

Memorandum from the Moderator

As presented in the Warrant for the Annual Town Meeting, Articles 15 and 22 do not contain sufficient property descriptions to satisfy the requirements of the Moderator's Rules (see IV. C. 5. E. on P. 108 of the Warrant). As a result of that, under the Rules no motions would be accepted and thus the town would not have the option to discuss or act on either of these two articles.

When I became aware of this deficiency I appraised town staff, the Select Board and the proponents of both articles. Thereafter, I was provided with the attached metes and bounds descriptions. Both of which are contained in public records, although not in the Warrant. Had these descriptions been included in the Warrant, there would be no concern and the two articles would have proceeded in the normal fashion.

Having received these descriptions, I was in the position of holding sufficient information to otherwise satisfy the Rules, but at the same time possibly denying the people of Wayland the right to even discuss these two articles because that information was not in the Warrant.

The essence of these articles has been known and discussed. To an extent each property is described in the Warrant. To not allow them to go forward because more detailed information was not in the Warrant, did not seem fair to the proponents or the best interests of the people of Wayland.

The Rule in question is in the Moderator's Rules. I have long held and said publicly that the Moderator has the right and the responsibility to waive, amend or revise these Rules at any time whatsoever, in the interest of justice as perceived by the Moderator.

The purpose behind the Rule in question is to allow the people of Wayland sufficient information to understand the property that is the subject of any article. Given the references and descriptions already in the Warrant and the ability to leverage the modern capacity to distribute the attached metes and bounds descriptions, I feel that justice is best served by allowing these articles to go forward.

Several points need to be stated here:

1. As Moderator I remain indifferent to the outcome of either of these articles. My sole concern is that they be properly put before the Meeting. I have chosen within my authority to waive the Rule to allow these articles to be discussed by the assembly at the Meeting.
2. It has been my position that I make no final rulings until in the Chair at the Meeting. In this case I have to an extent made a ruling prior to the Meeting. However, to have not done so would have been fatal to further public discussion of these articles.
3. This action does not create nor may be used as precedent. Any and all individuals who bring real estate matters before Town Meeting need to comply with the Rule. I have chosen to waive the Rule in this case only. The Rule still exists it has not been modified in any way. If a similar situation arises while I am Moderator, I would likely deny any motions and any discussion.
4. The fact that publicly available property descriptions could be promptly provided, does not mitigate the issue, in fact it exacerbates the failure. These descriptions could have and should have been included in the Warrant. Something failed in the process of developing the articles. Whoever promotes or prepares real estate related articles in the future needs to be aware of this and comply with the Rule.

ARTICLE 15 – 27 Sherman’s Bridge Road

Metes and Bounds description of land on Sherman’s Bridge Road

Beginning at the southeasterly corner of the premises on the Sudbury Road at land now or formerly of Fox; thence running North 40° 16’ 30” East 443.8 feet bounding on land now or formerly of said Fox; thence running North 28° 46’ East 309.5 feet bounded by said Fox’s land; thence running North 84° 11’ West 733.5 feet to a 24 inch pine tree, bounded northerly by land now or formerly of one Janes; thence running South 12° 45’ West 492.7 feet to said road at a point near its junction with Ox Bow Road, bounded westerly by land now or formerly of one Janes; thence running easterly, bounded southerly by said Sudbury Road by three courses as follows: first by a curve having a radius of 150 feet at a distance of 70.66 feet; second; running South 66° 42’ East 230 feet; third by a curve having a radius of 917.5 feet at a distance of 153.77 feet to the point of beginning. Containing 8.33 acres and shown on a plan entitled “Plan of Land in Wayland, Massachusetts, owned by Chas. W. Janes; Henry F. Beal, Engineer”, dated July 1915 and recorded with the Middlesex South District Deeds in Book of Plans 236, Plan 6. Being the premises conveyed to the grantors by DOMENIC L. BARTHOLOMEW and LUCILE WEST BARTHOLOMEW by deed dated June 18, 1966 and recorded at the Middlesex South District Registry of Deeds at Book 11154, Page 305.

ARTICLE 22 – Launcher Way

Metes and Bounds description on land at launcher way

A certain parcel of land situated in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, being more particularly bounded and described as follows:

Beginning at an iron pipe at the northeasterly corner of land of owner at land now or formerly of John R. Kerr, et ux; thence by land now or formerly of John R. Kerr, et ux South $41^{\circ} 25'$ west 306.09 feet to an iron pipe; thence through land of owner North $54^{\circ} 02'$ West 161.0 feet, south $52^{\circ} 00'$ West 180.0 feet, North $68^{\circ} 00'$ West 365.0 feet and North $12^{\circ} 00'$ West 210 feet, more or less, to the southerly side of Ox Bow Road; thence in a general easterly direction by said Ox Bow Road 915 feet, more or less, to the point of beginning.

Containing 5.60 acres, more or less.

The above described premises are subject to a right of way, 50 feet in width and approximately 410 feet in length, 25 feet either side of the center line of a proposed access road to be built by the United States of America and extension thereof, said centerline will begin at a point on the southerly side of Ox Bow Road approximately 418 feet westerly of the iron pipe at the northeasterly corner of the above described premises and will run southwesterly along centerline of proposed access road and extension thereof approximately 410 feet to other land of owner.