

**Minutes**  
**Town Council Steering Committee meeting**  
**April 25, 2016**  
**Town Hall Conference Room B**

1. The meeting was called to order at 7:00 PM.  
Present: Thomas Pope, Julie Blanchard, Richard Williams, Lisa Thomas  
Also present: John Elsesser, Town Manager; Todd Penney, Town Engineer; Mark Kiefer, Director of Public Works
2. Lisa Thomas made a motion to move up item 6, Consideration: Acceptance of Lake Association Roads, in consideration of guests in attendance. The motion was seconded by Richard Williams and carried on unanimous vote. Sam Norman, Louise Napoletano, Ben Emmanuele and Jerry Dallas were present from the neighborhood associations.

Thomas Pope read a statement regarding his position on the matter (*attached to these minutes*). He believes there is a communication problem and that a checklist of tasks needs to be clarified so that the associations can have a feeling of confidence that the road acceptance requirements are not fluid. He suggested that once the requirements are understood that it may be prudent to examine the timeline and work together to bring the matter to a successful conclusion

**Avery Shores:** Todd Penney provided background information on Avery Shores, which is a road in Gerald Park Association. All of the other roads, Fitzgerald, Washburn, etc. were town roads as early as 1975. Avery Shores is the only private road left in the association. The acceptance of Avery Shores is not an easy one. It is the only road, private, public or otherwise where the actual right of way (ROW) has been carved out. He showed maps depicting the length of the road and the areas where ROW has been impacted.

John Elsesser noted there was a 50' ROW and the association has transferred the road usage to people, so it is no longer available as a road under our standards. Ben Emmanuele expressed concern that this hasn't come up before.

Todd said there is an existing right of way – it is 50'. When the sewer project came in the Town obtained a sewer easement over that full width except for a piece of property that is not necessarily a part of Avery Shores, which is a point of concern with taking over the road. If this ROW was available it would have been very easy to get the ROW through. There was history with the ROW when the sewers came through, because there were outbuildings that encroached into the existing 50' ROW. Unlike most of the roads that were deeded to the Town during the sewer project, this one was not. John said the Town offered to take it but the association declined.

Todd continued with a review of the map, outlining areas where parcels were granted to abutting property owners by the association. After the sewer project came through the association deeded or quit-claimed these parcels from the ROW to the edge of the pavement. They kept easement rights for that ROW and they kept maintenance and easement responsibilities for these chunks of land. The abutting property owners got additional land, but there is still a restriction on these parcels with ROW and maintenance responsibilities. He feels this is a valid point. One of the things very early on was identifying they didn't control ownership of that 50' right of way. No other street has that situation. Through the evolution process of working with Ben, Jerry and Harvey Barrette, (former DPW Director) Dave Gofstein and now Mark Kiefer, we realized there was no way for us to get this 50' swath of land that we typically get. Todd came up with what he now thinks was a bad idea – he

looked at other associations and tried to be cooperative. Not all associations have a 50' right of way. Lakeview Terrace is 20'. Others are 30'. So without thinking through the process, he said what if we just get the pavement. The 50' right of way has a boundary that is definable. It was defined in the original association and through further surveys over the years. He made the suggestion to the association that we just take ROW to the edge of road. However, things evolve over time and getting this and re-creating that edge of pavement in the future will be a problem. That is what we did on another association - Pine Lake Shores. The edge of pavement varies. But if we only have to the edge of pavement how do we do any construction or other activities? So we tried to get a 5' offset to the edge of the pavement to resolve this. He showed a dotted line on the map indicating the 5' offset. When he saw that he really started to have a concern about what he had suggested to the association with regards to getting a road and/or boundary that would serve the Town of Coventry going forward. That is the major crux of the matter. There are other issues, such as turnaround issues. That a private owner actually owns a portion of Avery Shores is another issue. Having dedicated parking in the ROW is another concern, and having the edge of the road be at or over the ROW is another. He thinks those are all issues that can be worked out. It's the issue of coming up with a newly-defined ROW. The thing he has suggested was to try to create a new corridor with bearings and distances and tangent curves just like you would see in other associations that would be re-creatable. To follow the center line of Avery Shores as it stands now, we could go 15' from that and establish a new boundary line. That is a lot easier said than done. The reason is parsing of the ROW and defining new easements on the people that own the properties. Then there are parcels that people don't own – so it is not cut and dry. That's why we are where we are. It is a matter of two things: the circumstance with which Avery Shores was parsed out, and a bad idea becoming festered. He is not pleased with where we are. He thinks there is a fundamental issue with this road that is not simple to try to resolve. Thomas Pope commented that everything is resolvable.

John Elsesser noted at the time the association was dividing up these properties, the Planning & Zoning Commission had considered filing legal action because it made the subdivision more non-conforming. Richard Williams asked who made that decision – the association? Ben Emmanuele said yes, because we felt the Town wanted to take our properties. Boundaries were set in 1911 and recorded in the land records. The survey that was done as part of the sewer project was deeply flawed. Now pieces of property we all thought belonged to us are part of the ROW. We attempted to make sure any existing structures were grandfathered in and we were told no. Jerry Dallas said he remembers a meeting at which we were told the Town felt this to be an illegal subdivision. One thing that stuck in his head was the statement that the minute one of those deeds to transfer the property hit the Town Clerk's office, that the Town would file a suit. John replied the Planning & Zoning Commission decided not to take that action due to political pressure.

Thomas Pope asked about the white strip between the orange sections on the map. Todd said that is the existing pavement edge. Thomas asked how wide it is at the narrowest point. Todd said approximately 18-20 feet. He thinks the simplest way to do this, and he, Sam and Mark have talked about it, is to go with the original Avery Shores 50' ROW and reserving the right to enter the property for road maintenance and improvements. The simplest way to do this would be that we get the pavement as our property, and then have the association quit-claim all of those properties to us. One caveat is there are outstanding parcels that haven't done that. If we got it for all of the properties it would be easy. He doesn't know the ramifications if we don't. It is important to have something that is re-creatable in the future. The road will evolve over time. The edge of the pavement will break, or someone will go over it, etc. It needs to have meets and bounds on it. Even with taking 5 feet on either side of the edge of the pavement you are still defining something that could be fluid.

Thomas Pope said it appears we are solving everything except for the blue area on the map. Todd said he thinks we need opinion from town attorney on that. John said the Town owns most of the roads

that are roads through the original establishment of the communities in town. At some point it was pointed out that the Town doesn't really want to own the roads, just have rights to them to reduce liability. We said we would prefer to own them so we have all rights. If the association wanted to turn over ownership of the areas in orange then we could potentially move forward. This doesn't address the issue of parking in the road. It is expensive to overturn an A2 survey. The only way to do that is with another A2 survey. There is a path here if people want to find it, but as far as the Town's interest - we are willing to take paved areas to work on it, but we need offsets to the side of it. Owning 50' is gone but if we have maintenance rights it helps because we don't have to define 5' off a paved surface.

Jerry Dallas said the association hired Steven Phillip to do the survey specifically to define where the pavement exists within the 50' area. He would think if that is the white area, then 5' alongside of it should be definable. It may not be perfect, but what is? Todd said technically this map doesn't tell us how to get from point to point. His issue is not today - it is 40 years from now when we are dead and gone. How does the Public Works Director deal with it then? You could do something like that but to re-create it you would have to put coordinate points at each change of vertices on that line. That is not practical in his opinion. John said if their deed says to the edge of pavement that leaves in question where that is even today. Todd's point about involving the Town Attorney is a valid point. If the road shifts it could be a problem. It is not something we're going to get title insurance on. Todd said there is no defined dimension for "bounded by easterly and westerly." In 2006 was it 10 feet and 12 feet. We don't know. Thomas said getting a legal description could be done today with GPS but it would be particularly messy because you don't have established points. Todd said that is why he recommends using the existing 50' right of way and claiming rights. Jerry said he believes as long as you have that map we could scrape the existing road away and go back to the right of way. Todd said we can't recreate it.

Ben Emmanuele said if these are minor issues we may very well be able to resolve them. It is upsetting to him to hear this information five years into the process. No presentation has been made like this before. He feels like we have been shadowboxing in the dark. Thomas Pope said he is not interested in what happened 10 years ago as long as we can move forward.

Sam Norman said one of the solutions was to find the centerline. We would like to move on. Jerry said there are conditions being put forth now that cannot be met by Gerald Park Association. Todd said he had originally given them two options. He now believes the better scenario is A. The association likes B. Sam said both A and B were presented as viable options. We were told to pick one and then when we did, now we're being told no. John noted that staff has certain responsibilities, but also has to go back to Council policy. Item 3.0 of the policy emphasizes extraordinary circumstances. Todd was giving some options but Council policy says generally it will not be deemed adequate. Sam said it sounds like an extraordinary circumstance to him. Ben said this was done only because of the extraordinary circumstance that our surveys were changed by Town action. Thomas said he thinks the language indicates that the unusual circumstance is the width of the road, rather than the idea that Gerald Park is different.

John Elsesser said if these two options are still in play he would recommend getting the Town Attorney's advice as to whether both are advisable, or one vs. the other. Todd said it can be done but it is a task. Thomas asked what the objections are to deeding rights of maintenance to the Town. Ben replied we have offered that from the beginning. Lisa Thomas read a summary of this matter from the document outlining the association's offer to turn over the road to the Town, which was included with the agenda packet. Ben said that is only a summary of our position. We provided a thick packet with deeds, maps, etc. as long ago as 2013. Thomas asked what the objection is to transferring maintenance rights of the entire 50' ROW to the Town. Ben replied to the extent of maintenance, none. In terms of reserving rights to take down people's property there is a concern. We were told to

watch for this. That language kept appearing in agreements. Thomas asked regarding the rights you maintain now - do they include the right to tear down property. Ben replied we do not have those rights. Thomas said then if they transfer it to the Town, the Town doesn't have those rights either. John said in the transfer we could beef those criteria up. Ben said that may be doable – we have never had this offer made to us before. This is completely new and not what we came here prepared to do. We will have to take it back to the membership - they will probably agree. Jerry said all those people who were concerned they might lose their garages will still have issues. John said there were issues during the sewer project that stipulated if a garage was torn down it would not be allowed to be reconstructed. They have agreed with different Public Works directors that if we have to take the 5' easement they would do so. He thinks 50' would be better because it is definable. It won't matter because we are talking about maintenance. Thomas said the only difference would be that the Town would do maintenance. Jerry said he doesn't think people would agree to allow an additional 20' into their land. John said the issue is maintenance.

Todd said the 50' ROW was never on the table. If you read the language again you will see they are going to deed us the property of the road that is within the ROW and then deed us the easement. Thomas said he doesn't care what was on the table previously. He cares about tonight. Todd noted that working to get surveys done and maps in place is a costly process. We were trying to keep the process simple and keep the association from incurring additional expenses. Maybe by trying to make it easy he has made it more complicated. Richard said it seems to him you have the pavement and you just take 5' on either side. Thomas said the issue is how you define the pavement. Sam said the issue of the 50' being the only line of demarcation is rigmarole - that's why we did the A2 survey. Ben said the survey was done by Phillip based on Todd's assertion that they had what they need. Todd said he disagrees. He believes his idea to do a nebulous offset from the edge of the road is a bad idea. We can create a 30' right of way but you are changing everybody's easement line. Sam said if we transfer the rights we can always add restrictions. We could agree to 5' past the pavement. We don't have to go door to door - we already have those rights. He doesn't think it's difficult and that the Town is nitpicking. We took what Todd said in good faith and created a response. We took the choice. Can we move on? Jerry said we're not going to get people to take a step back in history and give up their rights. Thomas said they already gave them up. Jerry said then what are we talking about. John said there would be an easement over an easement which will further cloud your title. We will have to get another deed filed on every property. Ben said the only easement we retained was a 5' easement for road maintenance. John said no, you kept the whole easement. An easement on top of an easement may affect your property value and your title. Sam said that would be our problem. Can we move on? John recommended they talk to a real estate attorney before making that decision.

Jerry asked how we move forward. John replied there are two bodies here that make the decision. Staff recommends to the Planning & Zoning Commission. Planning & Zoning then forwards their recommendations to the Town Council. If they say no it can be overridden by a 2/3 vote. Sam said we are concerned about doing the work and having the Town say they changed their minds. He would like to negotiate and get something in writing that says if we do what we say under the policy, and it gets done the proper way, and to Todd's and Mark's specifications, that the road will be accepted.

Richard Williams moved to recommend acceptance of Avery Shores as a Town road with a 50' easement defined by a map which would be presented to Planning & Zoning. John noted this would not preclude the association from introducing other restrictions. Thomas Pope seconded the motion.

Jerry said there are other issues. Some properties have deeded rights for parking. They park up against a retaining wall. It is a sticking point – they have been doing it for 60 years. John asked if it is on the road. Jerry said no. This area will not be deeded to the Town. John asked how narrow the road would be there. Jerry said he walked it with Mark who thought it would be ok. Mark said the

discussions we had regarding turnaround were satisfactory. Todd noted that what you would have is a road with a perpendicular parking area in the ROW established by deed. So you are going to lop off that section of the ROW. Jerry said yes we would redefine that area of the road.

John said the blue area on the map would need to be deeded to the Town. In another section we run out of room for the 5' easement because the association doesn't own the property. Jerry said in all places we are proposing giving a 5' easement on at least one side. In most cases both sides would have it except where indicated. He asked if that is acceptable. John said we have some concerns because we could be told we can't discharge snow. That could get the Town into litigation. As it stands now we can say we won't plow on a private road. Ben said our attorney has told us the plowing has been done long before this. We could move to get a summary judgment. Mark said he does have some concerns about snow removal in those areas because there is no snow shelf. Jerry said when discussions began we were told not to let it sink the ship. Ben said we have always known that particular homeowner has the ability to stop the negotiations. Thomas asked if they have talked with the homeowner. Ben said yes. She is not willing to give the 5' easement. Thomas said he is not willing to make a decision for a small interest group that might jeopardize the Town. Lisa said she is concerned whether the Town would be willing to accept liability. John said we might be able to get an easement for the right to discharge snow.

Jerry showed an area of the map where the road goes into Sam Norman's property. Sam is willing to let the association build a turnaround at the association's expense to Mark's specifications. Sam said that (former DPW Director) Dave Gofstein said backing up was not ideal but it could be done. Jerry urged the Council to take a closer look at the map and see that we have solved every problem we can solve. There are some situations we can't solve. Richard asked to verify whether you can back up with a plow. John said there has been a change of heart regarding backing up. There was a fatality on a Public Works crew last year which reminds us that backing up is a bad idea. Jerry asked what the Town is going to do this winter. John said we are hoping to make things better. We appreciate Sam's offer. We try to tell our drivers not to back up but every year it seems we have an accident. Jerry asked if backup cameras would help. John replied somewhat, but when you have sanders, etc. the view is hampered. Mark said safety is one issue but there is also efficiency. When there is an area that you can't maneuver it hampers your efficiency. Then if we get a big winter it becomes a lot more difficult. This might be an area where Dave and I differ but he is working toward maximum productivity. Mark said when the association gets a contractor to contact him so he can meet with them before they do the work and inspect the work after it is done.

Lisa Thomas noted a motion is on the table. She asked if we should continue it or withdraw it. Thomas said let's continue as long as we are making progress. Ben said he feels optimistic. Thomas asked if there is anything else we need to address. Mark said we need to inspect the road - he has not done that. We need to evaluate catchbasins, and trees to be removed and trimmed prior to moving forward. He would like to have current conditions on record and document improvements for completion of sign-off from Public Works. Ben asked if there is anything else needed in relation to catchbasins. Mark said we need to inspect them to make sure none have collapsed. Todd said drainage easements need to be defined. John thinks most of the drainage issues were captured by Vortex during the sewer project. Ben said we don't anticipate a problem with that.

John said his recommendation before the Committee votes is to seek legal counsel. At some point we should have someone who knows real estate law take a look at both options. Richard Williams withdrew his motion. Thomas Pope withdrew his second. Thomas said next month we want to see some progress. John will contact the attorney. Mark will look at the road, catchbasins and trees. John will talk to the person with the snow removal issue. Somebody has to talk to person with the blue section to get an easement. Thomas asked if the association members are comfortable with the

progress made tonight. Sam said regarding the issue of doing the work first and not getting approval – he would ask the Council to change that part of the policy so other associations do not have same problem.

**Pine Lake Shores:** Louise Napoletano said she agreed with what Sam was saying regarding changing requirements. When all this started for the trails in Pine Lake Shores, she and Todd were working on easements and then Mr. Kiefer walked into our meeting in March 2015 and said we have to do turnarounds. The association doesn't have a lot of people willing to make all these little easements. There is a parcel that one owner might be willing to convey. She understands the need for turnarounds but we don't have a lot of people on board. The size of the space he needs is the size of her house. She wants to know if we do all of this work that you will agree to take over the property. Mark Kiefer also added having the roads reclaimed and milled and large brush removed. It seems like every single time we make progress something gets added. We asked for an extension. If the Town wants us to do all this extra work we need more money and more time.

John Elsesser said he thinks the extension shouldn't be a problem but there are some philosophical issues about what is a trail and what is a common driveway. Other associations like Waterfront Heights had to do major improvements before the Town would accept their roads: gravel, drainage, etc. They are still 20' roads but when the roads are so shot there is nothing left, the pavement deteriorates over time. On some of these trails, we used to send letters to associations saying we can no longer plow your road because it will damage our plows. The sewer project fixed a lot of those roads so we haven't had to send many of those letters. Your trails are in that poor condition. We need to come up with a plan before we spend a lot of money on those trails. The A2 survey was valuable. Getting the roadside mower over there was helpful. Pine Lake Shores was a stretch to take. Basic philosophies were to take the main road in an association. Waterfront Manor also has lots of little roads that serve one house that we will never take. The policy doesn't do that, but if it's serving only two houses it's a common driveway and the association might want to deed them over to get out of the road business. Louise said the longest trail we have has 8 houses on it. What we need to know is if this is going to happen. John said they need to be patient. The road bond diverted staff into our core jobs. Some special projects had to be delayed. Todd was working well with you but we had to pull him off the project. A trail with 8 houses, let's try to find a way to do it. A trail with two houses might be a driveway. We need to give you guidance but we haven't. Louise asked if she is wasting her time. John said he doesn't think so. The Council gave a little more in this year's budget – a little more money and fewer roads might help. Right now one of the reasons he is recommending more time is because staff needs more time. We would also love to find another way out of Pine Lake Shores but topography is a challenge. Long term the solution is probably through Fred White's property. He has indicated he might be willing to turn it over as open space. We might want to ask him for emergency access. We try to do a main loop and we don't own the sides off of it. Louise said we still want to try to work through this because we have come so far, but we just can't comply with the new requirements. We don't want snowplowing to end. John said we know how much these improvements cost. We think there is still more than the main drag that can be done. We need to give you guidance. You worked well with us on Pine Lake Shores. The partial turnaround is helpful. During a recent fire we had access issues for fire trucks. There are a lot of one-way roads in and no way out. We need time and we will work with you to define roads that are good candidates.

Anita Baldwin was also present from the association. She owns the end of the road that backs up to the Firth property. She would be willing to grant access wide enough for a fire truck. She said it is almost time for our annual meeting and we would like to be able to tell our members we haven't been abandoned. Thomas Pope asked how much time is needed. Todd recommended giving the association 5 years. John agreed, along with some plans for earlier action. Mark said he knows they have tried to upgrade roads to best of their ability. He thinks an extension would help because the driving issue is

funding to bring the roads up to standard. Even the roads you have worked on still need work. There are wheel ruts, etc. We need to develop what you should do and he is willing to do that. If the Town is going to take them we should know what we are accepting. He can't with a clear conscious accept some of them in their current condition. Thomas asked how long it would take Mark to give them a list. Mark said it won't take long, we have already sent an email with some requirements. The turnarounds are even more important in this area. In the middle of the night, when there is driving snow, you can't see. Thomas asked if the list is complete. Mark said no, he was concentrating on two. Louise said when we do the work, a year later it needs to be redone. We would have Jimmy Galey do the work but we don't want to wait for 3 years to find out we need to redo the work. Mark said that's why we concentrated on only two roads. Todd asked how many roads there are. Louise replied 12. Todd said then it won't be five years, it will be 10. John said we will need until September to come up with a list of issues for roads. He is afraid of overpromising with the Main Street project and other priorities. We can put something in writing for the association's annual meeting. You will need to let us know which road to concentrate on for work this summer. You also need to be aware of the betterment assessment option. The Council would also have to agree. There also might be financing available using CDBG grant funds to do road work. There are income eligibility requirements - people on the road to be addressed would have to do a survey. 75% of them would need to be able to income-qualify. We have done some of these - Kings Road for example, and we could get up to \$500,000. We would have to get into their grant cycle. This year we are going for roofing repairs at Orchard Hills. We will share the income guidelines.

Lisa Thomas made a motion to recommend a 5-year extension to the Council's Road Acceptance Policy for Pine Lake Shores to improve their roads for turnover with an option for a 5-year extension beyond that. The motion was seconded by Richard Williams and carried on unanimous vote.

Sam Norman asked if Gerald Park Association will need an extension for Avery Shores. John said yes. Thomas said we will do that at the next meeting.

3. **Acceptance of Minutes:**

Richard Williams moved to accept the minutes of the Steering Committee's March 28, 2016 meeting. The motion was seconded by Lisa Thomas and carried on unanimous vote.

4. **Reports:**

*Chairman:* None.

*Committee:* None.

*Review/Boards & Commissions/Vacancies/Possible Appointments:* None.

*Resignations:* JoAnn Watson, Zoning Board of Appeals. This resignation was noted and a letter of appreciation will be sent. John noted that this is an elected position and typically the political party is reached out to for a recommendation.

5. **Booth & Dimock Library Expansion Project/Policy Considerations:**

John said he met with the Board of Directors about a week and a half ago. They are in the process of hiring an attorney to review the sample agreements we sent that the two fire departments have for building use, and to possibly send a letter of intent to turn the building over to the Town upon completion of a successful referendum and funding for the project. He told them they did not need to be here tonight to convey that. They have huge sentimental issues they need to work through.

6. **Request for Improvements, Hinman Road:**

Thomas Pope said this road really amounts to a shared driveway. Lisa said she feels badly but it is not a town road. John recommended not to proceed and will draft a letter to the person making the request that includes information about how people with another road in an abandoned association solved

their maintenance problem. Consensus was to leave this issue up to the Town Manager.

7. **Consideration, Tax Abatements for Seniors:**

Await further information. No discussion.

8. **Adjournment:**

The meeting was adjourned at 9:25 PM on a motion by Richard Williams, seconded by Lisa Thomas and unanimously approved.

Respectfully submitted,

Laura Stone  
Town Council Clerk

# ATTACHMENT

The existing policy for Acceptance of Lake Association Roads as written is a source of concern, confusion and consternation. I have listened to input from a variety of people and perspectives. I have heard input from all sides and frankly we have a communication problem that is exacerbated from a lack of specificity as to the exact requirements that are required to facilitate the transfer.

The organizations have a perception that requirements have been fluid based on interpretations of individuals as personal has changed. The Town has an interpretation based on experience and in-depth knowledge of public works projects. It would seem at this point that we need to clarify in writing a detailed checklist of tasks, that once complete will accomplish the goal of making the roads acceptable for transfer.

The Associations need to have a feeling of confidence in going forward that requirements are not fluid but are specific, realistic and can be accomplished. The Town must be comfortable that in the end the Town will be accepting roads that will not place an undue burden on the community as a whole that would not generally be beyond that of other roads accepted.

At this point in time once the checklist is written and understood by all parties, it may be prudent to examine the timeframe for completion in light of the existing approaching deadline for completion of the work. It should be the goal of all sides to work together in a spirit of harmony to bring this matter to a successful conclusion.