

December 25, 2021

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Dear Selectmen Epperson, King and Winslow,

I am writing to the BOS again to request that the west end of Shoals View Dr. be plowed by the Town of Rye. Below, you will find a 20 year history and some attachments pertinent to my request. I recently spent several afternoons reviewing town records at the Building Inspector's office and the DPW. I was looking at records of FairHill Estates homes on dirt roads to understand when those roads became accepted by the Town thus receiving town snow plowing services. I will be sharing what I learned from that research.

History of Snow Plowing West End of Shoals View Dr (200 feet).

Towns' people who have been involved:

Earl Rinker	Bud Jordan	Dennis McCarthy	Michael Donovan
Mel Low	Bruce Walker	Joe Mills	Priscilla Jenness
Bud Monahan	Leon Blaisdel	Nancy Weiland	Craig Musselman
Matt Upton	Mike Magnant	Joan Dawley	Jane Ireland

Historical Outline:

- 10 - 1999 - 32 Shoals View Dr. – I bought house and am the first person to live all year round on the west end of Shoals View.
- 11 - 1999 - I wrote the BOS to understand the status of the west end of Shoals View Dr. I was informed that the road was not maintained as defined in RSA 231:51: which states street will be discharged from public service if it hasn't been used for public travel. Presently, I maintain that in my 22 years of residency on the west end of Shoals View Dr. although a dead end, is used by the public: hunters, Mr. Beardsley, people hiking, snow shoeing, etc.
- 1 - 2000 - 32 Porpoise Dr. - Russ Bookholz rented house - street was plowed by the town. I called DPW to plow the west end of Shoals View. Bud Jordan came to my home and did a site exam. It was plowed once. I wrote a thank you note to Mr. Jordan for plowing and sanding the west end of Shoals View Dr. Then, all hell broke loose; I was notified that the west end of Shoals would not be plowed again. Meanwhile, Porpoise continued to be plowed and is still plowed to this day in the year 2021.
- 5 - 2000 - Received an undated letter from Matt Upton indicating that the town could no longer plow the road, as it was a private road. Matt Upton visits site and states he will look into it. He states the east and west parts of the road should be treated the same. If a service, i.e., plowing is done, regardless of town status or origin if the road, after 5 years it becomes a town street. It is accepted as a street, as is. I never hear from him again.
- 8 - 2001 - I wrote BOS indicating that I wanted the same services as Porpoise Dr., which was being plowed. Mr. Rinkler said I was alone in my pursuit; I was to get 25 signatures [attached – Exhibit Aa] and create a warrant article. I was advised to have my Atty, Thomas Keane review verbiage. Atty Keane called Atty Donovan several times and his calls were never returned. I was advised from legal council to go back to the Town.
- 9 - 2001 - Received letter from Nancy Weiland, Rye Exec Sec. informing me that the BOS adopted following policy: 'It is not in the best interest for the Town of Rye to accept as a

town road a private street that is not presently built to town road standards because of the expense that would be involved in bringing the road up to standards and because of the liability which would accrue to the Town.' I was also informed at the deliberative session the Selectman would add the following amendment to my warrant article. 'This warrant article shall not take effect until such time as the DPW and the BOS have certified to the Town Clerk that the road meets town road standards.' Note: There had never been any discussion of Shoals View Drive being a private street. My deed states my lot is a 75' by 125' square.

- 3 - 2002 - Warrant article submitted by me with 25 signatures from neighbors. Verbiage created by Atty Donovan. 'To see if the town will vote to accept as a Class V Town Rd the portion of Shoals View Dr. located west of Parsons Road, as shown on Rye Tax Map 20.3 and Subdivision Plan of Lots, Fair Hill Estate, dated June 1921 by John W. Durgan, Civil Engineer,' During my deliberative presentation, Atty Donovan was consulted and the amendment above was added to my warrant article. I did not understand that my warrant article could be changed. Shockingly, I learned that if I won, I needed to bring the west end of Shoals View Dr. to a Class V status. So, even if I won, which I did, I lost. I was set up for failure by the town. Votes - 754 yes, 449 no
- 3 - 2002 - Conversation with Bud Jordan. I'll need 6" of gravel. He will work with me on an ongoing basis to give me this gravel as he breaks up other roads and needs a place to dump gravel. Said to sit tight. Never heard from him again.
- 12 - 2002 - Since I never heard from Mr. Jordan, my neighbor, Paul Stankiewicz and I added crushed gravel to fill the holes and to add depth to the road. We had been told by Mr. Jordan if we did this, the road would be acceptable. The west end of Shoals View was not plowed during the snow storms in December 2002. I called and asked Mr. Rinker why, and he said it was not plowed because it was not paved. I informed him that Mr. Jordan said if we added the crushed stone he would have it plowed.
- 1 - 2003 - Received letter from Mr. Earl Rinker with diagram indicating road needs 18" of gravel and 24' width to be paved. He also indicated that the width of the road was an issue because it was too narrow. He offered to plow the west end of Shoals View if I paid the town \$280.00 a year. I am against this, as I want the same services my neighbors receive for the same tax dollar.
- My neighbor, Paul Stankiewicz and I measured the width of the other dirt roads in this section of Fair Hill Estates that are plowed. Results:
- | | | |
|--------------------------------|----------------------------------|---------------------|
| Coles Noyes - 13.5 feet | Pulpit Rock Rd - 14.5 feet | Davis Rd. - 13 feet |
| Rye Lane - 11.5 feet | Neptune Dr. - 12 feet | Porpoise - 13 feet |
| Shoals View Dr. East - 14 feet | Shoals View Dr. west - 12.5 feet | |
- 2 - 2003 - Mr. Monahan replaced Mr. Low on the BOS, when his term ended. Mr. Monahan visited me and indicated he would support me. He said that Mr. Mills is the person against it. I said I would speak with him personally and Mr. Monahan suggested against it.
- 8 - 2004 - Received correspondence from Atty Phoenix indicating per NH Municipal Practice Series, Vol 3, section 11:11, "Dedicated Ways", raises the possibility that Shoals View Dr. has been accepted by the Plan. He was moved that many other streets in the vicinity of Shoals View Dr are plowed although not paved, thus not up to town standards. He was troubled by the formality of the town's voting not to accept the west end of Shoals View as a public way. He spoke with Building Inspector Susan Zarlengo and, she did not see any reason why the town would not plow it when they plowed other narrow unpaved roads.
- 11 - 2004 - Letter to Mrs. Jenness requesting snow plowing west end of Shoals View Dr be revisited. She replied that the towns fear is that if they do it for me they will have to do it for everyone else. I replied that the town already does it for everyone else and would she please reconsider.

- 1 - 2005
- Attended BOS meeting with Atty Phoenix. "He explained there is confusion whether the west end of Shoals View is a private or paper street. In his opinion after his research the west end of Shoals is a 'paper street'. A paper street is defined as a street on a subdivision plan accepted by the town, yet never built. If it goes years without being used the street is 'on paper' and eventually the right of the public to use it vanishes. Daisy Lane is an example of this. The west end of Shoals View actually exists. In fact, I wouldn't have access to my home if one didn't travel Shoals View. Most homeowners who live near/on paper streets usually have additional frontage from another road. Therefore, his opinion is that Shoals View Dr. is not a 'private' road." A copy of Atty Phoenix's letter to Atty Donovan indicating his belief that Shoals View was not private is attached to the end of this document. Also attached 1997 Rye Annual Report, Article 14 that does not list Shoals View Dr. as a private Road. [Exhibit A1 and A2].
 - Porpoise Dr. is plowed. There are 2 homes on that street that do not have additional frontage for access. The status of the west end of Shoals View should be exactly the same as Porpoise. Additionally, during this meeting, I was verbally scolded and shamed by Mr. Mills and Mrs. Jenness for taking up their time on an issue that per their perspective was closed.
 - How is Porpoise Dr. classified? In my research at DPW, there is no documentation indicating it was accepted by the Town.
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- Circa 2006
- There was a large construction truck grading Porpoise Dr. I went over to speak to the driver. Driver stated: 'Russ spoke to Bud and Mike in a nasty way and asked for the road to be leveled. Originally they said no. Russ saw the truck driver on a nearby street and told him to add Porpoise Drive to his list.' It has been level and graded 3 times by the town.
- 12 - 2011
- Russ Bookholz purchases house at 32 Porpoise Dr. It has continued to be plowed for the 11 years he rented, thus based on info above, must be accepted as town road.
- 3 - 2012
- Read in town report that DPW had completed with paving roads in Fair Hill Estates, fixing the drainage problems. This seems odd to me as I live in Fair Hill Estates and there are several roads that are not paved. Additionally, storm water pours off Parsons Rd., down the west end of Shoals View. I always felt there was an elephant in the room about just snow plowing the remaining 200' of Shoals View: I now believe the elephant is the water running off of Parsons Rd.
- 2 - 2014
- Dennis McCarthy visited site to review Shoals View Dr. history. He indicated that road must have 20 years of public use. I have never restricted public use of Shoals View Dr., hunters, snow shoeing and cross country skiers use this access annually. It is a dead end street, like Porpoise Dr. and does not get much public traffic. Mr. McCarthy gave me a document from chapter 5 of 'Special Categories of Layouts and Roads, pages 85 and 86. It states: 'Municipal highway funds can be spent only on Class IV and V highways. However, *in 1994 the state legislature recognized a public safety need to keep some Class IV roads and private ways passable for emergency vehicles without requiring the municipality to reclassify or accept them as Class V roads with all the maintenance and liability responsibilities*'. The town declares these roads as 'emergency lanes.'
- 4 - 2014
- Memo to Mike Magnant for assistance. No response. Left messages for him, no call backs.
- 9 - 2014
- Walking back from mailbox at night tripped over large rock that circles culvert in the middle of the road and completely broke/severed my wrist. Laid there for an hour, calling for help. Realizing, I was not going to be found on a cold dark fall evening; I figured a way to roll my body while holding my wrist in place and got up, to the hospital; first doctor did not set correctly, needed surgery, was fired from my job because I couldn't type. Very difficult time, road not plowed all winter.

6 - 2015 - The town had a new road sign made for the west end of Shoals View Dr., removing the one that said 'Shoals View Dr.' and installing one that said 'Shoals View Dr. Ext.' Who authorized this and why? Copy of Town sent certified letter to neighbor returned to Town stating 'return to sender, as address was not deliverable as addressed.' Copy attached at end of report [Exhibit B]

3 - 2017 - Motion by Craig Musselman to appoint *Russ Bookholz* as a fill-in Deputy Building Inspector. Seconded by Priscilla Jenness. All in favor.

History - Prior to 1948 - Town of Rye never discontinued service to dirt roads. - No one had been excluded to property, forest and woodlands by using any of the dirt roads. If paper street was dedicated on original plot by civil engineer, John Durgan; road is 'In kind' to others built at the time and plowed. It is an extension of a currently accepted road. Also, residents need access to Fire and Ambulance.

- Town elected to plow these dirt roads in the 70's, yet there were no winter residents at that time. Fair Hill Estates was laid out to be taken over by the Town. Much discussion by Town officers of paper versus private roads owned by residents > Shoals View Dr. residents' deeds do not list the road as their property.

Currently - There are 3 culverts on the west end of Shoals View Dr. I have spoken with neighbors who lived here in the 50's and 60's to see if they could remember who installed those culverts. At this point, all indications are that the town did. I have requested the developers engineering plans for all the roads that comprised 'Fair Hill Estates' going back to June 1921 dated by Civil Engineer John W. Durgan from Sandra Dufresne of the Town's Building Department on 9.30.2021. I have received some info, yet no documentation on who installed culverts.

Summary - At this point, the west end of Shoals View Dr. is a larger issue then just having the holes filled and the road snow plowed. The water run off from Parsons Rd needs to be dealt with. The work that was done (filling drain ditch with crushed stone) at the intersection of 180 Parsons Rd. and Starboard Way, needs to be replicated at 61 Parsons Rd and Shoals View Drive. On the east side of Parsons Rd. the water forms a large puddle, creating a road and safety hazard to the motoring public and Shoals View Dr. residents. During a hard storm, this water drains down west side of Shoals View. Photos attached [Exhibit C].

It appears that Russ Bookholz, a former employee of Rye bullied the Town into doing the gravel work and plowing of Porpoise Dr. My neighbors and I should receive the same services he created for himself: grading and leveling road, filling ruts and snow plowing. Attached Town Road Map Plan No. 753-2, File 135, which does not even list Porpoise Dr. as a Town Road. [Exhibit D].

In closing, I want to thank Mr. McCarthy for his time in reviewing the town road record system he created. All along, I have only wanted the same services as my neighbors for the same tax rate. As I age, I want to feel safe and secure that fire and ambulance can get to me, and that I can exit Shoals View Dr. if need be.

Finally, thank you for reading this history. I sincerely ask that you reconsider my request and snow plow the west end of Shoals View Dr. during snow storms so I can feel safe. Thank you for your attention and time.

Kind regards,

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Attachments: Exhibits A - D

cc: Dennis McCarthy