

CITY OF NEWTON

IN BOARD OF ALDERMEN

PUBLIC FACILITIES COMMITTEE REPORT

WEDNESDAY, MAY 18, 2011

Present: Ald. Schnipper (Chairman), Lennon, Albright, Gentile, Crossley, Danberg, and Lappin

Absent: Ald. Salvucci

Also present: Ald. Linsky

City personnel present: Lou Taverna (City Engineer), David Turocy (Acting Commissioner of Public Works), Robert Waddick (Assistant City Solicitor), and Robert Rooney (Chief Operating Officer)

#157-11      VERIZON requesting a grant of location to install and maintain 115' ± of 2" conduit in an easterly direction in CHURCH STREET from Manhole 16/129, and 346' ± of 2" conduit in a southerly direction in MAPLE AVENUE and place three 2' x 3' hand holes, which will be located between 206 and 200 Church Street, between 14 and 18-20 Maple Avenue and between 26 and 32 Maple Avenue. All hand holes to be placed on public property. (Ward 1) [04/27/11 @10:06 AM]

**ACTION:**      **APPROVED 7-0**

**NOTE:**      Ellen Joy, Verizon Representative, presented the request for a grant of location to install conduit and hand holes in Church Street and Maple Avenue located in Newton Corner. A revised plan with a change in the location of one hand hole was provided to the Committee on Monday, May 16, 2011. The original plan was revised in response to a letter (attached) from an abutter, who was concerned about the location of the hand hole. The project will also involve removal of poles located on private property and installation of conduit on Maple Circle, which is a private way. The installation of the conduit would eliminate several instances of overhead lines crossing a number of properties. Currently, several of the poles located on private property are rotting and many of the overhead wires are attached or running through trees on private property. This is an unsafe situation, which needs to be rectified as soon as possible. In addition, Verizon cannot locate the easements for the poles on the properties. The Department of Public Works has signed off on the petition with the standard conditions that include a police detail during the duration of the project.

The public hearing was opened and Robin Boger, 200R Church Street, spoke on the petition. Ms. Boger has been trying to get the poles on her property removed for a number of years. It has become a priority as her daughter is getting married and Ms. Boger would like to hold a party in her yard but cannot due to the poles in her yard. There is a pole located almost next to the front door of her home. The pole and the tree supporting the pole are rotting and could come down during a storm or high winds. In addition, a rotting tree located in the yard cannot be removed because Verizon's wires run through it. Ms. Boger has been unable to use the front door of her home for a number of years, as the entryway including the stairs to the

house could not be built until Verizon finalized its plans for the pole removals and undergrounding of the wires. Ms. Boger provided the attached photos depicting the rotting poles and the wires running through the trees. Mr. Madden, 32 Maple Avenue, inquired if all of the poles in the neighborhood are being removed. Ms. Joy responded that Verizon would not be removing all of the poles. Mr. and Mr. Hon, 194 Church Street voiced their support of the petition and are delighted that a pole at the corner of their property would be removed.

Matthew Kane, 14 Maple Avenue, is concerned that Maple Avenue was not returned to its original condition after NStar installed conduit. The roadway is uneven along the asphalt patch in the street. In addition, there are spray paint markings located everywhere along the street because of the upcoming work and the previous work by NStar. Mr. Kane would like to see the street returned to its original condition once all of the work is completed. Commissioner of Public Works David Turocy stated that the spray paint markings are from the Dig Safe requirement and should fade with time. The Commissioner explained that it is likely that the uneven patch on the street is temporary. The City's inspectors visit the site during and after construction and make sure that the permanent patch returns the street to its original alignment and condition. Several Committee members felt that there should be a docket item to discuss the practice of using spray paint to mark the utilities, as it is not aesthetically pleasing.

Mr. Charkoudian, 18-20 Maple Avenue was unable to attend the public hearing but provided the two attached letters. As mentioned previously, the first letter was a request to revise the plan for the grant of location. The second letter is in support of the project. He was concerned about the placement of a hand hole in front of the property lines of 14 and 18-20 Maple Avenue because it would make exit and entry from the driveway difficult. Verizon revised the plan and shifted the hand hole location to Maple Circle.

The public hearing was closed and Ald. Lappin asked how quickly the work could be scheduled. Ms. Joy was unable to give a timeframe for the project but will speak with her superior to determine if the work can be done as soon as it is approved. Ald. Lennon urged Ms. Joy to make any accommodations possible to move this project along, as the Boger's have been waiting a number of years for the pole to be removed and are planning a party, which would require the use of their front door and yard. With that, Ald. Lennon moved approval, which carried unanimously.

**Chairman's Note: An emergency preamble will be requested at the Board of Aldermen meeting, as there are health and safety concerns to citizens and their property.**

Re-appointment by His Honor the Mayor

#159-11 EDMUND WHITE, 79 Cleveland Street, West Newton re-appointed as a member of the DESIGNER SELECTION COMMITTEE for a term of office to expire on December 31, 2013. (60 days 7/19/11) [05/10/11 @ 3:05 PM]

**ACTION: APPROVED 7-0**

**NOTE:** Mr. White is being reappointed as a member of the Designer Selection Committee. The Committee did not feel it was necessary for Mr. White to be present for the

discussion of his reappointment, as he has served on the Designer Selection Committee for a number of years and most Committee members are familiar with Mr. White. He is a contractor and very familiar with many aspects of construction. The attached resume provides Mr. White's experiences and qualifications to serve on Designer Selection. The Committee approved Mr. White's reappointment unanimously.

Re-appointment by His Honor the Mayor

#160-11 ARTHUR COHEN, 79 Warren Street, Newton Centre re-appointed as a member of the DESIGN REVIEW COMMITTEE for a term of office to expire on December 31, 2013. (60 days 7/19/11) [05/10/11 @ 3:05 PM]

**ACTION:** **APPROVED 7-0**

**NOTE:** Arthur Cohen is being reappointed as a member of the Design Review Committee. The Committee felt it unnecessary for Mr. Cohen to be present for the discussion of his reappointment. Mr. Cohen is well known to the Committee members and has served on the Design Review Committee since 1998. Mr. Cohen is a principal architect at ARC and provided the attached resume, highlights Mr. Cohen's qualifications to serve on the Design Review Committee. The Committee approved the reappointment unanimously.

#139-11 ALD. LINSKY, DANBERG & SALVUCCI proposing that §§26-71, 26-72 and 26-73, **Sidewalk construction requested by owners, Materials for sidewalk construction, and New curbing installation**, respectively, be amended to extend participation in the betterment program to property owners who voluntarily pay the residual 50% of the costs over time in addition to the 50% initial payment provided under the ordinance. [04-27-11 @9:38 AM]

**ACTION:** **HELD 6-0 (Danberg not voting)**

**NOTE:** The docketors are proposing an amendment to both sidewalk and curbing betterment ordinances. The attached draft amendment language was presented at the meeting. The amendment would allow property owners interested in a sidewalk or curbing betterment to pay 100% of the cost. Property owners would have the option to pay 50% of the cost at the time of the betterment and 50% through the betterment process. The current ordinances state that the property owner shall pay 50% of the total cost of the sidewalk or curbing abutting the property owner's estate. The ordinances also state that the property owner's cost must total at least \$500 to qualify for payment over 20 years. If the cost is less than \$500, the property owner must pay for the betterment prior to construction.

The City currently installs sidewalks and curbing when they are paving roads if it is an appropriate location for sidewalks and curbing. However, it is not possible to offer betterments to every street that is being reconstructed or provide betterments for individual property owner requests due to limited labor resources and funding constraints. The impetus for the proposed amendment was a result of the upcoming Hyde Street reconstruction. Many of the property owners on Hyde Street were willing to pay 100% of the cost of the betterments, after the Public Works Department determined Hyde Street was not a good option for curbing and sidewalks.

The Department of Public Works has since offered to install the curbing and sidewalks on Hyde Street per the current ordinances.

The Commissioner of Public Works, David Turocy, has not had an opportunity to thoroughly review the proposed amendment language but suggested that language be added to raise the qualifying \$500 to \$2,500. The Commissioner pointed out that the life of a road is shortened if curbing is installed at any other time but during road reconstruction. He also stated that in order to install sidewalk and curbing for individual property owners, it would need to be done as an overtime project. Ald. Gentile was concerned that the proposed amendment did not include any language stating that curbing and sidewalk betterments would be addressed when staffing allowed. He also raised concern regarding the cost to the City of allowing property owners to pay for betterments over twenty years. He is not comfortable approving the amendment without knowing what position the City would be in if the language were adopted. He added that citizens have the option to hire a private contractor to install sidewalk and curbing.

Chief Operating Officer Robert Rooney asserted that the twenty year payment option creates a cash flow problem. The City pays 100% of the betterment up front. Residents are informed when they call to request a betterment that there is a betterment request list that goes back ten years and they can hire private contractor. Mr. Rooney believes that the amendment needs further discussion as it relates to a larger policy. He is concerned that the proposed amendment creates a disparity between streets. If property owners can afford to pay 100% of the cost for betterments, the City will do them first. The amendment would make the betterment program difficult to administer and could promote allegations of favoritism. Ald. Crossley suggested that it would be beneficial for the City to have a street classification plan for streets sidewalks, and curbing.

Ald. Albright pointed out that the proposed amendment needed further research. The Chairman would like the Public Works Department and the Executive Office to look at the proposed amendment, and make recommendations to the Committee. Ald. Gentile moved hold, which carried unanimously.

**REFERRED TO PUBLIC FACILITIES AND FINANCE COMMITTEES**

#146-11 HIS HONOR THE MAYOR requesting authorization to appropriate and expend the sum of one hundred twenty thousand dollars (\$120,000) of Federal Emergency Management Agency (FEMA) reimbursement funds for expenses incurred during the March 2010 flooding for the purpose of funding renovations to the former Newton Corner Branch Library, repair of the Senior Center elevator, abatement and restoration of the stairs at the Homer Street entrance to City Hall and other building maintenance expenditures. [04-25-11 @ 5:55 PM]

**ACTION:** **PREVIOUSLY APPROVED 7-0-1 (Salvucci abstaining) on 05/16/11**

**NOTE:** The above item was approved at a joint meeting of the Finance and Public Facilities Committees on May 16, 2011. The item appeared on the May 18, 2011 agenda for the Public Facilities Committee to ensure that the Committee could discuss the item, if no action was taken on the item at the May 16, 2011 meeting.

#385-07      ALD. SCHNIPPER AND GENTILE updating the Public Facilities Committee on the progress of the Newton North High School Project. [11/21/07 @ 10:23 AM]

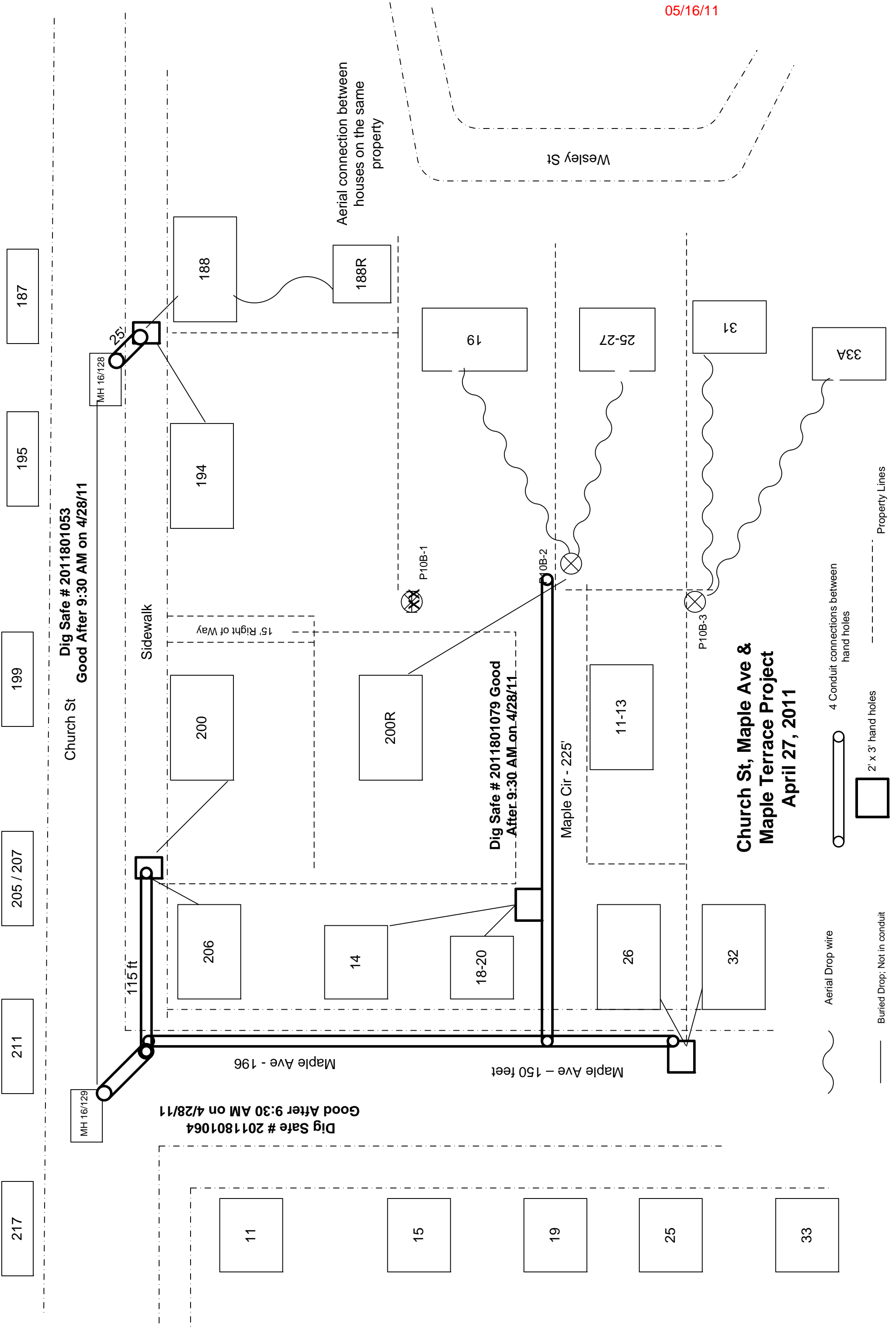
**ACTION:**      **HELD 6-0 (Danberg not voting)**

**NOTE:**      Ald. Gentile and Schnipper provided a brief update on the Newton North High School Project. The original school has been demolished and all that remains is rubble to be removed. Chief Operating Officer Robert Rooney provided the attached photo of the site of the old high school. As the weekly construction meeting was cancelled, there was no further update. The item was held for further updates and discussion.






Respectfully submitted,

Sydra Schnipper, Chairman

Revised  
05/16/11



**Church St, Maple Ave &  
Maple Terrace Project  
April 27, 2011**

-  Aerial Drop wire
-  Buried Drop: Not in conduit
-  4 Conduit connections between hand holes
-  2' x 3' hand holes
-  Property Lines

Dig Safe # 2011801064  
Good After 9:30 AM on 4/28/11

Dig Safe # 2011801079 Good  
After 9:30 AM on 4/28/11

Church St  
Dig Safe # 2011801053  
Good After 9:30 AM on 4/28/11

Aerial connection between  
houses on the same  
property

115 ft

Sidewalk

15' Right of Way

Maple Ave - 196

Maple Ave - 150 feet

Maple Cir - 225'

Wesley St

MH 16/128

MH 16/129

P10B-1

P10B-2

P10B-3

187

195

199

205 / 207

211

217

188

188R

194

19

25-27

31

33A

200

200R

206

14

18-20

26

32

11-13

11

15

19

25

33

Request to Dig 112' on Church St From MH  
16/129 Church St in a Easterly direction.  
Place 2 - 2" conduit. Trench will be 12" wide  
and 18" deep.

Request to dig a total of 350' on Maple Av.  
Starting at MH 16/129 southerly on Maple Av  
and ending at the property line between 26 &  
32 Maple Av.  
Place 2 - 2" conduit. Trench will be 12" wide  
and 18" deep.

Place 3 new 2' x 3' hand holes.  
Place #1 hand hole in the grass area  
between 206 & 200 Church St.  
Place #2 hand hole 196' southerly on  
Maple Av. from MH 16/129 Church St  
hand hole to be placed between the  
driveways of 14 & 18-20 Maple Av.

Place Hand hole #3 350' southerly  
from MH 16/129 Church St. on Maple  
Av. Hand hole to be placed between  
the property line of 26-32 Maple Av.

All Hand holes will be placed on  
public property.

**Leon Charkoudian**  
18 Maple Avenue, Newton, MA 02458

May 13, 2011

Sydra Schnipper, Chair  
The Public Facilities Committee  
Board of Aldermen, City of Newton  
100 Commonwealth Avenue  
Newton, MA 02549

11 MAY 16 A 9 10  
CITY CLERK  
NEWTON, MA. 02159

RE: Wednesday, May 18, 2011, Public Hearing  
"VERIZON requesting a grant of location to..."

Dear Chairperson Schnipper:

This letter is in support of the subject Verizon proposal to provide underground service to houses on Church Street, Maple Avenue and Maple Circle, in Newton Corner, subject to one objection and the concomitant revision sought in the plan. While the objection to the plan has been discussed with the Verizon personnel, because Verizon has already submitted its plan to the city of Newton, Verizon personnel have requested that this objection be brought to The Public Facilities Committee.

The objection is to the proposed handhold location, which is not located in a tree belt, but rather on the property line and at the abutting points of the two driveways of 14 Maple Avenue and 18/20 Maple Avenue. (See accompanying photographs.)

The proposed handhold will make difficult the entry and exit from the street to the respective parking spaces. Further, the handhold will suffer constant damage from cars going over the handhold to enter and exit the driveways, ultimately damaging the handhold and the connections within the handhold. This damage to the handhold and its connections is not to the benefit of Verizon, and certainly not to the benefit of the Verizon customers.

As has been explained to the Verizon personnel, 18/20 Maple Avenue, as well as 14 Maple Avenue, are currently served by aerial lines attaching to the Network Interface Devices on the rear aspects of these houses. It would be a far greater advantage both to Verizon, and its customers, to feed these three Network Interface Devices from a handhold on Maple Circle with trench connections directly to the Network Interface Devices on the rear aspect of the houses. Verizon personnel have indicated that such an approach is feasible but again, because the Verizon plan has already been submitted to the City of Newton, we are obligated to seek this redress through this committee. (See accompanying plan revision.)

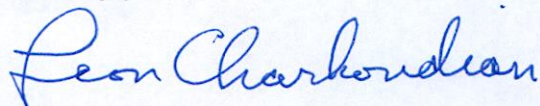


Most importantly, to access 20 Maple Avenue through 18 Maple Avenue would further complicate the condominium conversion of this side-by-side duplex. As explained above, each side already has its own Network Interface Device precluding the need to set up unique access in the future.

Based on the above, we request that the Public Facilities Committee of the Newton Board of Aldermen remand the Verizon plan to Verizon to revise the plan with the removal of the handhold on the property line of 14 Maple Avenue and 18-20 Maple Avenue, and replace it with a handhold on Maple Circle to serve these properties from the rear aspect of the buildings.

I look forward to working with the committee, City of Newton personnel and the Verizon personnel, to relocate the handhold to the proposed location, which would be beneficial to all parties.

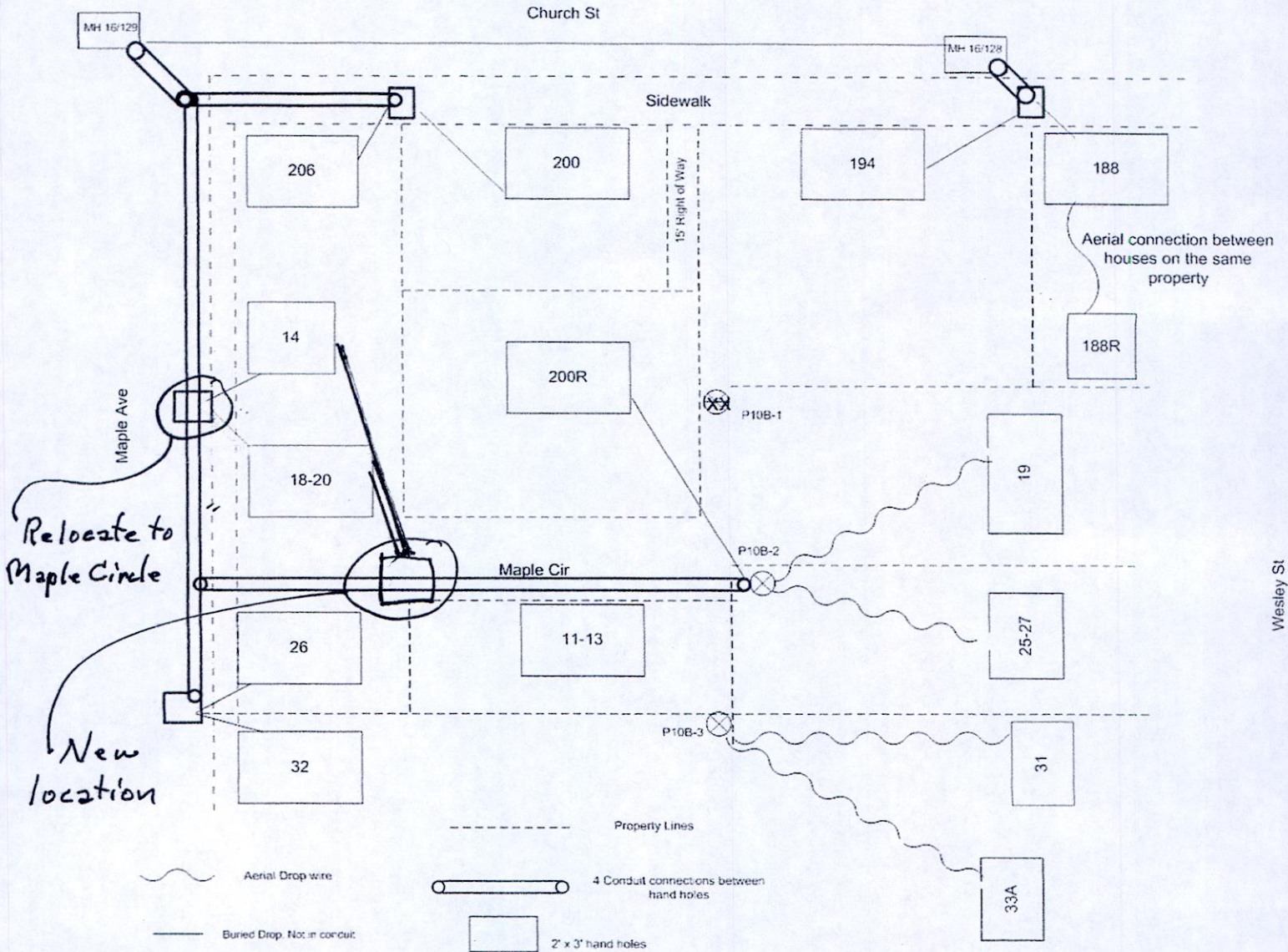
Sincerely yours,




Leon Charkoudian

Enclosures








**157-11**

Rotting Verizon pole supported by two trees that have grown together (one of which is also rotting). Note cables going to neighboring homes in 3 directions. We have not been able to use our front door for nearly 4 years because the entry way (steps and patio) could not be built until Verizon finalized the plans for burying the cables.



Tree trunk by driveway being used as a pole. Top part of tree was removed in 2004 after branches dropped near our cars. I was assured at that time that the cables would be removed so that the rest of the tree could be taken down in the "near future."



**157-11**

Cables attached to pole on Maple Circle.  
None of these cables provide service to our home.



**157-11**

Tree on Maple Circle being used as a pole. We have wanted to remove this tree for 6 years as it has continued to decline. Note broken branches which no arborist will touch because of proximity to cables.



157-11

Another tree being used as a pole which we have wanted to remove for years but have not been able to do because of the cables.



A photograph of a residential street. In the foreground, a tall, thin tree trunk stands in a grassy area. To the right, a two-story house with grey horizontal siding and white window frames is visible. In the background, a silver SUV is parked on the street, and a red house is partially visible through the trees. The scene is brightly lit, suggesting a sunny day.

**157-11**

Another tree we'd like to remove - note cables to neighbors' homes.

**Leon Charkoudian**

May 17, 2011

Sydra Schnipper, Chair  
The Public Facilities Committee  
Board of Aldermen, City of Newton  
100 Commonwealth Avenue  
Newton, MA 02549

RE: Wednesday, May 18, 2011, Public Hearing  
“VERIZON requesting a grant of location to...”

Dear Chairperson Schnipper:

Shawna Sullivan has informed me that Verizon has amended the subject plan removing the handhold between 14 Maple Avenue and 18-20 Maple Avenue and placing it on Maple Circle to access these homes from their rear aspect. With this plan amendment, I withdraw my objection to the subject Verizon proposal stated in my letter of May 13, 2011, to you and now fully endorse the proposed Verizon underground system without qualification.

You should know how appreciative I am that Shawna both called and emailed me while I am out of the state to inform me of the change in the plans. Her kindness has precluded my driving back to Newton for the hearing in the midst of a family get-a-way.

My best wishes to you.

Sincerely yours,

Leon Charkoudian

**Edmond H. White Jr.**

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**Born** January 3, 1927  
Newton, Massachusetts

**Education** *Primary*  
Franklin Elementary School, Newton MA  
Pierce Middle School, Newton MA  
Warren Junior High School, Newton MA  
Newton High School, Graduated 1945  
*Undergraduate*  
Boston College, Graduated 1951  
Bachelors of Science in Business Administration

**Family** *Married*  
Ruth Sikes (of Auburndale) 1952  
*Father to*  
Donald, Cynthia, Kenneth and William

**Work Experience** *Richard White Sons, Inc.*  
General Contractors and Construction Managers  
Family Business, Established 1905  
"Over a Century of Construction Excellence"  
*Positions Held*  
Current Chairman of the Board  
Former President  
Former Vice President

**Clients**  
Boston College  
Harvard Business School  
Boston University  
Massachusetts Institute of Technology  
Suffolk University  
Wellesley College  
Morgan Memorial  
Various Banks  
Various Private Clubs

**Industry** *Lifetime Director*  
Associated General Contractors of America  
*Former President*  
Associated General Contractors of Massachusetts  
*Former President*  
Massachusetts Building Congress

**ARC**  
Architectural Resources  
Cambridge

Professional Experience  
**Arthur Cohen, FAIA, LEED AP**  
Principal



As a founding principal at ARC with more than forty years of experience, Arthur has led the design of many of the firm's award-winning projects which have shaped the direction and quality of work at ARC. By integrating form, function and state-of-the-art technology, Arthur has created nationally-recognized science and research buildings that have enhanced architectural design standards, while also being particularly appropriate for their place and purpose. For clients in both the corporate and academic worlds, such projects have resulted in enlightened design of spaces that promote and support intellectual endeavors and scientific developments. Arthur is a LEED AP and actively promotes sustainable design principles on all of ARC's projects to create environmentally responsible buildings.

#### EDUCATION

*Bachelor of Architecture, 1964*  
Rensselaer Polytechnic Institute

#### AFFILIATIONS

American Institute  
of Architects, Fellow

Boston Society of Architects

Designer Selection  
& Review Committees,  
City of Newton, MA

#### REGISTERED ARCHITECT

Massachusetts  
Florida  
Maine  
NCARB

Five Cambridge Center  
Cambridge, MA  
02142 USA

#### REPRESENTATIVE PROJECTS

##### American Science & Engineering

Research & Development & Headquarters  
Building

##### Bayer Diagnostics (formerly Ciba Corning)

Master Plan  
Research and Development Building  
Manufacturing Building

##### Brown University

MRL Laboratory  
Laboratory Renovations

##### Center for Blood Research

Master Plan  
Office/ Lab Renovation

##### Dana Farber Cancer Institute

Research Facility at Longwood Center

##### Digital Equipment Corporation

Office and Computer Facilities  
Boardroom Conference Center

##### Fidelity Investments

Ten Post Office Square Fit-Out

##### Harvard Medical School

New Research Building  
Administration Building Renovations  
Building C - Department of Cell Biology  
Longwood Office Renovations  
Interim RBL  
Longwood Animal Facility  
Department of Systems Biology  
Kirchner Lab  
Mitchison Lab  
Fontana Lab  
Lahav Lab

##### Lotus Development Corporation

Corporate Headquarters  
Boston Sales Office  
Riverview Building Interior Renovation  
Distribution Centers

##### Massachusetts Institute of Technology

Building NW17  
Building 10 Renovations

##### MetPath, Inc.

Corporate Headquarters  
Clinical Laboratories  
Corporate Office Building  
Parking Garage

##### Millipore Corporation

R&D Center  
R & D Campus Master Plan

##### Polaroid Corporation

Corporate Headquarters Master Plan  
Product Development Center  
Office and Laboratory Fit-outs

##### Sandoz Agro, Inc.

Laboratory and Office Renovations

##### Syracuse University

Hall of Languages Renovation

##### University of Massachusetts Medical School, Worcester

Albert Sherman Center & Parking Garage

##### VMware Inc.

Corporate Fit-Out

**Sec. 26-71. Sidewalk construction requested by owners.**

(a) Whenever the owner of an estate abutting on a public way requests that a sidewalk be constructed abutting such estate, the city may construct such sidewalk. The commissioner of public works shall receive the petitions of owners requesting the construction of sidewalks and shall prioritize them as follows:

*First priority:* Requests for sidewalk construction

- (1) on any arterial or collector roadway where there are not existing cement concrete or bituminous concrete sidewalks; or
- (2) at any location that may be deemed by the commissioner of public works or the chief of police to be a potentially serious safety hazard for pedestrians; or
- (3) on any public way which is being resurfaced or reconstructed; or
- (4) on an established pedestrian route to a heavily used destination such as a village center, school, bus stop, train station, or recreation area.

*Second priority:* Requests for sidewalk construction at locations where sidewalks already exist on approximately fifty percent (50%) or more of the same side of the public way;

*Third priority:* All other requests for sidewalk construction.

construction of the sidewalk.

(3) In the event that the Owner's share is five hundred (\$500) dollars or more, the Owner's share shall be assessed pursuant to G.L. c. 83, sec. 26, provided that nothing herein shall prohibit the owner from voluntarily prepaying the Owner's share.

(4) In the event that the sidewalk is constructed together with a curbing installation pursuant to section 26-73(b) and the Owner's share together with the curbing costs to be paid by the owner total five hundred (\$500) dollars or more, the Owner's share together with the curbing costs to be paid by the owner shall be assessed pursuant to G.L. c. 83, sec. 26, provided that nothing herein shall prohibit the owner from voluntarily prepaying the Owner's share together with the curbing costs to be paid by the owner.

(5) In addition to the methods of payment set out in subsections (2)–(4) above, the owner of the abutting estate may voluntarily, prior to construction, assume and prepay the City's share. If the sidewalk is constructed together with a curbing installation pursuant to section 26-73(b), the owner may also assume and prepay the curbing costs to be paid by the City. However, in no event shall more than the Owner's share together with the curbing costs to be paid by the owner be assessed pursuant to G.L. c. 83, sec. 26.

**(b) Cost of Construction and Method of Payment**

(1) Fifty percent (50%) of the total cost of sidewalks constructed under section 26-71 shall be paid for by the owner of the abutting estate (the "Owner's share"). The remaining fifty percent (50%) of the total cost shall be paid for by the City (the "City's share").

(2) In the event that the Owner's share is less than five hundred (\$500), it shall be paid by the owner prior to

(c) For those requests for construction under this section for which the Owner's share and the City's share are prepaid, the commissioner of public works shall proceed with construction in accordance with subsection (d). For those requests for construction for which either the Owner's share or the City's share is prepaid, the commissioner shall proceed with construction subject to the availability of funding and in accordance with subsection (d). For those requests for construction which are not prepaid, the commissioner, acting in accordance with subsection (d), shall periodically forward them to the board of aldermen for

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**Deleted:** <#>The owner of the abutting estate shall pay fifty percent (50%) of the total cost of sidewalks constructed under this section in the following manner:¶

¶ <#> in the event that said fifty percent (50%) amount is five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83, § 26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent amount;¶

¶ <#> in the event that said fifty percent (50%) amount is less than five hundred dollars (\$500), it shall be paid by the owner prior to construction;¶

¶ <#> notwithstanding the provisions of (2) above, in the event that such a sidewalk is constructed together with a curbing installation pursuant to section 26-73(b), and the owner's fifty percent (50%) share for the sidewalk and curbing costs totals five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83 §26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent (50%) amount.¶

¶ (c) For those requests for sidewalk construction which are prepaid, the commissioner of public works shall proceed with the construction, subject to availability of funding and in accordance with subsection (d). For those sidewalk construction requests which are not prepaid, the commissioner, acting in accordance with subsection (d), shall periodically forward them to the board of aldermen for its consideration under the betterment laws.¶

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consideration under the betterment laws.

(d) For those requests which are received prior to April 15 of each year, all actions by the commissioner of public works and the board of aldermen pursuant to subsection (c) shall be taken in accordance with the priorities assigned pursuant to subsection (a), provided however, that the commissioner of public works shall have the authority to act upon a *First Priority* request at any time, regardless of date received.

(e) Requests for replacement of an existing bituminous concrete or cement concrete sidewalk which is in good condition with a material which is different from the existing material shall not be approved unless (1) the replacement sidewalk would match the prevailing material of the existing sidewalks on the public way and (2) the owner pays the full construction costs to the city prior to construction or receives a permit from the commissioner of public works for a private contractor to construct the replacement sidewalk at the owner's sole expense. (Ord. V-84, 6-3-96)

**Section 26-73. New curbing installation.**

(a) Whenever the city undertakes reconstruction of a public way such project shall include the installation of curbing at those locations that the commissioner of public works determines to require curbing for the purpose of public safety or drainage. The installation of curbing pursuant to this subsection (a) shall be at the sole expense of the city.

(b) Whenever the owner of an estate abutting on a public way requests that curbing be installed abutting such estate, the city may install such curbing. The commissioner of public works shall receive the petitions of owners requesting the installation of curbing and shall prioritize as follows:

*First Priority:* Request for curb installation

- (1) on any portion of an arterial or collector roadway, where there is not existing curbing; or
- (2) at any location that is deemed by the commissioner of public works or the chief of police to be a potentially serious safety hazard for pedestrians and/or motorists; or

- (3) to alleviate drainage or erosion problems, or where the steepness of the slope of the public way is 3% or greater.

*Second Priority:* Requests for curb installation at locations where curbing already exists on approximately fifty percent (50%) or more of the same side of the public way.

*Third Priority:* All other requests for curbing installation, except at those locations where the commissioner of public works determines that such curbing would serve no public purpose.

(c) Cost of Construction and Method of Payment

(1) Fifty (50%) percent of the total cost of curbing installation under section 26-73 shall be paid for by the owner of the abutting estate (the "Owner's share"). The remaining fifty (50%) percent of the total cost shall be paid for by the City (the "City's share").

(2) In the event that the Owner's share is less than five hundred (\$500), it shall be paid by the owner prior to the installation of curbing.

(3) In the event that the Owner's share is five hundred (\$500) dollars or more, the Owner's share shall be assessed pursuant to G.L. c. 83, sec. 26, provided that nothing herein shall prohibit the owner from voluntarily prepaying the Owner's share.

(4) In the event that the curbing installation is done in conjunction with sidewalk construction pursuant to section 26-71 and the Owner's share together with the sidewalk construction costs to be paid by the owner total five hundred (\$500) dollars or more, the Owner's share together with the sidewalk construction costs to be paid by the owner shall be assessed pursuant to G.L. c. 83, sec. 26, provided that nothing herein shall prohibit the owner from voluntarily prepaying the Owner's share together with the sidewalk construction costs to be paid by the owner.

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Deleted: (c) Whenever curbing is installed pursuant to subsection (b), the owner shall pay fifty percent (50%) of the total cost thereof in the following manner:¶

¶ <#>in the event that said fifty percent (50%) amount is five hundred dollars (\$500) or more, it shall be assessed upon the owner of the abutting estate pursuant to G.L. c. 83 §26, provided that nothing herein shall prohibit an owner from voluntarily prepaying said fifty percent (50%) amount:¶

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¶ (d) For those requests for curbing which are prepaid, the commissioner of public works shall proceed with the installation, subject to availability of funding and in accordance with subsection (e). For those curbing installation requests which are not prepaid, the commissioner of public works, acting in accordance with subsection (e) shall periodically forward them to the board of aldermen for its consideration under the betterment laws.¶

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(5) In addition to the methods of payment set out in subsections (2) –(4) above, the owner of the abutting estate may voluntarily, prior to the installation of curbing, **assume and** prepay the City’s share. If the curbing installation is done in conjunction with sidewalk construction pursuant to section 26-71, the owner may also **assume and** prepay the sidewalk construction costs to be paid by the City. However, in no event shall more than Owner’s share together with the sidewalk construction costs to be paid by the owner be assessed pursuant to G.L. c. 83, sec. 26.

(d) For those requests under section 26-73(b) for which the Owner’s share and the City’s share are prepaid, the commissioner of public works shall proceed with installation in accordance with subsection (e). For those requests for which either

the Owner’s share or the City’s share is prepaid, the commissioner shall proceed with installation subject to the availability of funding and in accordance with subsection (e). For those requests which are not prepaid, the commissioner, acting in accordance with subsection (e), shall periodically forward them to the board of aldermen for consideration under the betterment laws.

(e) For those requests which are received prior to April 15 of each year, all actions by the commissioner of public works and the board of aldermen pursuant to subsection (d) shall be taken in accordance with the priorities assigned pursuant to subsection (b), provided however, that the commissioner of public works shall have the authority to act upon a *First Priority* request at any time, regardless of date received. (Rev. Ords. 1995, Ord. No. V-84, 6-3-96)

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