



Office of the Selectboard
49 Center Street, Brandon, VT 05733

Report of Hearing and Determination of Necessity on
Altering a Highway:
Finding and Decision of the Selectboard

Re: Brandon NH 019-3(496); Brandon Village "Segment 6" Roadway Reconstruction Project (hereinafter the "Transportation Project"); property of Francis and Doris Farnsworth, 38 Franklin Street, Brandon, VT (parcel #6022 as shown on right-of-way details sheet 17 and right-of-way sheet 34 of the plans of the Transportation Project Brandon NH 019-3(496) as filed on 28 September 2015 in the office of the Clerk of the Town of Brandon, being a portion of the property recorded in Book 81, Page 165 of the Town of Brandon Land Records).

INTRODUCTION AND PROCEDURAL HISTORY

1 This proceeding involves a motion made by the Selectboard of Brandon, Vermont, that the reconstruction of Segment 6 of a six-segmented section of US Route 7 commence.

2 On 22 July 2015, the VTrans Right of Way Acquisition Chief approved compensation in the amount of \$650.00 to the property owners for temporary easements required of the Farnsworths (referred to as "grantors" below) for their property at 38 Franklin Street, to wit:

a A temporary easement to enter upon land of the grantors during the period of construction to disconnect and connect water and sewer lines, if applicable, right of and between approximate stations 21+103.8 and 21+120.2 of the established centerline of the Transportation Project.

b A temporary easement to enter upon land of the grantors during the period of construction to remove guy wires at or near and right of approximate station 21+105.2 of the established centerline of the Transportation Project.

c Temporary easements to enter upon land of the grantors during the period of construction to prune trees approximately 7 feet above proposed sidewalk at or near and right of approximate stations 21+108.3 and 21+111.0. All stations are of the established centerline of the Transportation Project.

3 Such compensation was offered to the property owners on a number of occasions between the date of approval by VTrans and the date of the condemnation hearing on 15 December 2016. Negotiations between the property owners and designated agents of the Town of Brandon failed to result in agreement on conveyance of the three temporary easements required.

4 On 30 November 2016 and 7 December 2016, notice of a public hearing was published in the newspaper of record of the Town of Brandon, namely "The Reporter".

5 On 15 November 2016, notice of a public hearing was posted at three public places within the town of Brandon as well as the www.townofbrandon.com website.

6 On 15 November 2016, a copy of the notice of public hearing was mailed to the property owners.

7 A site visit to the Farnsworths' property at 38 Franklin Street was conducted at 10:00 AM on 15 December 2016 by the Brandon Selectboard and others. A public hearing was held at 12:00 noon on 15 December 2016 at the Brandon Town Hall.

8 Present at the site visit and the hearing were the following members of the Brandon Selectboard: Doug Bailey, Seth Hopkins, and Devon Fuller. Also present were Daryl Burlett (Town of Brandon Director of Public Works), Chris Bean (Engineer, CLD), David Munro (Engineer, CLD), Francis A. Farnsworth (property owner), Constance Tyron Pell (Attorney from Carroll, Boe & Pell), Scott Robertson (Local Project Manager for VTrans), David Atherton (Brandon Town Manager), and Luanne Merkert (Recording Secretary).

9 Mr Francis Farnsworth was afforded opportunity, without limitation or restriction, to ask questions of the Selectboard and others present and to make statements regarding the Transportation Project and his property. Minutes of the meeting taken by the recording secretary accurately reflect the discussion and proceedings of this hearing.

FINDING AND DECISION

Based on the site visit, hearing, and deliberative session held by the Selectboard on 15 December 2016, the Brandon Selectboard makes the following findings:

1 The Brandon Selectboard finds that pursuant to 19 VSA § 501, the public good, necessity, and convenience of the inhabitants of the Town of Brandon require securing by condemnation the three temporary easements aforementioned of the Farnsworths' property at 38 Franklin Street in order to continue with the Segment 6 Roadway Reconstruction.

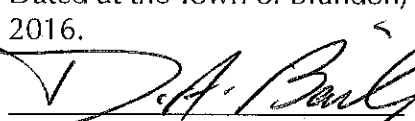
2 The Brandon Selectboard finds that the \$650.00 approved by the VTrans Right of Way Acquisition Chief is just compensation to the property owners for these temporary easements.

Based on these findings, the Selectboard concludes as follows:

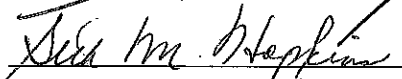
1 It is the decision of the Brandon Selectboard to attain by condemnation the three temporary easements aforementioned in order to proceed with the Transportation Project.

2 It is the decision of the Brandon Selectboard that Francis and Doris Farnsworth be compensated \$650.00 as just compensation for such easements.

Dated at the Town of Brandon, County of Rutland, State of Vermont, this 16th day of December, 2016.



Doug Bailey, Chair



Seth Hopkins, Vice-Chair



Devon Fuller, Member

Condemnation Hearing
Brandon Select Board
December 15, 2016

Select Board Members Present: Doug Bailey, Seth Hopkins and Devon Fuller

Others in Attendance: Town Manager David Atherton, Daryl Burlett, Chris Bean, David Munro, Francis Farnsworth, Constance Pell, Scott Robertson

The meeting was called to order by Doug Bailey at 12:05 PM with introductions of all in attendance. This hearing was for the Board to hear concerns of Mr. Farnsworth about the route 7 work and right of way process in front of his house at 38 Franklin St.

Parcel #6022 38 Franklin St

Chris Bean from CLD Engineers showed the plans of the route 7 segment 6 roadway reconstruction project. He explained that the project will start just south of the fire station and end just north of Brandon Auto Sales roughly 1.1 miles. The purpose of the project is to correct deficiencies in the roadway surface by removing the concrete and replacing with materials that should reduce noise and vibration. In addition there will be shoulders added and new sidewalk with curbing through town as well as a new drainage system. The drainage project will work in conjunction with the water and sewer departments.

The utilities would be underground from the library to the bridge by the town office. There will be new routes, signage and 2 sets of traffic lights as well as spacious parking.

Mr. Farnsworth said that his main concern is the vibration and noise from the trucks that travel route 7 all day starting at 5:00 in the morning and he has leaks and cracks in his cellar. He said that the road is not meant for the amount of traffic and weight of the trucks. He will be selling the property at some point and will have a hard time doing so because of this.

Mr. Bean said that is why the project is taking place, to correct that matter. He is sure that he will see a great improvement to those concerns and will actually gain roughly 4 feet of lawn as the sidewalk will be closer to the road. The beautiful new sidewalk with curbing should make it a more desirable property. The improvements should increase value to all properties along this strip

Mr. Farnsworth said that the right of way has taken some of his property.

Mr. Bailey asked to explain the difference between what Mr. Farnsworth owns and the right of way line.

Mr. Burlett said that Mr. Farnsworth still owns the property it only means that the town has the right to maintain the road and sidewalk.

Mr. Fuller said that the right of way easement was in place when he purchased the house. Every street in Brandon has the same easement. He further said that if the town needed to widen the road it would have to go through the legal process of paying him fair market value for the land and actually purchase it from him. The money that has been offered to him is just for the temporary shut off of utilities while work is being done.

Mr. Farnsworth said again that it will be hard to sell his house because of the noise and vibrations from the trucks and that the roads were not intended to handle that amount of weight and usage.

Mr. Fuller said that by reconstructing the road and removing the concrete slab and putting the proper base down and then the asphalt, it will reduce the vibrations. The biggest complaint he has heard as a select board member is the vibration on route 7 from the trucks. This project is going to greatly improve the conditions for everyone, and he further feels that it will actually help Mr. Farnsworth to sell his house because of the improved road and sidewalks into town. It is just an easement to allow the town to maintain what is already there.

David Munro from CLD Engineers said that GMP set two stakes for the utility pole that will be closer to the sidewalk and one that the guy wire will come down to.

Mr. Fuller said that the purpose of the hearing was to hear his concerns of the connect and disconnect of his utilities.

Mr. Farnsworth wants the town to look at his basement. Mr. Atherton said that he had an appointment to do so along with the water department, but Mr. Farnsworth cancelled. He would be glad to reschedule. Also the contractor for Segment Six will video it before and after the project is complete.

Mr. Hopkins said that the select board has been to a number of houses on Franklin Street, Grove Street and Conant Square and they have been in some cellars. The fact is route 7 is a major carrier of traffic and they can't tell truckers that they can't use the public road but rather are trying to make the very best road we can so that they can do it safely. Additionally, the property values will be enhanced because of the better road that is engineered to handle the amount of traffic that comes through this town every day.

Mr. Farnsworth thanked the board for their time and left.

Parcels #6091 and 6091A 4 Conant Square

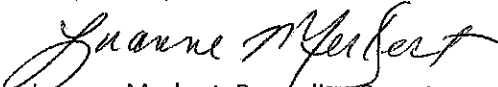
This property was negotiated and a settlement has been made. No hearing is required for this property. Mr. Atherton said that they met with the attorney for 4 Conant Square and came to an agreement. They were offered and accepted a total compensation of \$5,000.00 and the town will be adjusting the right of way line in front of their property. They will grant the town their easement for the project.

Mr. Bailey asked if they should offer additional compensation to Mr. Farnsworth. Mr. Atherton said that they already negotiated a pole and guy wire off from his property and his is a temporary easement.

Ms. Pell, attorney for the town said that it is significantly different from the other property. It's a matter of turning off and on and is only temporary.

The hearing was adjourned at 12:55pm.

Respectfully submitted


Luanne Merkert, Recording Secretary

Condemnation Hearing
December 15, 2016

Selectboard Meeting Sign In Sheet for :

Condemnation Hearing
Dec 15, 2016 12:00pm

Print Name Here

Sign Name Here

Daryl Barlett

~~Daryl Barlett~~

CHRIS BEAN

~~Chris Bean~~

David Munro

David Munro

~~Francis H Farnsworth~~

FRANCIS H FARNSWORTH

Const. Tgm Pell

Pell

SCOTT ROBERTSON

~~Scott Robertson~~

Notice of Hearing
On Altering a Highway
Selectboard, Brandon, Vermont

The Selectboard of the Town of Brandon hereby gives notice to the persons named below as owners or persons interested in lands and rights that may be affected by a decision of said Selectboard, acting on a motion to commence condemnation proceedings including a determination of necessity for the taking necessary for a project known as **Brandon NH 019-3(496); Brandon Village "Segment 6" Roadway Reconstruction Project.**

The motion made by the Selectboard asks that the construction of reconstruction of Segment 6 of a six-segmented section of US Route 7 commence. The board and any member of the public will meet at the Town of Brandon Town Hall at 10 a.m. on December 15, 2016 for a site inspection of the Segment 6 Reconstruction Project section at the properties outlined below, and then meet at the Town Hall at approximately 12 p.m. to conduct a hearing on the question of whether the public good, necessity and convenience of the inhabitants of the town require condemnation of properties in order to continue with the Segment 6 Roadway Reconstruction Project. The Board will assess damages to be paid to persons owning and interested in the lands to be taken for the Segment 6 Roadway Reconstruction Project through review of Valuation Estimates submitted of the properties listed below.

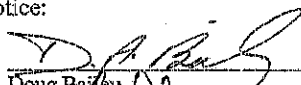
As required by law, notice of this site inspection and hearing is being provided by certified mail to each of persons owning or interested in lands through which the highways pass, listed below, as well as the municipal planning commission. A copy is to be posted in the office of the Town Clerk, and published in the Brandon Reporter, a local newspaper of general circulation in the area, not less than 10 days before the time set for the hearing.

The petition and other pertinent information relating to the proposed highways, including but not limited to the plans of the Transportation Project Brandon NH 019-3(496), are available for public inspection and copying in the office of the Town Clerk of the Town of Brandon during business hours. A survey showing the subdivision roads is also available for review and copying at the town office. The following persons have been notified of the public hearing:


Francis and Doris Farnsworth
38 Franklin Street, Brandon, VT
Parcel #6022as shown on right of way details sheet 17 and right-of-way sheet 34 of the plans of the Transportation Project Brandon NH 019-3(496)

Charles T. Powell, Steven D. Zorn, and Brent L. Buehler
4 Conant Square, Brandon, VT
Parcels #6091 and 6091A as shown on right of way details sheet 25 and right-of-way sheets 43 and 44 of the plans of the Transportation Project Brandon NH 019-3(496)

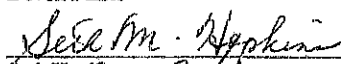
Signature of Selectboard members giving notice:



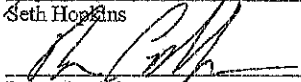
Doug Bailey



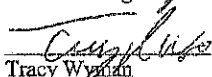
Devon Fuller



Seth Hopkins



Brian Coolidge



Tracy Wyman