

Road Discontinuance Policy

6-16-09

Bar Harbor Town Council

In order to formalize the way in which the Town Council processes property owner requests for discontinuance of public ways, the following "Road Discontinuance Policy" is hereby adopted:

1. Although the Town of Bar Harbor retains a town meeting form of government, Section C-10.A.(11) of the Town Charter authorizes the Council to "exercise all other powers of the Town of Bar Harbor not otherwise specifically reserved to the Town Meeting". Discontinuing town ways is not a power specifically reserved to the Town Meeting.
2. While it is not required by statute, it has been the Town's past practice, hereby formalized, that the Town will not discontinue a Town way or a portion of a Town way unless the Town Manager receives evidence from each abutter that they will suffer no damage from the proposed discontinuance.
3. Any property owner seeking discontinuance of all or a portion of a Town way adjacent to their property shall submit to the Town Manager:
 - A. A written request,
 - B. A map or sketch of the road or portion of the road requested for discontinuance,
 - C. Affidavits of Damages from each abutter on the Town's standard form,
 - D. and such additional supporting data as felt by the Town Manager to be helpful to the Town Council in making a decision.
4. Following receipt of a written request and all requested documentation, the Town Manager shall place the discontinuance on a Town Council agenda.
5. Town Council will consider the request and:
 - A. Pass a motion to begin proceedings to discontinue and set a hearing date, or
 - B. Pass a motion not to discontinue, or
 - C. Take such other action as the Council deems appropriate.
6. Following passage of a motion to begin proceedings, the Town Clerk shall:
 - A. Give notice to the Bar Harbor Planning Department, in the person of the Planning Director and
 - B. Give notice by first class mail to owners of directly abutting property whose addresses appear in the Town's assessment records.
 - C. Provide the Town Manager with an affidavit showing that the above notice was given.
7. On the allotted day, the Town Council will conduct a hearing and take action whether to discontinue the road:
 - A. If Council decides not to discontinue, no further action is required.
 - B. If Council decides to discontinue, Councilors will:
 - (1) Determine what, if any, damages should be paid to abutters, and
 - (2) Pass a motion to adopt the Order of Discontinuance, acting as the Municipal Officers, and
 - (3) Sign the Order of Discontinuance, and

(4) Pass a separate a motion to approve the order of discontinuance, acting as the legislative body. This step seems a bit redundant, since in the case of Bar Harbor the municipal officers and the legislative body are one and the same. However, because of the statutory language, the Town Attorney has advised Councilors to go through this extra step.

8. Following Council action to discontinue, the Town Clerk will:
 - A. Complete a certificate of discontinuance,
 - B. Record it in the Hancock County Registry of Deeds and
 - C. Send a copy to abutters.
 - D. If the way discontinued was formerly a state road, a copy also will be sent to the MDOT Property Office in Augusta.

LEGISLATIVE HISTORY

6-12-09 Staff suggested draft to Council
6-16-09 Adopted by Town Council