



AGENDA ITEMS #: #22-98
COUNCIL MTG OF: August 9, 2022
FROM: David Caron, Town Administrator
OFFERED BY: Administration
PREPARED BY: Administration
SUBJECT: Harvest Estates

STAFF REPORT
Public Hearing 9-20-22

PURPOSE: To request that the Town Council lay out a Class A Trail on the town easement located at 29 Village Brook Lane.

TOWN ADMINISTRATOR COMMENTS: Please see comments within this staff report.

BACKGROUND:

Harvest Estates is a subdivision off Hampstead Road which includes Harvest Drive and Village Brook Lane. During the approval process in 1987 and subsequent discussions on this matter in 2006, the Planning Board concurred not to connect Harvest Drive and Village Brook Lane but instead reserved a 50-foot easement for emergency vehicle access only between the two streets. The area in question is paved, with bollards to prevent its use as a street. Over the years, this area has been used for pedestrian and bicycle travel, predominantly by students traveling to and from East Derry School.

The Town has received a letter from an attorney representing the owners of 29 Village Brook Lane, over which the access is located. Counsel is demanding that signs erected on the property directing pedestrians be removed. Atty. Keith has responded that the Town did not erect the signs in question, thus we have no interest in them. Further, Atty. Keith confirmed that the Town has an emergency access easement only and may be seeking to lay out a Class A Trail in the same location.

The property owner has removed the previous signs and erected no trespassing signs. The Police Department is concerned regarding escalation of this issue, particularly where school children are involved. There have already been contentious interactions between residents and the property owners.

DISCUSSION:

The Council discussed this matter with Atty Keith on August 2 and directed that the process to designate this land as a Class A Trail pursuant to RSA 231-A begin, which would provide for pedestrian access. Counsel believes the approval process should follow the procedure for laying out highways (public hearing with 30 days notice).

The property owner's attorney has communicated with Town Counsel regarding the parked truck in the area of the emergency access easement, and further alerted the Town that the property owners will contest the establishment of a Class A Trail. There is little doubt that the owners of 29 Village Brook Lane will also seek damages under RSA 231:49.

FISCAL IMPACT:

There will be a minimal fiscal impact associated with trail signs, etc.; the Town should anticipate significant costs to pay for any legal proceedings initiated by the property owner and for a Petition for Assessment of Damages be awarded by Superior Court.

RECOMMENDED MOTION:

Please see Resolution #2022-066 for Council action after the September 20, 2022, public hearing

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