

Town of Hawley, Massachusetts
Minutes of a
Selectboard / Board of Health / Zoning Board of Appeals Meeting
In Person & via Zoom
October 24, 2023

Present: Will Cosby, Hussain Hamdan, Robert MacLean – Selectboard
Lloyd Crawford, ZBA alternate
Tinky Weisblat, Gal Friday
Virginia Gabert, Treasurer and Financial Administrator
Chris Tirone, Lloyd Crawford, Georgette deFriesse, Bernie Barnhart, Gina Barnhart,
Donna Lemoine, Wayne Lemoine, and (via Zoom) Leslie Clark

The meeting was called to order at 7:03 p.m. Warrants and minutes from previous meetings were signed. Then:

1. The Selectboard started with the property of the late Bob Stone on West Hawley Road.

The Health Agent's order had been served at the property. Will asked for a motion to act related to the health agent's determination that the property was an attractive nuisance. Hussain moved for a finding that the property owner had not complied with the Health Agent's October 17 order. Will seconded the motion, and all voted in favor.

Hussain noted that another motion would be needed to decide how to deal with the violation. Bernie Barnhart, whose water line ran through the Stone property, said that the wall that was leaning heavily at the Stone property would have to be taken down. He asked who was responsible for acting. Will said that the estate of Bob Stone was responsible, that the town wasn't in the water-providing business. Bernie became heated, and Will said that the town would not be responsible for fixing the Barnharts' water situation if the wall were taken down and damaged the pipe that carried the water.

Hussain observed that the structure was a definite nuisance and would probably qualify under the Attorney General's abandoned-building program as no one would take ownership. After Will and Bernie once more became heated, Hussain said that the water and the unsafe-building situations were two different issues, and the latter was what was in the Board's purview to discuss that evening. Bernie said he could work with whatever happened and didn't believe his water line would be hurt if the wall came down. Will repeated that if something did happen to the line, he wanted to make sure the town wouldn't be responsible, and Hussain reminded everyone that even if there were no water issue, the property would be dangerous.

Gina Barnhart said that if the water line did break, her husband could fix it. Will said that if there were a fence erected, no one would be able to come onto the property.

Hussain explained that the Barnharts had an equitable property interest in entering the property to get to their water so they would have to be able to come in through a gate. Hussain asked Bernie whether he could reroute the water line so it didn't pass under the damaged building. Bernie said it would be hard to do that by himself. Hussain asked about trenching along the side of the structure. Bernie said that would also be hard.

Hussain observed there were other reasons to consider knocking the building down. If it were merely fenced, the wall might still fall over the fence and injure someone; if the wall were down, that couldn't happen. He asked whether Bernie could manage under those circumstances. Bernie stated that he could manage for a few years and hoped to dig a well eventually, once the status of the land on which his family lived was settled. (It was currently in bank foreclosure and wasn't in Bernie or Gina's name.) Hussain said that Randy Crochier of FRCOG had agreed that the Barnharts had some kind of water rights in relation to the Stone property. Will asked whether anyone had investigated erecting a fence, wondering how much fencing would be needed. Hussain suggested that fencing was needed only where a man-made hazard existed. Will again expressed concern about harming the Barnharts' water line, reminding the Barnharts of the risk. Gina asked how many times the town had been sued in a similar case; she was told that this situation was unprecedented. Hussain agreed that it was a valid concern for the Town not to want to risk doing additional harm to the line.

Will asked how many linear feet of fencing might be needed. Bernie guessed about 200 feet; Hussain used state GIS data to estimate the amount at 190 feet. Will asked where the money to pay for the fencing might come from. Chris laughingly suggested a bake sale. Virginia said that the cost would be added to the tax-title account and would be paid for by funding at Town Meeting in the spring. Gina asked what kind of fence might be erected. Will said the fence had to be strong enough to deter people. Hussain noted that it didn't need to be very expensive, just solid enough to keep out children and make it clear that the area was off limits. If a dedicated individual breached it and got hurt, the liability would be on that person.

Donna Lemoine asked whether there was a cellar hole at the Stone residence (there was) and suggested that perhaps volunteers could help dismantle the structure. The board and Bernie agreed that the structure was too precarious to allow this.

Hussain asked road-crew member Chris Tirone how the staff might go about tearing down the wall. Chris suggested using the excavator with the grapple. Hussain asked whether the road crew could make the wall fall outward. Chris said he believed it could. Hussain asked a clarifying question which confirmed that if the wall fell outward, it would probably not affect the water line at all.

At Will's suggestion, Hussain moved that the highway department be asked to tear down the dangerous wall and to investigate the cost of a fence. Bob seconded the motion. All voted in favor. Bernie promised to work with anyone.

2. **The group moved on to road work and grants.** Lloyd Crawford said that he had been in touch with Verizon, whose representatives had said that the needed telephone cable for Sears Road would be delivered the following week. He reported that he had also talked to Holden Sparacino at the Department of Ecological Restoration, who had said he was okay with going ahead with the culvert work at King Corner without dealing with the dam nearby; Lloyd said he was hoping for written confirmation from Holden soon.

Hussain reminded the group that the dam was on private property and provided a fire pond for the Fire Department; he said he wasn't sure the state had any jurisdiction over it. Lloyd agreed and said he had wanted some kind of perpetual maintenance agreement regarding the dam. The Department of Environmental Protection sounded leery, but Lloyd still had hopes. He said that the town would need to work closely with the property owners.

Hussain asked whether the Sears Road project could be completed before the snow fell if Verizon did indeed get there the following week. Will said the culvert could be delivered quickly. Once the wires were moved, the basic work could be done in two weeks; then the town would have to wait for asphalt to arrive and be laid. The timeline was tight, he suggested, but possible. If the weather got too bad to lay asphalt before winter, the construction company could fill install a temporary dirt road.

Lloyd said that he was concerned about ballooning costs if the detour had to be removed and then put back in the spring. He noted that if progress didn't come within the week, he was inclined to call the press. Will countered that he hoped that no matter what the culvert would go in before snowfall, leaving just the asphalt perhaps to be dealt with in the spring.

Will expressed his thanks to Tedd White for putting up with the detour on his land and to Scott and Ellen Purinton for allowing things to be stored on their property. Will also observed that the following day STRAP grants would be announced, including a \$1 million to Hawley for work on Ashfield Road.

Gina asked who had programmed the light at Sears Road, which seemed to be way off in terms of its timing. Will said he would call Davenport, the construction company.

Hussain said he would be interested in seeing the timeline Lloyd had compiled of the Sears Road construction work. He suggested that the whole process had been embarrassing and confusing. He said that he wanted to know who had dropped the ball on this in the first place in terms of the plans for rerouting the cables not having been made before work started. Was it the Town, the Construction Company, GZA, or Verizon? Will suggested that responsibility unfortunately might be shared by everyone. Lloyd said that the Sears Road situation made him even more concerned about the possibility of installing fiber-optic cable in Hawley. Hussain said he hoped to see things more organized for future projects; in the future such arrangements needed to happen **before** a shovel touched the ground.

3. **Discussion moved to the question of broadband funding.** Will explained that no announcement had yet been made about funding. He noted that if the town received federal funding for broadband, Hawley would need to be audited annually; he asked Virginia whether an annual audit already occurred. She said it did not. She noted that receiving funds of either \$750,000 or \$1 million would trigger an audit. Will noted that this might be costly. The discussion was tabled for the moment.
4. **Tinky reported on her conversation with her electrician about the possibility of installing a new hot-water heater.** Unfortunately, she recalled, he had said that the town needed a plumber, not an electrician. Will asked whether the Department of Public Works could install the new hot-water heater. Chris was uncertain. Both Hussain and Donna said that they knew plumbers. Will said that if those two plus Hartnett Plumbing were consulted, the town would have done its due diligence.
5. **The group moved on to the question of installing signs at the entrance to the State Forest.** Tinky noted that this question had been raised because a woman had complained that an emergency vehicle had rushed by her and scared her as she was walking in the forest. Hussain said the Fire Department wasn't quite sure who had been driving or even on what date this had occurred, although the FD had frequently been in the forest including on recent calls. Vehicles went into the woods all the time. Given the uncertainties, the group decided not to act.

On the topic of signs, Donna remarked that a tractor trailer had gotten stuck on Tedd White's property because the signs detouring people away from Sears Road were insufficient. Lloyd said that he had talked to both GZA and Davenport about this issue, that something needed to be done. Hussain pointed out that if traffic became blocked at Sears Road, emergency-services personnel would need to know; this would affect their routes to hospitals. Hussain had sent a photo of the stuck truck to Lloyd to forward to GZA to urge it to act. Chris said that the Charlemont bridge detour also needed better signage. Tinky reported that she had been told that the Charlemont work was on the verge of completion.

6. **On the issue of setting a fee for special-permit applications,** Tinky observed that she had been informed by Virginia that a fee of \$100 already existed. Will asked whether the town wanted to raise the fee. Hussain expressed concern about raising fees for residents on all sorts of things. Will said he didn't see this as a revenue stream but believed the town should be able to cover its costs. Hussain countered that applicant is already required to cover notices and advertising requirements aside from the permit fee. Lloyd suggested that it might make sense to discuss the fee structure for all permits. Tinky was instructed to put that question on the next agenda.
7. **Tinky reported that the new website had finally been launched earlier in the day.** Will said that he thought the new site was great and a huge improvement. He wanted to

thank everyone. He encouraged those gathered to go through the site to make sure it was accurate.

Several people at the meeting, particularly those with cell phones, continued to be directed to the old version of the website. Tinky said she would talk to Bill Tuman, the web designer, about these issues.

In other business, Lloyd suggested that the ZBA appoint Fire Chief Greg Cox as an associate member, arguing that two associate members were needed. Hussain moved to do so, Bob seconded the motion, and all voted in favor.

There being no other business, the meeting was adjourned at 8:43 p.m.

Respectfully submitted, Tinky Weisblat, Gal Friday

Williams Cosby

Hussain Hamdan

Robert MacLean