.