

## **WELLESLEY PLANNING BOARD**

### **RULES AND REGULATIONS GOVERNING UPGRADING OF INADEQUATE WAYS in conjunction with applications for certain building permits in WELLESLEY, MASSACHUSETTS**

#### **SECTION I - APPLICABILITY.**

A lot, proposed as the site of a dwelling or other habitable structure, which does not abut an Adequate Way as defined herein shall be considered as not having frontage within the meaning of SECTION XIX. YARDS. of the Zoning Bylaw and will be unable to obtain a building permit for that reason. If such lot abuts an Inadequate Way an Applicant seeking a building permit may upgrade that way to a status of adequacy for the purpose of satisfying the frontage requirement in accordance with these Rules and Regulations.

#### **SECTION II - HISTORY.**

The Zoning Bylaw requires every building lot to have a minimum length of frontage on a street or way. The 1985 Annual Town Meeting adopted an amendment to the Zoning Bylaw, SECTION XIX. YARDS., to further define frontage by specifying the classifications of streets and ways as follows:

Frontage - A lot boundary line which abuts

a public way (hereinafter referred to as a Public Way); or

a way which the Town Clerk certifies is maintained and used as a public way (hereinafter referred to as a Certified Way); or

a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law (hereinafter referred to as a Subdivision Way); or

a way in existence when the Subdivision Control Law became effective in the Town of Wellesley having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve the land and the buildings erected or to be erected thereon (hereinafter referred to as an Acceptable Way);

and across which line there is legal access.

A lot otherwise meeting zoning and other applicable requirements and having legal access to a right of way other than an Adequate Way as hereinafter defined shall be considered as not having frontage for the purposes of constructing a new dwelling or other habitable structure.

A lot otherwise meeting zoning and other applicable requirements shall be considered as having frontage for the purposes of constructing a new dwelling or other habitable structure provided that frontage abuts an Adequate Way as hereinafter defined.

(order reversed - Town Engineer)

### SECTION III - PURPOSE.

These Rules and Regulations are intended to govern the review and administration of applications to upgrade Inadequate Ways within the Town of Wellesley.

These Rules and Regulations are intended:

- to provide for adequate access to lots hereafter proposed as the site for new dwellings or other habitable structures;

- to provide for a uniform and equitable procedure for administering applications;

- to promote the public welfare, protect public safety, provide for adequate durability of the roadway and reduce maintenance costs;

- to respect and preserve insofar as possible in the balancing of the foregoing purpose the unique characteristics of the existing ways within the different neighborhoods of the Town.

- to provide for public notice to and input from abutters; and

- to provide an appeal process.

### SECTION IV - AUTHORITY.

These Rules and Regulations are adopted pursuant to the authority given to the Planning Board under Section XIX. YARD REGULATIONS. of the Zoning Bylaw, and shall remain in effect until modified or amended by the Wellesley Planning Board.

### SECTION V - DEFINITIONS

Acceptable Way - A way which the Planning Board has determined to be adequate in accordance with Section XII. hereof;

or a way which has been upgraded and all Required Work, pursuant to Section XIII, has been completed or security deposited pursuant to Section XVII;

or a way or section of way which has been upgraded under the review of the Planning Board prior to the adoption of these Rules and Regulations subject to any restrictions or limitations set forth by the Planning Board at the time of review.

Adequate Way -

- a Public Way, or

- a Certified Way, or

- a Subdivision Way, or

an Acceptable Way.

Agreement to Upgrade - A two party agreement between the Planning Board acting on behalf of the Town of Wellesley and an Applicant to upgrade an Inadequate Way.

Applicant - A person proposing to build a dwelling or other habitable structure on a lot having its frontage on a way or section of a way which has been determined to be Inadequate.

Certified Way - a way which the Town Clerk certifies is maintained and used as a public way.

Determination of Adequacy - A decision by the Planning Board of the Town of Wellesley concerning the improvements that must be made to a way or section of a way, concerning the required width, grades, and construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve the land and the buildings erected or to be erected thereon. The Determination shall identify Required Work.

Inadequate Way - a way, other than a Public Way, a Certified Way, a Subdivision Way or an Acceptable Way.

Plan - Plan and Profile showing the upgrading of an Inadequate Way consistent with the specifications contained in these Rules and Regulations.

Planning Board - The Planning Board of the Town of Wellesley.

Public Way - A State Highway, County Road, Ancient Way or a way accepted by vote of the Wellesley Town Meeting in accordance with the requirements of Massachusetts General Law.

Required Work - Specified work as determined by vote of the Planning Board which, if satisfactorily completed, will bring an Inadequate Way up to a status of adequacy in accordance with the provisions of these Rules and Regulations.

Rules and Regulations - Wellesley Planning Board Rules and Regulations Governing Upgrading of Inadequate Ways in Wellesley, Massachusetts.

Subdivision Way - a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law.

Town - Town of Wellesley, Massachusetts.

## SECTION VI - PROCEDURE

An Applicant shall submit a properly executed building permit application to the Inspector of Buildings. The Inspector of Buildings shall request the Planning Board to make a Determination of Adequacy relative to a way that is not a Public Way, a Certified Way or a Subdivision Way.

The Planning Board may require the Applicant to submit information to verify the status of the way,

including but not limited to its acceptance as a Public Way, its status as a Certified Way or its approval as a Subdivision Way.

The Planning Board shall require the submission of a Plan showing the work to be done in accordance with these Rules and Regulations.

## SECTION VII - PLAN CONTENTS

Plans submitted shall be prepared by a Massachusetts Registered Professional Engineer and/or Registered Land Surveyor on linen or on polyester film, single matte with a thickness of 3 mils, and must have proper translucency to allow consistent reproduction including recording on microfilm. The Plan shall be prepared using a compatible ink with excellent cohesiveness which will produce a permanent bond and result in a Plan with long term durability. The minimum letter size on a Plan shall be one-eighth inch (1/8").

The Plan shall be drawn to a scale of 1" = 40', shall be a minimum size of eight and one-half inches by eleven inches (8 1/2" x 11") and a maximum size of twenty-four inches by thirty-six inches (24" x 36") with three-quarter inch (3/4") borders, and shall show:

1. Title, North arrow, date of survey;
2. Name of owner of record;
3. Name, address, signature and seal of Massachusetts Registered Professional Engineer;
4. Names of all abutters as they appear on the most recent tax list;
5. Length and direction of street boundary lines; length, radii, tangents and intersection angles of all curves;
6. Width(s) of existing right(s) of way;
7. Width(s) of each existing travel way and surface material;
8. Width(s) of each proposed travel way and proposed surface material;
9. Limit of travel way and date of acceptance of connecting ways which are Public Ways;
10. Location of all utilities and sidewalks;
11. Location of all proposed utilities, appurtenant facilities and proposed connections to Town utilities;
12. Location of all existing buildings, structures and bounds;
13. Extent of proposed Required Work;

14. Blank lines for the date of approval and the signatures of the five members of the Board; and
15. Other information as may be required by the Board.

The profile shall be drawn to a horizontal scale of 1" = 40', or 1" = 20', and a vertical scale of 1" = 4', showing:

1. Existing center line as a fine black solid line;
2. Existing right side line as a fine black long dash line;
3. Existing left side line as a fine black short dash line;
4. Proposed center line grade as a heavy black line with ground elevations at the center and each side of all ways at every 50 foot station;
5. Elevations referred to Town established Base, as furnished by the Town Engineer. The location and elevation of reference bench marks shall be indicated;
6. Street gradients shown by figures; and
7. Size and location of existing and proposed storm drains and sanitary sewers and any other relevant utility information.

The profile sheet shall include a proposed typical cross section showing utilities, roadway and any existing or proposed sidewalk construction. If a way or a section of a way to be upgraded includes one or more existing driveways, there shall be at least one cross section submitted showing each driveway, apron and gutter.

## SECTION VIII - SPECIFICATIONS

The specifications applicable to the upgrading of Inadequate Ways shall be the specifications contained within the currently applicable Rules and Regulations Governing the Subdivision of Land in Wellesley, Massachusetts as adopted by the Planning Board and as on file with the Norfolk County Registry of Deeds.

The Planning Board, by vote at a Regular Meeting, may waive specifications in particular circumstances in accordance with SECTION III - PURPOSE. and SECTION IX - WAIVERS. of these Rules and Regulations.

Consideration of reduced standards shall be based on preexisting lines and grades, width of right of way and travel way, existence or absence of curbing and underground wiring and other relevant criteria.

## SECTION IX - WAIVERS.

All requests for waivers shall be accompanied by a letter signed by the Applicant listing requested waivers from the terms of these Rules and Regulations. This letter shall include, for each waiver request, an estimate of the savings in initial cost and an explanation of any public interest served or public benefit derived if the waiver is granted. Plans shall include a sheet listing the waivers requested and approved by the Planning Board. The Planning Board may grant waivers not requested by the applicant, if it deems it is in the public interest to do so.

Public safety and public welfare concerns are of primary importance in determining whether or not waiver requests shall be granted. The Planning Board shall also consider the characteristics of the neighborhood, including: existing trees and landscaping; materials, type and specifications of curbing, sidewalk and roadway paving; the presence or absence of curbing, sidewalks, lighting and landscaping; as well as the views of the residents concerning these items. The Planning Board may seek advice and comment from other boards, commissions and agencies, as it deems appropriate, on the advisability of granting waiver requests.

## SECTION X - SUBMISSION.

Any person who submits a Plan for review and approval shall file with the Planning Board, together with a properly executed application form (provided by the Building Department), four (4) prints of each Plan, and the application filing fee, as specified in the Planning Department Fee Schedule approved by the Planning Board.

## SECTION XI - PUBLIC HEARING

Upon the receipt of a properly executed application form approved by the Planning Board together with the Plan, the Planning Board will schedule a public hearing to occur not more than 30 days after receipt of a properly prepared Plan and Application Form. Notice of the public hearing shall be given in accordance with the requirements of Section XXVIA. NOTICE FOR PUBLIC HEARINGS. of the Zoning Bylaw. Failure of the Planning Board to conduct a public hearing within 60 days of the receipt of a properly executed application shall constitute a Determination of Adequacy.

## SECTION XII - DETERMINATION OF ADEQUACY.

Within 30 days after the Public Hearing the Planning Board shall render a Determination of Adequacy which shall identify any Required Work. Failure of the Planning Board to render a Determination of Adequacy within 30 shall constitute a Determination of Adequacy.

## SECTION XIII - APPROVAL OF REQUIRED WORK.

The action of the Planning Board to approve Required Work shall be by majority vote of the Board at a regularly scheduled Meeting. Plans showing the Required Work shall be filed with the Planning Board and the Engineering Division.

#### SECTION XIV - LEGAL AUTHORITY TO PERFORM REQUIRED WORK

The Applicant shall be responsible for determining and securing, if necessary the legal authority to perform the Required Work.

#### SECTION XV - APPEAL.

Any appeal of a Determination of Adequacy, an Agreement to Upgrade or other decision of the Planning Board under these rules and regulations shall be made to the Zoning Board of Appeals in accordance with Section XXIV. PERMIT GRANTING AUTHORITY. of the Zoning Bylaw.

#### SECTION XVI - SEQUENCING OF REQUIRED WORK

The Applicant may proceed with Required Work at any time after the Planning Board vote to approve the Required Work and endorsement of the Agreement to Upgrade.

After the Required Work has been completed to the satisfaction of the Planning Board in accordance with the Plan and the Agreement to Upgrade, the Planning Board shall notify the Inspector of Buildings that the way or section of the way has been upgraded to adequate standards.

The Planning Board may grant an Applicant permission to proceed with construction of a dwelling or other habitable structure prior to completion of the Required Work provided the Planning Board has approved a Plan of Required Work and a performance guarantee satisfactory to the Planning Board has been received.

#### SECTION XVII - PERFORMANCE GUARANTEE.

In conjunction with approval of Required Work the Planning Board will require surety to cover the cost of the work. The status of such security will be reviewed at least annually by the Planning Board and may be increased to reflect increases in estimated costs for completion of construction.

The Board may refuse security based on advice from the Town Treasurer as to the financial status of the bank, company or institution involved. Letters of credit shall not be accepted as security for Required Work.

Upon deposit of surety satisfactory in the opinion of the Planning Board to guarantee the completion of the work to bring the way to adequate standards, the Inspector of Buildings shall be notified.

#### SECTION XVIII - STREET ACCEPTANCE.

If the Inadequate Way or portion of the Inadequate Way upgraded is to be proposed for acceptance by the Town, plans and profiles, drawn on linen or on polyester film, prepared, signed and stamped by a Massachusetts Registered Professional Engineer and Massachusetts Registered Land Surveyor, shall be submitted to the Town Engineer and to the Planning Board following the completion of construction. This plan and profile, suitable for submission to the Town Meeting for street acceptance purposes shall include any and all easements, street numbers and/or lot numbers.

**SECTION XXIX - SEVERABILITY**

The invalidity of any section or provision of these Rules and Regulations shall not affect the validity of any other section or provision.

**SECTION XX - APPROVAL**

These Rules and Regulations are adopted and are hereafter amended by majority vote of the Board at a regularly scheduled Meeting following a Public Hearing duly advertised in accordance with Section XXVIA. NOTICE FOR PUBLIC HEARINGS. of the Zoning Bylaw.

Approved by vote of the Wellesley Planning Board June 7, 1994.

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