

PRIVATE ROADS PRIVATE WAYS

WHAT MUNICIPAL OFFICIALS NEED TO KNOW



PRIVATE WAYS VS. PRIVATE ROADS

- IN MASSACHUSETTS, A KEY DISTINCTION EXISTS BETWEEN "PRIVATE WAYS" AND "PRIVATE ROADS." PRIVATE WAYS, WHILE PRIVATELY OWNED, MAY BE OPEN TO THE PUBLIC FOR TRAVEL, INCLUDING WALKING. THIS IS OFTEN THE CASE FOR ROADS WITHIN DEVELOPMENTS OR AREAS WHERE PUBLIC ACCESS IS IMPLIED OR PERMITTED. PRIVATE ROADS, ON THE OTHER HAND, ARE TYPICALLY INTENDED FOR THE USE OF SPECIFIC INDIVIDUALS (LIKE RESIDENTS OF A PROPERTY) AND MAY NOT BE OPEN TO THE GENERAL PUBLIC.

PRIVATE WAYS

PRIVATE WAY CONSIDERATIONS

- PUBLIC ACCESS
- PUBLIC SAFETY BENEFIT
- DESIGN STANDARDS
- REGULATORY COMPLIANCE - FEDERAL, STATE & LOCAL
- EXISTING POLICIES – COMPLETE STREETS
- PARKING
- ENFORCEMENT



EXISTING PRIVATE WAYS

- IS IT IN THE CITY OR TOWN BYLAW/ORDINANCE?
- IS PUBLIC ACCESS ALLOWED?
- HOW LONG HAS IT BEEN OPEN TO THE PUBLIC?
- DOES IT CONNECT BETWEEN TWO PUBLIC ROADS?
- WHO'S RESPONSIBLE FOR MAINTENANCE?



EXISTING PRIVATE WAYS

- MAINTENANCE GOVERNED BY STATE LAW
 - IN THE INTEREST OF PUBLIC SAFETY
 - M.G.L. CHAPTER 40, SECTION 6N
- TEMPORARY ONLY (I.E.. POTHOLE REPAIR)
 - NO SIGNIFICANT EXCAVATION
 - NO GRADING OR DRAINAGE WORK
 - NO RESURFACING OR RECONSTRUCTION
 - WORK IS NOT MAINTENANCE
- ABUTTERS PETITION – BY MAJORITY
- BETTERMENT CHARGES / CASH DEPOSIT
- AVAILABILITY OF FUNDS

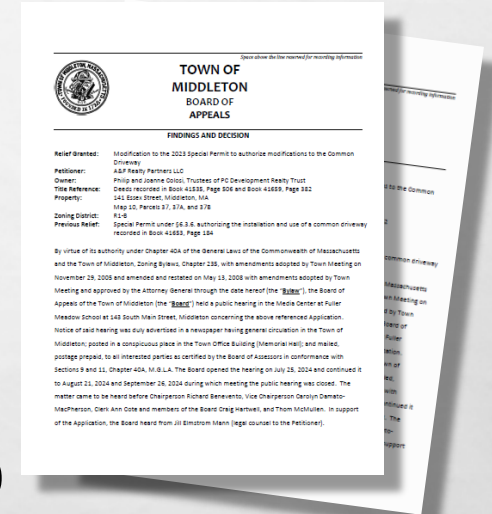
NEW PRIVATE WAYS

- PART OF A NEW DEVELOPMENT
- PRIVATE WAY VS. ACCEPTED ROAD
- DESIGN STANDARDS APPLY
 - SUFFICIENT WIDTH
 - SUITABLE GRADES
 - ADEQUATE CONSTRUCTION
 - ACCOMMODATE MUNICIPAL SERVICES
 - EASEMENTS ESTABLISHED
- OPEN TO PUBLIC TRAVEL OTHER REGULATIONS APPLY
- ROAD MUST BE BUILT TO TOWN STANDARD TO BE ACCEPTED



NEW PRIVATE WAYS

- ROAD MUST BE BUILT TO TOWN STANDARD TO BE ACCEPTED, IF NOT
- ARE ABUTTERS FULLY INFORMED
 - OWNERSHIP
 - MAINTENANCE AND UPKEEP
 - RIGHTS OF ACCESS
- ARE PROVISIONS INCLUDED IN THE DEED
- IS THE DECISION AND COVENANTS RECORDED
- DOES THE DECISION SURVIVE IN PERPETUITY



NEW PRIVATE WAYS

KEY TAKE AWAY.....

ARE THE ABUTTERS FULLY INFORMED?

- OWNERSHIP
- MAINTENANCE AND UPKEEP
- RIGHTS OF ACCESS



RECENT DECISION IN MIDDLETON

- THE PAVED SURFACE OF THE DRIVEWAY IS 12' FROM THE LOT LINE AND IS LOCATED ENTIRELY WITHIN LOTS 1 AND 3 (§6.3.2 AND §6.3.6(4)).
- EACH DRIVEWAY IS LESS THAN 500', THE COMMON DRIVEWAY IS 216' LONG AND THE LONGEST EXTENSION OFF THE COMMON DRIVEWAY IS 158' LONG (§6.3.3).
- THE GRADE OF THE COMMON DRIVEWAY WHERE IT INTERSECTS WITH ESSEX STREET DOES NOT EXCEED 9% (§6.3.4).
- THE CENTERLINE INTERSECTION WITH ESSEX STREET IS NOT LESS THAN 45° (§6.3.6(1)).
- THE DRIVEWAY CONSISTS OF PAVEMENT THAT IS 18' WIDE WITH A 2' WIDE GRAVELED SHOULDER ON THE NORTHERN SIDE (§6.3.6(2)).
- THE ROADWAY SURFACE HAS AT LEAST 4" OF GRAVEL AND A TOPCOAT OF BITUMINOUS ASPHALT (§6.3.6(3)).

RECENT DECISION IN MIDDLETON

- THE COMMON DRIVEWAY IS CONSTRUCTED IN SUBSTANTIAL COMPLIANCE WITH THE SITE PLAN.
- SPRINKLERS WILL BE INSTALLED IN EACH OF DWELLING UNITS LOCATED IN EACH OF THE TWO (2) RESIDENTIAL STRUCTURES.
- PETITIONER SHALL ENTER INTO A MAINTENANCE COVENANT PRIOR TO OBTAINING A CERTIFICATE OF OCCUPANCY FOR THE FIRST UNIT.
- COVENANT, THIS DECISION, THE PLANNING BOARD'S DECISION, AND THE ANR PLAN ARE TO BE RECORDED WITH THE SOUTHERN ESSEX REGISTRY OF DEEDS AND EVIDENCE THEREOF IS SUBMITTED TO THE BUILDING DEPARTMENT.
- PETITIONER SHALL COMPLY WITH THE CONDITIONS OF THE MESA NO TAKE LETTER.
- PETITIONER SHALL COMPLY WITH ALL OF THE CONDITIONS SET FORTH IN THIS DECISION, THE ORDER OF CONDITIONS AND STORMWATER MANAGEMENT PERMIT ISSUED BY THE MIDDLETON CONSERVATION COMMISSION, AND ANY OTHER APPLICABLE APPROVALS AND PERMITS.
- THE COMMON DRIVEWAY SHALL REMAIN PRIVATE IN PERPETUITY AND WILL REMAIN THE RESPONSIBILITY OF THE OWNERS AND USERS THEREOF.
- THE ISSUANCE OF A STORMWATER MANAGEMENT PERMIT SUBJECT TO FINAL APPROVAL BY BOTH THE DESIGNATED STORMWATER ADVISOR TO THE BOARD AND THE CONSERVATION AGENT.
- THE INSTALLATION OF TRACK PADS AT THE CONSTRUCTION ENTRANCE FOR THE PROPERTY.
- PERIODIC STREET SWEEPING AS REQUESTED BY THE SUPERINTENDENT OF PUBLIC WORKS OR THE BUILDING INSPECTOR, THE COST OF WHICH SHALL BE PETITIONER'S SOLE RESPONSIBILITY.