

To: The Town of Allenstown, Mr. Mulholland
From: Resident at 25 Cross Street
Subject: Damages due to improperly paved road

Below is the requested document, explaining that the improperly paved road resulted in a berm that has become not only a nuisance, but a safety concern. As a result of the hearing held in November 2016, the town had only inspected this issue from the perspective of the berm. The issue is in fact the berm that was caused by the improperly paved road. It is a safety concern, because the unnecessary lip alongside the berm is a tripping hazard. Also the increase in grade going into driveway has led to difficulties accessing it in the winter both by foot and by automobile.

The solution to the issues above is to have a short section of the road graded and lowered, then repaved (a spot in the section is rising up about an inch and will need to be fixed already in the near future). This would help reduce the extent of the berm. Like mentioned above, I now have a driveway that I pay taxes & mortgage for and cannot use.

Looking at the contract between Advanced paving and the Town of Allenstown, it stats "pave @ 2", Approximately 130 ton @ \$80.00 per ton & 1" overlay from Valley street to main street 225 ton machine pave @ \$80.00 per ton". The contract between the town and Advance paving raised the road by 3" and no notice was generated per RSA 231:75. This noticed could have prevented the above issues. See below RSA

TITLE XX
TRANSPORTATION
CHAPTER 231
CITIES, TOWNS AND VILLAGE DISTRICT
HIGHWAYS

Repair of Highways by Towns

Section 231:75

231:75 Damages From Grade or Drainage Change; Assessment by Selectmen. – If in repairing a highway by the authority of the town the grade is raised or lowered, or a ditch made at the side thereof, or a new culvert, ditch, or other drainage structure is installed, or alterations are made to any existing culvert, ditch, or drainage structure, whereby damage is occasioned to any estate adjoining or not adjoining said highway, the determination of the amount of damages, if any, due to an aggrieved owner shall be determined as follows:

I. The selectmen or their designee shall, at least 30 days prior to commencement of the work, give notice by certified mail, in the manner set forth in RSA 231:9, to adjoining landowners and any other owners whose land might reasonably be anticipated to be affected, describing the work to be performed, and setting forth a place and time, at least 15 days after the mailing of said notice, but prior to the commencement of the work, at which said owners may be heard by the selectmen; provided however that:

(a) No such notice shall be required in cases where none of the work is proposed to be done outside the limits of the highway right-of-way, and such work consists solely of (i) maintenance grading, or the cleaning or repairing of existing ditches, or (ii) the repairing or replacing of existing culverts or drainage structures without altering their size, depth, or positioning.

(b) In the event of an emergency rendering the highway "insufficient" as defined in RSA 231:90, II, and where exigent repair is deemed imperative by the selectmen, the time limits set forth above need not be strictly observed; however such notice and opportunity for hearing shall be given to the greatest extent which is reasonable and practical under the circumstances, and the selectmen's minutes shall describe the nature of the emergency and the need for exigent repair.

II. The selectmen shall hear any owner desiring to be heard, either at a hearing noticed under paragraph I, or otherwise within 30 days after receiving a hearing request from an aggrieved owner. If an aggrieved owner applies for damages, the selectmen shall view the premises and assess the damages, if any, within 30 days of said hearing or within 30 days after the completion of the work, whichever is later, and shall file a record of their proceedings in the office of the town clerk. In assessing damages, any benefit which the landowner may receive by such repairs may be set off against the owner's claim. A hearing request made under this paragraph shall be made within 6 months following the completion of the work, and not afterward.

III. So long as the procedures set forth in paragraphs I and II are followed, the pendency of proceedings under this section shall not be deemed to require any delay in, or modification of, the proposed work, unless so ordered by the selectmen or by a restraining order issued by the superior court.

Source. 1848, 725:1, 2. CS 52:18, 19. GS 66:20. 1869, 6:1. GL 72:20. PS 73:24. PL 80:32. RL 96:32. 1945, 188:1, part 16:19. RSA 245:20. 1981, 87:1, eff. April 20, 1981. 2013, 16:2, eff. July 8, 2013.

Respectfully,
Benjamyn Carver

