

## OFFICE OF THE SELECT BOARD

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### TOWN OF ARLINGTON MASSACHUSETTS 02476-4908

June 10, 2020

To Residents of Edmund Road:

The Arlington Select Board will hold a public hearing on a petition received from two-thirds of the abutters of the private way known as Edmund Road, (134' nely of Brand Street to Washington Street) in accordance with Arlington Town bylaws, "Repairs to Private Ways", on **Monday, June 29, 2020, at 7:15 p.m. The meeting will be conducted remotely by Zoom. Information for this meeting will be available on the Town's website 48 hours prior to the meeting.**

The purpose of the public hearing is to determine if the repairs should be made. The public hearing will provide property owners an opportunity to be heard on the matter prior to the Select Board taking action on the petition.

The total estimated cost of the work to be performed is \$32,000. The estimated assessment, per lot, to the abutting property owners is \$3,555.55 . If the Select Board approves the project, one-third of the total estimated cost (\$1,185.18 per lot) is required **by certified check or money order** prior to the start of the project. The remaining balance will be due upon completion, or if you choose, it can be assessed on your tax bill for payment over a **five-year period with interest**, in accordance with the M.G.L. Chapter 80, The Betterment Act.

Should you have any questions regarding this, please do not hesitate to contact me. Enclosed please find a copy of the Town bylaws, and a copy of the public hearing notice.

Very truly yours,  
SELECT BOARD

A handwritten signature in cursive script, appearing to read "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:fr  
Enclosures

(PLACE TOWN SEAL HERE PLEASE)

Legal Notice  
SELECT BOARD  
PRIVATE WAY REPAIR  
PUBLIC HEARING

At 7:15 p.m. Monday, June 29, 2020, there will be a public hearing by the Select Board on a petition received from two-thirds of the abutters of the private way known as Edmund Road (134' nely of Brand Street to Washington Street) in accordance with Arlington Town Bylaws, "Repairs to Private Ways". The purpose of the public hearing is to determine if funds from the Private Way Account should be expended for said roadway. The meeting will be conducted remotely by Zoom starting at 7:15 p.m. Information for this meeting will be available on the Town's website 48 hours prior to the meeting.

Per Order of  
The Select Board

Arlington Advocate publication:  
June 18, 2020  
June 25, 2020

## **ARTICLE 3 REPAIRS TO PRIVATE WAYS**

### **Section 1. Classification**

The Town Engineer and the Director of Public Works upon request of the Select Board acting in its capacity as the Board of Public Works shall recommend the classification of private ways in the Town according to the state of their construction and repair. The Board may then adopt such classifications with any modifications it may deem appropriate.

### **Section 2. Definition and Authorization**

**(ART. 20, ATM -05/04/92) (ART. 23, ATM - 04/28/04)(ART. 12, ATM - 04/23/18)**

- A. The private property owners abutting private ways are responsible for the maintenance of such ways, which must be maintained so that there are no defects to impede the safe passage of emergency vehicles. This bylaw provides a means by which the Town may assist in the maintenance of such ways, primarily by providing a mechanism for private way abutters to fund repairs known as a "betterment."
- B. The Board may vote to direct the Town Manager to make temporary repairs to private ways at the request of the Director of Public Works as provided below. Temporary repairs shall be limited to the filling of potholes and temporary patching.
- C. The Board may authorize a temporary or extensive repairs to private ways by abutter petition for a betterment. Extensive repairs shall include, but not be limited to, skim coating, armor coating, drainage work, and grading of gravel roadways. For all extensive repairs the petitioners agree to enter into a contract with a private contractor to repair and pave the roadway forthwith.

### **Section 3. Criteria**

**(ART. 35, ATM - 05/18/05; ART. 12, ATM 04/23/18)**

#### **A. Abutter Criteria**

The Board shall in making its determination as to the advisability of making temporary or extensive repairs by abutter petition take into consideration the following factors: By-Laws of the Town of Arlington Title III

- 1. The accessibility of the properties on the private ways to emergency vehicles such as police, fire and rescue.
- 2. The volume of traffic that utilizes the private way i.e. dead-end as opposed to feeder or connecting streets.
- 3. The percentage of abutters on the particular private way petitioning the Board for the repairs.
- 4. The number of years that the way shall have been open to public use.



5. Such other considerations that the Board deems appropriate.
6. Public Safety.

#### **B. Town Criteria**

The Board may authorize temporary repairs at the request of the Town whenever the Director of Public Works so advises the Board that repairs are required to abate an immediate hazard caused by a defect necessary for the safe passage of public safety vehicles.

#### **Section 4.      Petition (ART. 12, ATM 04/23/18)**

The Select Board shall consider any private way or portion thereof for temporary or extensive repairs after having been petitioned to do so by at least two-thirds of the total number of abutting property owners on the Private Way who directly abut the portion to be considered for temporary or extensive repairs. The Town shall only be considered an abutter for the purposes of this section, and assessment of costs in Section "6," to the extent a private way is substantially used by Town staff or the public for the specific purpose of utilizing an abutting Town parcel.

The Select Board may after careful consideration, elect to do the entire portion which was petitioned for, or a lesser portion, provided at least two-thirds of the abutting property owners on the lesser portion to be done are in favor of such action. The Select Board shall upon receipt of a petition with at least two-thirds of the abutters' signatures affixed thereto By-Laws of the Town of Arlington Title III shall hold a public hearing on the advisability of ordering the repairs and the kind and extent thereof. All abutters shall be given written notice of the hearing not less than seven (7) days prior thereto.

#### **Section 5.      Alternate Petition**

Notwithstanding the provisions of Section 4 above, the Board may also consider a number of private ways for repair as a whole project when these private ways are ways where a majority of abutters are members of an association of abutters whose major purpose has been the maintenance and repair of those ways upon which these members' properties abut.

The Select Board may only consider these private ways to be repaired as a whole project when having been petitioned by two-thirds of the total number of abutters who abut all of the ways represented by the association. The Select Board upon receipt of such a petition shall hold a public hearing on the advisability of ordering the repairs and the kind and extent thereof. All of the abutters on all of the ways represented shall be given written notice of the hearing not less than seven days prior thereto.

#### **Section 6.      Assessment of costs (ART. 23, ATM – 04/28/04) (ART. 35, ATM – 05/18/05) (ART. 12, ATM 04/23/18)**

The costs of all labor and materials and processing shall be assessed equally to all

abutters on the private way, or portion thereof (except with respect to Town property as set forth in Section 4), or if the Select Board votes to order any repairs pursuant to a petition filed under Section 5 all the abutters on all the private ways to be repaired without regard to linear frontage.

A **one-third deposit** of the total estimated cost of the completion of the repair project shall be required before any work can be commenced. All remaining costs shall be apportioned, assessed and collected on a perproperty basis pursuant to the procedures provided in Chapter 80 of the General Laws, the Betterment Act, including the placing of liens on the affected property and the collection of apportioned costs by means of property tax collection.

Any and all such deposits shall be deducted from the equalized share of the property owners actually paying.

**Section 7.      Collection of Apportioned Share**  
**(ART. 35, ATM – 05/18/05)**

The Select Board before authorizing any repairs shall adopt a formal Betterment Order which shall require each abutter to pay their property's unpaid apportioned share of the repair cost over a five year period to include interest at 5 percent or 2 percent above the cost (including Town oversight and administration costs) of any bond issued to fund the repair in question. The Assessors in conjunction with the Town Tax Collector will commit such amount to the respective abutter's property tax bill and the Engineering Division of the Public Works Department will cause same to be recorded at the Registry of Deeds so that same runs with the land.

**Section 8.      Liability**  
**(ART. 35, ATM – 05/18/05) (ART. 19, ATM – 05/04/92) (ART. 11, ATM 04/23/18)**

There shall be a limitation of liability on the Town of Five Hundred (\$500.00) Dollars for any damages arising from any negligent repair of the private way which shall include damage from surface water run-off.

No repair shall be commenced until all the petitioners have signed an agreement with the Town holding the Town harmless from any additional damages arising from any negligent repair and providing evidence of insurance to the satisfaction of the Town. However, nothing in this paragraph shall excuse the Town from damages to property caused by the Town or agents thereof, during the repair process.

Temporary repairs made at the request of the Director of Public Works necessary to abate an immediate hazard caused by a defect shall not be considered as maintenance of the private way, nor shall the way be considered a public way. The Town shall not be liable for any damage incurred by the defect, subsequent repair or failure to make repairs to private ways.