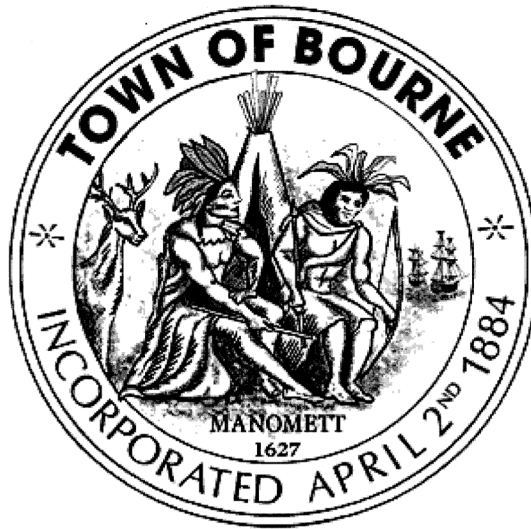


TOWN OF BOURNE



UNACCEPTED ROAD BETTERMENT GUIDE

PUBLISHED BY ENGINEERING DEPARTMENT

POLICY SUBJECT TO CHANGE

Revised: March 5, 2021

BOURNE, MASSACHUSETTS

Town of Bourne

Resident's Guide to the Town of Bourne Private Way Betterment Procedures



INTRODUCTION

This guide was put together in the interest of Bourne residents to inform them about the history and repair options they have regarding private roads through assessing a betterment. Many roads in the Town of Bourne are not Town Roads. In this guide, private roads will be referenced as “unaccepted ways” in the Town of Bourne.

Many unaccepted roads are now found in disrepair due to age, use and poor construction. In many cases these roads do not have surface drainage causing damage to abutting properties and in some cases also the environment. The Town allows the repair or reconstruction of the road surface of an unaccepted road through an assessed betterment process.

In summary, the Town cannot spend public funds on private property and is limited in the services they can provide.

HISTORY OF PRIVATE ROADS IN BOURNE

Private or Unaccepted ways are not unique to the Town of Bourne and the Towns of Massachusetts. Most unaccepted ways are neighborhood roads or cul-de-sac ways that the general public does not rely on in their everyday travels in the Town of Bourne.

The unaccepted ways are an ongoing issue for residents and the Town alike. The Town's ability to work on unaccepted ways is limited because of ownership (unaccepted ways are privately owned) and therefore cannot spend public funds on private property. The Town offers plowing and trash services on these roads but only if these roads are maintained well enough to not damage the plows or other Town vehicles. Once in disrepair, the Town can elect to not service these roads. (Massachusetts State law, MGL Ch40 S.6C & S.6D, allow for municipalities to remove ice and snow and provide other minor maintenance without assuming further responsibilities or ownership of unaccepted ways.)

In total, all of the major arteries in the Town have been accepted by the Town or maintained by the State or Federal governments, the majority of minor roads and connector streets are also accepted and maintained by the Town.

The Town of Bourne currently maintains 333 miles of accepted roads and comparatively, there are 288 miles of unaccepted roads. There is also 163 miles of State roads as well as several Federal roads (Corps of Engineers).

For further information please see the State website relating to laws about roads and streets in the following link:

<https://www.mass.gov/info-details/massachusetts-law-about-roads-and-streets>

GUIDE TO BETTERMENT PROCEDURES

The following guide for temporary repairs to private ways is the procedure and practice of the Town of Bourne under Article 3.1, **Section 3.1.28 Temporary Repairs of Public Ways** in the Town of Bourne Town Bylaw. This bylaw was added by Article 55 of the 1978 Annual Town Meeting.

I. Section 3.1.28

Temporary Repairs of Private Ways. The Town may make temporary repairs on private ways which have been open to public use. Such repairs shall include the filling of holes in the subsurface of such ways and repairs to the surface materials thereof and installation and construction of drainage, if deemed necessary by the Highway Surveyor. Materials for such repairs shall, where practical, be the same, or similar to, those used for the existing surfaces of such ways, and may include construction, surfacing or resurfacing of such ways with bituminous materials. Said repairs shall be undertaken only if petitioned for by the abutters who own at least 50% of the lineal footage of such way and only if the Board of Selectmen shall declare that said repairs are required by the public necessity and convenience. The cost of such repairs shall be paid by the abutters by a cash deposit or by betterment assessment as hereinafter provided, and no work shall commence unless and until such cash deposit in the amount of the estimated cost of such repairs as determined by the Highway Surveyor to do the work is paid over to the Town or the Board of Selectmen have made a determination that betterments will be assessed. If the Selectmen determine that betterments will be assessed, the Selectmen shall assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs and, in the case of each such estate, in proportion to that frontage thereof of such way. Except as otherwise provided, the provisions of Chapter 80 of the General Laws relating to public improvements and assessments therefor shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars shall be apportioned and no assessment may be apportioned into more than five portions. Before any work commences, the Town shall be held harmless on account of any damages whatever caused by such repairs by agreements executed by the abutters who petitioned therefor.

II. Timeline of Process

Application for the Road Betterment process is ongoing and the review process and repairs are at the discretion of the Board of Selectmen, Town Administrator, and DPW Director. The following timeline is to be used as a guide and is subject to change:

Step 1. Abutters make the decision to petition the Board of Selectmen and carry out the process of gathering the required signatures consisting of owners of greater than 50% of the lineal footage along the private way. A liaison should be chosen for correspondence prior to any public meeting at this time.

**A meeting amongst all abutters should commence at this time to voice concerns and opinions prior to involving the town. Work that can be done without involving the Town should be discussed and a mutual understanding of the work requested can now be presented to the Town.*

Step 2. Submission of the petition to the Board of Selectmen. The Town Engineer will verify that greater than 50% of road frontage has been signed for. If confirmed, the DPW Director makes his assessment of the private way and the construction required. Prioritization of each petition submitted will be considered on a rolling basis.

Step 3. The DPW Director and Town Engineer will meet the private way liaison on site to discuss the work being requested and come to an agreement of what work will be performed.

Step 4. The DPW Director and Town Engineer will estimate the cost of materials, time, fees, and other associated costs. At this time the Board of Selectmen will set a meeting date to meet all abutters in order to understand the participation level now that estimated costs are known.

Step 5. The Board of Selectmen or Town Administrator's office will notify all abutters by certified mail of the Public Meeting. Estimated cost will be provided on said notice.

Step 6. A Public Meeting will commence where the Board of Selectmen will discuss the process and ultimately declare that said repairs are required by the public necessity and convenience. At this time, abutters will also be requested to support the work to be done. The Board of Selectmen will take a vote in order to place the Private Way Betterment Article on the next Town Meeting Warrant.

Step 7. Vote of the Article for the Temporary Repair of Private Way Betterment at Town Meeting shall take place. This is a legally binding agreement and final consideration by the abutters should be taken at this time.

Step 8. If approved, a timeline of work will be tentatively scheduled by the Highway Surveyor in order to coordinate any work the abutters choose to pursue beyond the work being performed under the Betterment.

**Any work not done in concert with Town work may compromise the Betterment.*

Step 9. The Town borrows the approved funds.

**See the Treasurer for more information on this.*

Step 10. The Board of Selectmen hold a hearing to vote on the Order of Betterments. The recording of the Order and estimates are filed with the Barnstable County Registry of Deeds.

Step 11. The DPW Director assigns the paving work and potentially put any drainage or engineering work out to bid at this time. A schedule of work would be at the discretion of the DPW Director.

Step 12. Work is completed. Final Betterments are assessed and recorded at the Barnstable County Registry of Deeds. Notification is sent to the Abutter requesting form of payment as a lump sum or consecutive payments.

TOWN OF BOURNE

MASSACHUSETTS

PETITION
FOR WORK ON PRIVATE WAY

Pursuant to Section 3.1.28 of the Bourne Bylaws, added by Article 55 of the 1978 Annual Town Meeting, the undersigned persons, who are the owners of at least 50% of the lineal footage along _____, a private way in the Town of Bourne, respectfully petition the Board of Selectmen to declare that the following work on said private way is required by the public convenience and necessity:

We further petition that the Town of Bourne perform said work and that the cost of same be paid as follows:

(CHECK ONE)

_____ By a cash deposit to the Town in the amount of the estimated cost of such repairs.

_____ By betterments assessed upon the owners of estates which derive particular benefit or advantage from the making of such repairs on such private way.

In consideration of the Town performing said work, the undersigned agrees to indemnify and save harmless the Town of Bourne, its agents, servants and employees, on account of any damage to persons or property resulting from said work.

Name

Address

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