



Town Council Workshop

Thursday, December 5, 2019 at 1:30 pm

CALL TO ORDER, PRAYER & PLEDGE

ROLL CALL

WORKSHOP ACTION: Continuation from July 29, 2019

1. Discuss Findings from Staff - Developing Roads in Rural Communities

Exhibit: Agenda Report Number 1

Attachments:

- Agenda Report Number 1 (Agenda_WS_1205.pdf)

ADJOURNMENT

TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: December 5, 2019

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Continue to Discuss Methods to Develop Non-conforming ROW

BACKGROUND/HISTORY:

At the July 29, 2019 workshop, the Attorney presented his findings regarding a prior lawsuit against the Town regarding the Town's requirement for road dedications. The Town must be able to defend their requirement for right-of-way dedications. Attorney had suggested Council consider a review and possible reclassification of road types and widths. If challenged, the requirement for the dedication must be able to show that it is tied to a necessary public improvement.

Council directed staff to measure the road widths and make recommendations for changes to width requirements and classifications.

Local streets in Malabar are *lanes* and generally serve 2 to 12 driveways with the average being six. LaCourt and Eva Lanes are exceptions as they were *lanes* that were converted to *collectors*.

We have now completed the measurements of the roadway widths and included that information on the Accepted Streets list in this package. The current widths for unpaved roadways vary from 10 to 19 feet. In keeping with the rural character of Malabar, would Council consider a reduced right-of-way width that would still provide for drainage but require a narrower travelway?

In reviewing some planning references, it is suggested that narrower roadways would better enhance the rural character of Malabar.

Required in Code

Recommendation:

Local unpaved road right-of-way width requirement is 60'

reduce to **25'** & **50'**(lanes)

- There are no known local streets that comply

Minor collector paved road right-of-way width requirement is 70'

reduce to **50'** (Atz, Hall)

- Hall, Atz, Benjamin and Old Mission are all 50' or less in ROW width

Major collector paved road right-of-way width requirement is 100'

reduce to **70'** (Weber, Corey)

- Corey and Weber are both at 70' – Marie is at 50' – 70'
- Corey and Marie north of Malabar should not be major collectors.

Arterials – remain at 150' (Babcock, Malabar, US 1)

The actual roadway improvement would follow the requirements referenced in the current road improvement package and provide for travelways less than 25 wide.

The other recommendation from Staff is to add the language back into the ordinance allowing for variances to the road improvement process. We would also add additional requirements to the ordinance to ensure:

- A requirement to record the Final Order stipulating the parcel owner will be responsible for future road improvement fair share cost
- A requirement to pave roadway in future if roadway to that point has been paved

The variance could also provide for an exception to the road improvement requirement if the right of way ends at the applicant's parcel and would serve no other public purpose.

The variance could also provide for a property owner to access their parcel with minimum road improvements on an existing unaccepted ROW, if a cash bond or other guarantee is given to the Town to pay for future expansion costs. (example ROW across Corey Road from Beekeeper)



Town of Malabar

Public Rights-of-Way Accepted Streets as of 9/23/2019*

NOTE: THIS LIST DOES NOT INCLUDE ALL TOWN-OWNED RIGHTS-OF-WAY

<u>Street Name</u>	<u>Width</u>	<u>Length or distance</u>
<u>Absaroka Ln</u>	22'	3200' paved west from Corey Rd– private, Stillwater Preserve SD
<u>Arnold Lane</u>	23'	870' south of Hall Road approved in 2006
<u>Atz Road</u>	23'	2.5 mile paved west from LaCourt Ln to Weber & 21' west to Town limits (and 114 ft dirt east of LaCourt)
<u>Appleby Ln</u>	14'(S)16'(N)	1,322' x 25' north from Hall Rd and 800' south from Hall Rd
<u>Barrow Lane</u>	22'	980' paved from Absaroka – private, Stillwater Preserve SD
<u>Baywood Court</u>	21'	200' paved, Country Cove S/D
<u>Benjamin Road</u>	18'	3,325' x 40' paved east from Corey Road to Kramer Ln
<u>Beran Lane</u>	17'	930' north from Old Mission; Parcel 103 has payback under 90-3
<u>Billie Lane</u>	16'	700' south from Atz Rd.
<u>Blanche Street</u>	20'	1,060' paved north from Malabar Road
<u>Bluff View Place</u>	20'	115' paved west from Pemberton Tr., Brook Hollow S/D
<u>Booth Road</u>	17'	630' east of Babcock Street
<u>Briar Creek Blvd.</u>	23'	2,875' paved south from Malabar Town limit, Brook Hollow S/D
<u>Briar Run Circle</u>	n/a	85' paved west from Briar Creek Blvd, Brook Hollow S/D
<u>Brookshire Circle</u>	20'	334' paved west from Hollow Brook Ln, Brook Hollow S/D
<u>Candy Lane</u>	15'	1322' x 50' north from Atz Road. No records in file of approval south of Atz
<u>Cason Lane</u>	16'	1,330' south of Atz Road
<u>Centre Street</u>	19'	528' between Pine St and W. Railroad Ave.
<u>Century Oak Cr</u>	20'	S/D 1,260 ft. paved
<u>Coral Way</u>	22'	1,550' paved south from Huggins Dr and east to Rocky Point Rd, Coquina Pt S/D
<u>Corey Road</u>	22'	2 mi paved south from Malabar Rd to Town limit & 3,900' paved north of Malabar Rd
<u>Coquina Ter</u>	20'	1,350' paved west from Rocky Point Road, Coquina Point S/D
<u>Country Cove Cir</u>	20'	3,085' paved, Country Cove S/D
<u>Crescent Road</u>	13'	460' x 40' south from Township Road
<u>Delaware Ave</u>	16'	1,293' west from Corey Rd, Melbourne Heights S/D
<u>Duncil Lane</u>	20'(S) 16'(N)	2,440' south from Hall Road and 1,055 ft. north from Hall Road
<u>Elaine Lane</u>	17'	1,310' south from Glatter Road to dead end
<u>Eva Lane</u>	18'	.5 mile from Malabar Road to Hall Road – paved in 2018
<u>Falls Trail</u>	20'	219' paved from Briar Creek Blvd, Brook Hollow S/D
<u>Fins Lane</u>	16'	550' north of Hall Rd (previously known as <u>Mussell Shoal Ln</u>)
<u>First Lane</u>	20'	240' paved north from Riverview Drive, Riverview S/D



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<u>Name</u>	<u>Width</u>	<u>Length</u>
<u>Flashy Ln</u>	19'(N)10'(S)	1,275' north from Hall Road and 530 ft. x 25 ft. south from Hall Road
<u>Florence Street</u>	21'	1,060' paved north of Malabar Road
<u>Garden Street</u>	15'	528' east from Pine Street to dead end
<u>Gator Way</u>	10'	Appx 700' south from Hall Road to Parcel 554
<u>Gilmore Street</u>	15'	220' paved plus 940' dirt north from Malabar Road to Allen St.
<u>Glatter Road</u>	18'(W)16'(E)	925' unpaved east of Marie St and 2,890' paved west of Marie to Malabar Rd
<u>Hall Road</u>	20'	2.5 miles paved from Marie Street west to Richards Ln
<u>Hard Lane</u>	13'	564' south of Atz Road to Parcels 93 and 100
<u>Hard Way Lane</u>	16'	1130' north from Old Mission Road (Parcel 22 has payback under 90-3)
<u>Hawthorne Ave</u>	08'	150' west from Hwy 1
<u>Hollow Brook Ln</u>	20'	2,045' paved north from Briar Creek Blvd, Brook Hollow S/D
<u>Holloway Trail</u>	20'	324' paved west from Briar Creek Blvd, Brook Hollow S/D
<u>Homestead Ln</u>	20'	1,200' paved north from Atz Rd to cul-d-sac, Sugar Pines S/D
<u>Howell Ln</u>	16'(N)18'(S)	1100' No of Hall and 928' So of Hall Rd; Parcel 829 owes payback Ord 03-01.
<u>Huggins Drive</u>	22'	808' paved east from Hwy 1.
<u>Hunter Lane</u>	15'(N) 13'(S)	1,320' north from Atz Rd and 1,500' south of Atz Rd.—see Road payback book
<u>Isasa Lane</u>	16'	730' south from Hall Rd
<u>Ivey Lane</u>	17'	800' south from Hall Road
<u>Johnston Ave</u>	11'	1,164' east from Marie Street – payback complete
<u>Jordan Blvd</u>	70'	1,010' paved west from the center line Hwy 1 (paved divided road)
<u>Kelly Lane</u>	16'	1,483' south from Atz Road
<u>Knave Lane</u>	22'	1000' paved – private, Stillwater Preserve SD
<u>Kramer Lane</u>	19'	1,322' north from Benjamin Rd, payback complete
<u>LaCourt Lane</u>	21'	2,640' south from Hall Rd. to Atz Rd
<u>Leghorn Road</u>	13'	1,000' No of Section 12 from Valkaria Rd Parcel 763 has payback under Ord 01-01)
<u>Lett Lane</u>	19'	1,970' south of Booth Road - Parcels 519, 551, 567, 529 and part of 527 owe payback under Ord 91-2)
<u>Lineberry Ln</u>	20'	1,200' paved north from Atz Rd to cul-d-sac, Sugar Pines S/D
<u>Linrose Lane</u>	12'(N) 23'(S)	928' x 25' north from Hall Rd per Council 7/1/19; 1,300' south of Hall Rd to dead-end
<u>MacDonald Lane</u>	15'	600' south from Atz Rd (the last 200 feet is a payback under Ord 01-01)
<u>Marie Street</u>	22'	970' x 35' unpaved north from Johnston Avenue and 5,330' (1+ mi) paved south from Johnston Avenue to Hall Road and 1800 ft. x 25 ft. unpaved south of Hall Road to Town owned parcels (17' dirt roadway south of Hall)



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<u>Name</u>	<u>Width</u>	<u>Length</u>
<u>Marshall Dr</u>	15'	528' north from Malabar Road to dead end
<u>Matthews Lane</u>	21'	1610' south from Atz Rd Parcels, 18, 27, 50 & 51 have payback under Ord. 01-01
<u>McCain Ln</u>	18'(N)16'(S)	1,100' north and 1,450' south of Hall Rd Parcel 859 granted variance in 2005 to improve only 50'. Council voted that Parcel 802 could use same access.
<u>Moss Rose Ave</u>	12'	1,015' west from Corey Rd, Melbourne Heights S/D
<u>New Jersey Ave</u>	09'	528' west from Hwy 1
<u>Nome Lane</u>	22'	920' paved, south from Absaroka – private, Stillwater Preserve SD
<u>Nord Street</u>	10'	528' east from Marie Street
<u>Oak Harbour Ln</u>	20'	338' paved, Country Cove S/D
<u>Oak Tree Place</u>	20'	389' paved north from Falls Trail, Brook Hollow S/D
<u>Oakridge Ln</u>	17'(N)16'(S)	700' x 50' & 350' x 25' north from Hall Rd and 1,130' south from Hall Rd
<u>Old Mission Rd</u>	18'	1,950' west from Weber Road to Beran Ln
<u>Orange Avenue</u>	13'	1,260' west from Hwy 1 to FEC railroad
<u>Osage Road</u>	21'	approved to 1,311' to Prosperity Lane in 2006
<u>Passaic Avenue</u>	14'	782' west from Hwy 1
<u>Pemberton Trail</u>	20'	1,053' paved east from Briar Creek Blvd, Brook Hollow S/D
<u>Pine Street</u>	20'	528' south from Malabar Road to Garden Street
<u>Positano</u>	22'	paved off of Westhorpe Dr – private, Oakmont Preserve SD
<u>Prosperity Lane</u>	16'	930' north from Osage Road in 2006
<u>Quarterman Ln</u>	17'	1850' south from Hall Road to Parcel 791
<u>Raulerson Lane</u>	12'	1270' south from Hall Road – 25' width – approved by Council 9/23/19
<u>Rebel Lane</u>	15'	1000' north from Reese Road
<u>Reef Place</u>	20'	510' paved east from Coral Way, Coquina Pt S/D
<u>Reese Road</u>	18'	685' x 25' west from Weber Rd to Rebel Ln
<u>Richards Lane</u>	10'	807' x 25' north from Hall Rd
<u>Riverview Drive</u>	20'	780' paved west from Hwy 1, Riverview S/D
<u>Rivet Lane</u>	13'	700' x 25' north from Hall Road
<u>Rocky Point Rd</u>	22'	7,590' paved (was old Hwy 1)
<u>Russell Lane</u>	16'	400' south from Atz Road
<u>Samantha Lane</u>	16'	Council approved name change to Taylor Lane in 2019 for 1200' So of Hall Road (Parcel 500 may have a payback under Ord 03-01 for 300')
<u>Sandy Creek Ln</u>	19'	1,500' south from Malabar Road
<u>Shiflett Lane</u>	17'	528' south from Malabar Road to dead end



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<u>Name</u>	<u>Width</u>	<u>Length</u>
<u>Ski Lane</u>	16'	564' north of Atz Road – plus 240' -- payback under 91-2
<u>Smith Lane</u>	20'	(Paved in 2018 w/ special assessment.) (the first 475 ft. is no payback; the next 1169' is a payback under 91-2; the next 600 ft. is a payback under 01-01)
<u>Steeplechase Cir</u>	20'	358' paved west from Briar Creek Blvd, Brook Hollow S/D
<u>Stika Lane</u>	22'	840' paved – private, Stillwater Preserve SD
<u>Taylor Ln</u>	14'	300' (changed from Samantha in June 2019)
<u>Township Road</u>	20'	1,056' paved east from FEC railroad to Hwy 1
<u>Waring Lane</u>	18'(N)21'(S)	1,312' north of Atz Rd and 2,400' south of Atz Rd (Paybacks complete)
<u>Weber Road</u>	23'	2 miles paved south from Malabar Road to Town limits
<u>Weir Street</u>	14'	1,160' north from Malabar Road to Allen Street
<u>W Railroad Ave</u>	20'	1200' paved north of Malabar Rd and 630' paved south of Malabar Road
<u>Westhorpe</u>	23'	paved east from Marie Street – private, Oakmont Preserve SD
<u>Wilson Lane</u>	16'	1,052 ft. south from Hall Road

Public Right-of-way named only for fire fighting location purposes:

Bee Keeper Ln 8' East from Corey Road - NOT AN ACCEPTED STREET:

Public Rights-of-way Not improved/Not accepted but have homes on them

Candy Ln 8' South of Atz – no record in file of any improvement

Christian Ln 10' Was Prospect Ln. Name change approved in 1/2011 but not improved

Smith Ln North of Atz Road

Treadwell Ln North of Benjaminv Rd

Private Easement used to access single family homes:

Alexander Lane 13' not maintained by the Town but accesses multiple homes

Easement: Permission by property owner for others to use land. Owner pays taxes.

Right-of-way: Platted or given to public entity for public use. Governed entity and not taxed.

Latest Updates:

11/25/19 – completed width measurements of roads

09/23/19 – added Raulerson Lane to accepted list.

NOTE: Any road not on this list of accepted streets may be maintained from time to time, at the Public Works Department's discretion, to allow accessibility of emergency vehicles. This in no way implies that this maintenance constitutes acceptance of any road not on this list.



RURAL BY DESIGN

RANDALL ARENDT

With Elizabeth A. Brabec, Harry L. Dodson,
Christine Reid, Robert D. Yaro

AMERICAN PLANNING ASSOCIATION

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Environmental Law Foundation, and Center for Rural Massachusetts

age swales (no curbs and gutters), vegetated traffic islands, and an interlocking network of greenways and wildlife corridors (Davis, 1991).

To avoid future disfigurement of street trees by pruning contractors hired by utility companies, new subdivisions should be provided with underground electric, telephone, and cable TV lines. Where it is not feasible (such as in shallow bedrock areas, where trenches would have to be blasted), poles should be installed along easements running between adjoining backyards. (This is the location used in many subdivisions developed in Pennsylvania during the period between the demise of the rear alley and the late 1970s, when the state subdivision law was amended to require undergrounded utilities in new developments.) Such easements could, if desired, also be designed to serve as greenway paths through these subdivisions. (Footpath networks in such locations are a deliberate, and highly successful, feature of the planned open space communities of Radburn in Fairlawn, New Jersey, Lake Vista in New Orleans, and Hilton Head Island in South Carolina.)

Another alternative is to take this thinking one step further and provide rear access lanes (or "alleys") serving each house lot from the back. This is how scores of traditional neighborhoods were designed in all parts of the country until the 1930s, as witnessed by examples as distant as Winter Park, Florida, Wyomissing, Pennsylvania, and Bozeman, Montana, where driveways and garages generally face in the opposite direction from the homes. These lanes are typically designed for one-way traffic and, because they do not attract through traffic, they are fairly safe for children playing catch, riding bikes, and so forth.

STREET NAMES

To the extent that municipalities have set any standards or guidelines for naming new streets, they usually do not go beyond a prohibition against duplicative or similar-sounding names, which could be confusing to public safety personnel when responding to emergencies. In addition, communities should consider encouraging developers to name new rural subdivision streets after natural features in the immediate area (such as

hills, ridges, meadows, brooks, native plant or animal species) or to local historic family names, buildings, or events. Terms such as "road," "lane," "street," or "way" should be used, rather than suburban words such as "drive," "circle," "place," "court," "view," "vista," "manor," or "terrace." New streets adjacent to older, village neighborhoods should relate to that context, and use traditional names such as "High Street," "Chestnut Street," "Grove Street," "Prospect Street," "Church Street," "School Street," and so forth, (presuming that there is a church or school in the vicinity). Personal first names should be strongly discouraged ("Barbara Road," "Robert Circle," e.g.), unless they are also readable as surnames ("Douglas," "Leslie," "Tracy," "Thomas," etc.).

COUNTRY LANES AND COMMON DRIVES

The notion of "country lanes"—meaning narrower roads serving up to a dozen homes, often deliberately finished with a good gravel surface—deserves to be reconsidered. All but banished from the rural scene by well-meaning but suburban-based street regulations, such lanes occupy an important place in the hierarchy of roads in the countryside. Especially in areas where existing public roads are gravel surfaced, it makes good sense to continue the established tradition.

Hardly anything could be more bizarre than requiring a 30-foot wide asphalt street to serve twelve homes on a pair of cul-de-sacs stemming off an existing public road that is barely 16-foot wide with pronounced ruts in its dirt surface. However, this was exactly what a developer was told he must do to receive subdivision approval in one Connecticut town several years ago. His proposal was to construct an 18-foot wide access road with a 15-inch layer of sand and gravel topped with 3 inches of trap rock stone mixed with quarry fines to enhance compactibility. It was initially rejected because it did not meet the town's official standards. After bringing in his lawyer to argue monthly with the planning commission over a one-year period, the applicant hired a well-known rural planner to show slides of various road widths, explaining their functions and capabili-

ties. After seeing the slides and discussing the issue extensively, the commission approved the applicant's proposal, which it agreed was both adequate and appropriately designed to fit in with the neighborhood's rural context.

It is not uncommon for New England towns to require that any new gravel access roads be privately maintained. This is an unfair practice, because such roads are actually less expensive to maintain than asphalted ones (see Chapter 12, "Scenic Roads," for details). If gravel roads are properly constructed in the first place (which "performance guarantees" can ensure), and if they are appropriate for the scale and location of a particular rural subdivision, they should be publicly maintained.

When a smaller number of homes is involved (up to five or six), a slightly different approach should be considered: the common drive. For

traffic at such low levels the width could be adjusted to 15 or 16 feet, maintaining the same depth and type of construction materials. Common drives require the establishment of a homeowners' association (HOA) to ensure regular maintenance (further details on HOAs are provided in Chapters 14 and 15). Most people will readily contribute their share of expenses, for few wish to become known as deadbeats to their neighbors, but the HOA mechanism establishes methods for ensuring a steady cash flow to pay for regravelling, grading, snowplowing, and so forth. Common drives are a particularly useful device in avoiding duplicative access driveways to adjacent lots, including back lots (sometimes referred to as "flag lots", "pipestem lots," or "porkchop lots"). They can be located on easements when necessary to provide more direct access to interior lots, or they can be restricted to a dedicated right-of-way.

PROPOSED ORDINANCE NO. 2020-02

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ~~REINSERTING~~ ~~REPEALING~~ SECTION 13-38 (C) RELATING TO VARIANCES AUTHORIZED BY THE BOARD OF ADJUSTMENT; PROVIDING FOR ~~REQUIREMENTS~~, CODIFICATION, SEVERABILITY AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, as follows:

Section 1. Section 13-38 (c) of the Code of Ordinances of the Town of Malabar is hereby ~~reinserted~~ ~~deleted~~ and add additional requirements to be met if variances are granted.

- Requirement to record Order stipulating the parcel will be responsible for future road improvement fair share cost
- Requirement to pave if roadway to that point has been paved
- Requirement for road bond for future needs?
- Allow variance to improvement requirements if ROW ends at parcel
- Allow variance to improvement requirements if bond is paid to cover future road expansion costs

Section 2. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

Section 3. Should any Section, Clause, or Provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this Ordinance.

Section 4. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

Section 5. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball
Council Member Brian Vail
Council Member Steve Rivet
Council Member David Scardino
Council Member Danny White

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2020.

(2) However, should such principal structure not be located wholly on one (1) lot, or should the owner desire to construct accessory uses, ponds or outbuildings (accessory to the principal structure) on the contiguous lot, then the local street/road shall be improved through the furthest boundary on which such accessory building to be constructed.

ADD BACK INTO CODE

(c) The board of adjustment may only grant a variance to the requirements of subsection (b)(1) and (2). Notwithstanding the authority granted to the board of adjustment in section 1-12 of the Town of Malabar Land Development code the below stated procedures shall in all respects be utilized for a variance to subsection (b)(1) and (2). In order to authorize a variance under this section the board of adjustment must find the following:

- (1) That special conditions and circumstances exist and that the presence of which would make complying with subsection 13-38(b)(1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a variance under this section;
- (2) The special conditions and circumstances are not caused in any way by the owner or applicant;
- (3) That such variances will not be injurious or detrimental to the public welfare;
- (4) That the variance granted is the minimum variance that will make possible the reasonable use of the land;
- (5) As a condition to the issuance of a variance the owner of the property shall dedicate the right of way required by section 13-39 of the code through the furthest boundary of the lot of record on which a principal structure or accessory structure is to be constructed. The owner shall also execute an agreement in recordable form with the town that binds the owner and his/her successors in interest to pay for the proportionate share of completion of the road through the furthest boundary of the lot of record on which a principal structure or accessory structure is constructed in the event the road is completed by another. The board of adjustment may impose additional reasonable conditions and safeguards that it deems appropriate;
- (6) The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

REPEATED REPEATED ORD 0016-07

ADD ADDITIONAL REQUIREMENTS

(Ord. No. 01-01, § 1-3, 2-5-01; Ord. No. 03-01, § 2, 2-24-03; Ord. No. 03-05, § 1, 6-16-03; Ord. No. 07-11, § 1, 7-16-07; Ord. No. 08-07, § 1, 6-16-08)

Sec. 13-39. Precondition to issuance of building permit—Dedication of sufficient right-of-way.

Except as provided for in section 13-39.1, as a precondition for the issuance of any building permit for a permitted structure on property that abuts an unimproved or unaccepted right-of-way within the Town of Malabar, Brevard County, Florida, the owner of the property