

STATE PROPERTIES REVIEW BOARD

Minutes of Meeting Held On April 4, 2019 450 Columbus Boulevard, Hartford, Connecticut

The State Properties Review Board held a Regular Meeting on April 4, 2019 in Suite 2035, 450 Columbus Boulevard, Hartford, Connecticut.

Members Present:

Edwin S. Greenberg, Chairman
Bruce Josephy, Vice Chairman
John P. Valengavich, Secretary
Jack Halpert

Members Absent:

Staff Present:

Dimple Desai
Thomas Jerram

Guests Present

Noel Petra, DAS Deputy Commissioner (9:34-10:21 AM)
Paul Hirsch, OPM Policy Director of Asset Management (10:21-10:51)

Chairman Greenberg called the meeting to order.

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

OPEN SESSION

1. ACCEPTANCE OF MINUTES: April 1, 2019.

Mr. Valengavich moved and Mr. Halpert seconded a motion to accept the minutes of the April 1, 2019 meeting. The motion passed unanimously.

2. COMMUNICATIONS

Director Desai discussed the Notice that all Board members should have received with respect to their completing the SFI.

3. REAL ESTATE- UNFINISHED BUSINESS

PRB #	19-033
Transaction/Contract Type:	RE – Voucher
Origin/Client:	DOT/DOT
Project Number:	161-141-001
Grantor:	Wilton Project Associates, LLC
Property:	Wilton, Danbury Rd (59 & 65)
Project Purpose:	Safety & Operational Improvements on Route 7 at Grumman Hill Rd
Item Purpose:	Voucher for Partial Take (3,093 sf), Defined Sight Line Easement (1,778 sf), Easement for Sidewalk, Right to Install Curbing & remove tree

UPDATE: April 2, 2019

At its February 25, 2019 meeting the Board voted to suspend this item pending clarification of the following issues:

- Please clarify why the DOT is acquiring a Right to remove tree outside the easement area.



- Please clarify why the DOT is acquiring a Right to remove tree outside the easement area.
 - The right to remove tree, outside the easement area, was taken in order to guard against disruption of the tree roots which may cause the tree to wither. After noting the proximity of the new curbing to the tree, our construction and engineering forces decided that it would be best to remove it. On the other hand, it is a non-compensable “right” to remove, which is not a requirement for the project, so the owner always has the right to decline removal.
 - Staff scaled the map and estimate the tree is approximately 15’ from the proposed new sidewalk and approximately 20 from the “Area of Full Depth Reconstruction.”
 - This is a non-compensable right.



- Please provide a breakdown of valuation of site improvements and background support for the appraiser’s valuation of \$25,000 in Site Improvement.
 - The principle of contribution as taught in appraisal theory is the principle that any improvement to a property is worth only what it adds to the property’s market value. That is, the improvement’s contribution is counted *not* its actual cost.

This project impacts the landscaping that was required by zoning in its special permit process. In addition to making the property non-compliant with the planting plan outlined

in the special permit approved by the Town, the mature landscaping adds aesthetic value to the property. A typical purchaser of this type of property in this market expect a certain level of curb appeal.

On September 23, 2018, this appraiser spoke to Wilton Director of Planning and Land Use Management John J. Nerney. Mr. Nerney stated the subject property was conforming to zoning regulations and would remain conforming to zoning regulations following the State's acquisition. Mr. Nerney provided a document showing the subject was well within FAR (floor area ratio) zoning requirements, for the present development. Mr. Nerney confirmed that the existing public sidewalk was required by the Town of Wilton and a stipulation of approval for the present existing development known as "Wilton Park".

Mr. Fox, has retired from his position at the Department and we are unable to comment on his exact methodology in arriving at his exact number for the contributory value. However, as a Certified General Appraiser who provides expert testimony in this field we must rely on his expert opinion. This appraisal report is compliant with the Uniform Standards of Appraisal Practice (USPAP), Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book) and Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49-CFR Part 24- Uniform Act).

Mr. Fox determined the market value of the land to be \$6,186,000 prior to the construction project and \$6,108,000 in the after, resulting in damages of \$78,000. Of the total damages, \$25,000 is attributed to contributory value of impacted site improvements which is 0.4% of the total land value and would be even less if the building value was added. In this particular market segment, this amount is reasonable in the professional opinion of both the appraiser and the review appraiser.

The appraiser established the damages based upon market value and the Department offered this sum as just compensation in accordance with the Uniform Act and the property owner accepted this sum as such. Please note that 49 CFR 24.102 (d) states that just compensation shall not be less than the market value established by the appraiser. In addition, the Connecticut courts have ruled that in condemnation cases the appraiser must value the loss of site improvements on their contributory value and not replacement value (*State of Connecticut v Heye, 2002*), therefore, it would be inappropriate to provide a replacement estimate for contributory value as requested.

- o Staff researched *State of Connecticut v Heye, 2002*
(<https://www.courtlistener.com/opinion/3332011/connecticut-dot-v-hey-no-559948-dec-10-2002/>)

From the decision:

"The appellant claims she is entitled to the fair compensation for the trees removed. Blair testified that the trees on the property were of a value of approximately \$2,500.00 each to replace. The appellant requests that that be added to the amount of damages incurred. She claims that the value of the trees, thus computed, is \$175,000. CT Page 15839

The court must disagree with this claim. The court finds that the value of the trees is represented by a reduction in value of the property not the cost to replace the trees. The court, therefore, rejects this claim. "The proper measure of damages is the difference between the market value of the whole tract as it lay before the taking and the market value of what remained of it thereafter." *Northeastern Gas Transmission Co. v. Ehrhorn*, 145 Conn. 83, 86 (1958); *Gontarz v. Berlin*, 154 Conn. 695 (1967). It was error for the trial court to award as damages the value of the individual trees removed. *Gontarz*, supra, p. 698."

From the Appraisal of Real Estate, 8th Edition (pg 26):

“Contribution. When appraisers apply the principle of balance to component property parts, they study the concept of contribution. *Contribution states that the value of a particular component is measured in terms of its contribution to the value of the whole property or by how much that parts’s absence detracts from the value of the whole.* Accordingly, cost does not necessarily equal value. A swimming pool that costs \$10,000 does not necessarily cause the value of a residential property to increase by \$10,000. Instead, the pool’s dollar contribution to value is measured in terms of how valuable its benefit or utility is in the market. Its contribution to value might be lower or higher than its cost. Thus, in some cases, a property’s market value may not increase even if its physical attachments have additions, alterations, or modifications, or if they have been rehabilitated.”

The Board and Staff clearly understand the principal of “Contributory Value” with respect to market valuation. The Board’s request for an estimate of the Replacement Cost of the individual items impacted by the DOT’s project is utilized as a check against the Appraisers estimate of damages (Contributory Value of Site Improvements). It can then be determined whether the Contributory Value is greater than the total Replacement Cost, less than the total Replacement Cost, or possibly having a negative impact.

Notably, all of the affected site improvements – with the exception of the 20-inch tree and seeded lawn – are within the area where the State is acquiring a Sight Line Easement.

A summary of the damages is as follows:

Partial Take - 3,093 sf in fee x \$12/sf =	\$37,116
Sight Line Easement - 1,778 x \$12/sf x 75% =	\$16,002
Cont. Value Site Improvements (Lump Sum) =	\$25,000
Total	\$78,118
Rounded	\$78,000

RECOMMENDATION: Staff recommends **REJECTION** and require that DOT re-negotiate the payment after establishing a base line for cost of the site improvements within the impacted areas, as well as the one tree outside the impacted areas, to help support the Appraiser’s estimate of the overall contributory value of the site improvements within the impacted areas.

From February 25, 2019 Meeting

PROJECT: The improvements on Route 7 (Danbury Road) at the intersection of Grumman Hill Road will include roadway widening to accommodate northbound and southbound left-turn lanes and a minimum of 4-foot shoulders. The widening will take place on the west side of Route 7 and sidewalks will be installed on the east side of Route 7. The traffic signal for the intersection of Route 7 and Grumman Hill Road will be replaced to better accommodate the proposed left-turn lanes. Short, left-turn slots will also be installed on Route 7, south of the Grumman Hill Road intersection, at Hollyhock Lane and the commercial driveway opposite to Hollyhock Lane (per DOT, November 2017).

SITE & TAKING DESCRIPTION: The subject consists of a 3-unit commercial condominium complex situated on 11.7865± acres (513,420± sf), with 487 feet of frontage on the east side of Danbury Road. The property is located in the DE-5 (Designed Enterprise District) zone and conforms to zoning. Average daily traffic counts (ADT) were 27,900 cars/day in 2014. There is a full traffic control signal at the entry to the site.

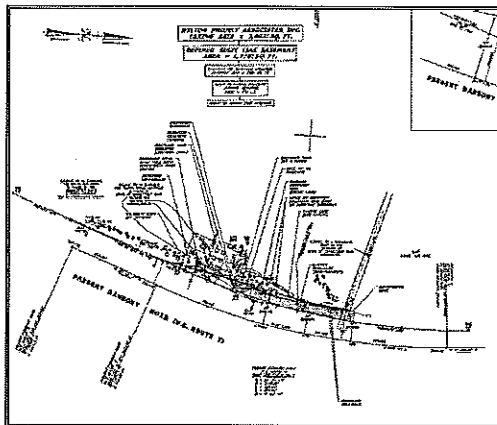
- Unit A (65 Danbury Rd) within the condominium is improved with a 110,844 square foot self-storage facility (Westy's) constructed in 2007.
- Unit B (59 Danbury Rd) within the condominium is improved with a 35,270 square foot multi-tenant office building constructed in 1959.
- Unit C is an undeveloped rear portion dedicated to conservation along the Norwalk River.

The building improvements are not impacted by the easements. Site improvements including trees, shrubs landscape plantings and lawn within the taking and easement as well as the right to remove a 20-inch diameter pine tree outside the affected areas.

The Appraiser opined the highest and best use of the property, either vacant or improved, is for commercial/industrial development.

DOT requires acquiring the following:

- A partial take in fee-simple – 3,093± sf
- A defined sight line easement – 1,778± sf
- Easement for sidewalk acquired - 752± sf
- Right to install concrete curbing acquired – 11± lf.
- Right to remove tree.



Valuation: An appraisal was done by DOT Appraiser Thomas L. Fox, as of 9/25/2018. Based on the sales data comparison approach, the appraiser concluded that the fair market value of the entire property (land only) is \$12.00/sf of land area.

The table shows the appraiser's summary of damages:

Item	Estimated Value (Rounded)
Before: 513,420 sf @ \$12.00/sf =	\$6,161,040
Affected Site Improvements (tree, plantings, lawn, etc)	\$25,000
Buildings	N/A
Fair Market Value Before	\$6,186,040
Rounded	\$6,186,000
After: 508,549 sf in Fee @ \$12.00/sf =	\$6,102,588
Defined Sight Line Esmt: 1,778 sf @ \$12/sf x 25%=	\$5,334
Defined Sidewalk Esmt: 752 sf (inc in remaining fee land)	\$0
Affected Site Improvements (tree, plantings, lawn, etc)	\$0
Buildings	N/A
Total Site – After (rounded)	\$6,108,000
Damages (Value of Acquisition)	\$78,000

Staff had the following inquiries regarding this proposal:

- Please clarify why the DOT is acquiring a Right to remove tree outside the easement area.
- Please provide a breakdown of valuation of site improvements and background support for the appraiser's valuation of \$25,000 in Site Improvement.

RECOMMENDATION: It is recommended that the Board **SUSPEND** this item pending written responses to Board inquiries are received and reviewed.

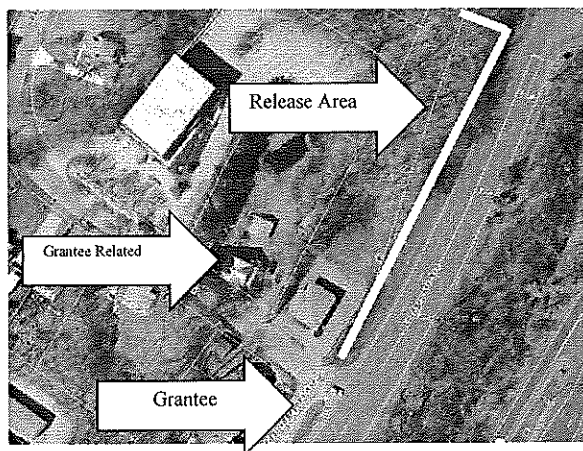
4. REAL ESTATE – NEW BUSINESS

PRB #	19-076
Transaction/Contract Type:	RE – Sale by Abutter Bid
Origin/Client:	DOT/DOT
Project Number:	126-91-070D
Grantee:	Donald R. Sheehy, Jr. and William J. Sheehy
Property:	Shelton, Bridgeport Ave (Rt 714)
Project Purpose:	Sale by Abutter Bid
Item Purpose:	Quit Claim Deed

The Department of Transportation is proposing the release of this non-conforming, 5,608.3 square foot, parcel of land located on the westerly side of Bridgeport Ave (Rt 714), north of the intersection of Cots Street. The property was acquired in two condemnations in 1971 (1.64 acres) at a total cost of \$49,500.

The proposal was initiated by the abutter (Sheehy) who applied to DOT on March 24, 2017 to acquire the property to “add to an assemblage for commercial development.”

The release parcel is triangularly-shaped with 328.56± feet of non-access frontage on the westerly side of Bridgeport Ave (Rt 714). The parcel is located in the CB-1 commercial zone and is non-conforming regarding site size. The site slopes gently below grade and is subject to a perpetual storm water easement in favor of the westerly abutter.



Valuation – The appraisal was completed by DOT Staff Appraiser Thomas L. Fox as of September 15, 2017. His analysis concluded that the southerly abutter, at 265 Bridgeport Avenue, was the logical buyer and prepared a Before and After appraisal, valuing the land only and assigning a value of ‘X’ to the improvements. The 0.67 acre site at 265 Bridgeport Avenue is valued at \$9.71/sf by the local Assessor and the 0.63 acre site at 3 Cots St (related entity) is value at \$6.42/sf.

The table below shows the analysis of three commercially-zoned sales. Given the limited data in the immediate neighborhood, the search was expanded up to 13.3 miles from the subject property.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	285 Bridgeport Avenue Shelton	100 Commerce Dr Shelton, CT 06484	740 Bridgeport Ave # SR714 Shelton, CT 06484	110 Main St Monroe, CT 06468
Proximity to Subject		2.6 Miles Southwest	2.6 Miles Southwest	13.3 Miles East
Sales Price	\$ 0	\$ 10.21	\$ 6.70	\$ 3.90
Price	N/A	\$ 2,450,000	\$ 3,750,000	\$ 60,090
Data Source	Inspection/Reps	V. 3092 P. 4D	V. 3485 P. 3444	V. 1888 P. 44
Date of Sale and Time Adjustment	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
	07/16/2017	12/12/2016	5/28/2014	7/31/2015
Location	Average (Corner)	V. Good (Corner)	Good (No Corner)	Avg. (No Corner)
Site/Area	0.7987+AC/Good	5.61+AC/Good	13.05+AC/Avg	0.53+AC/Good
Present Use	Office	Vacant	Vacant	Vacant
Highest & Best Use	Commercial	Commercial	Commercial	Commercial
Utilities	W,S,E,T,G	W,S,E,T,G	W,S,E,T,G	W,S,Public,T
Zoning/Access	CB-1	PBD Commercial	PDD Planned Dev	B2
Notes or Boarding Considerations	Restrict-Access Line	No Non-Access Lin	ROW-Res Access	No Non-Access Lin
	Crainane Examit	NKTAV	NKTAV	
Adjusted Value		-1.02	+0.39	-0.39
		-0.51	-0.33	
		-3.57		
Indicated Value of Subject		\$ 6.64	\$ 6.7	\$ 4.26

In the Before Valuation, the unadjusted sale price per/sf was \$10.21, \$6.70 and \$3.90. After adjusting for location and zoning, the sales indicated a value range of \$6.64, \$6.70 and \$4.29 per square foot. He concluded \$5.25/sf + X or \$155,000.

In the After Valuation, the Appraiser utilized the same three sales with no additional value to the abutter due to the assemblage. After adjusting for location and zoning, the sales indicated a value range of \$6.64, \$6.70 and \$4.29 per square foot. He concluded \$5.25/sf+X or \$185,000.

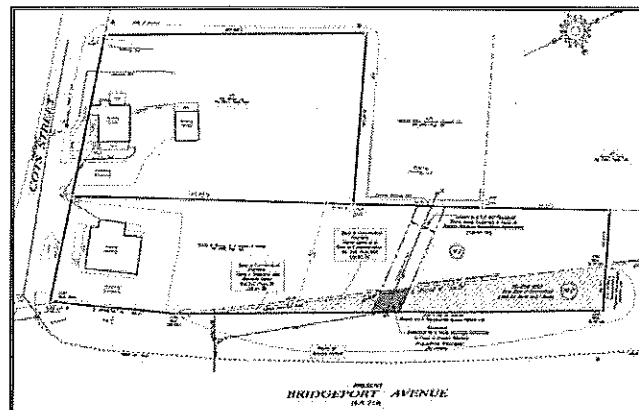
The value of the release parcel is then calculated as follows:

Before Valuation:	\$155,000 + X
After Valuation:	\$185,000 + X
Release Parcel Value=	\$30,000

Negotiations – On October 24, 2017, the abutter (Sheehy) was presented the asking price of \$37,000 (\$6.60/sf), which was accepted. The Town of Shelton was offered the land at the same price pursuant to CGS 3-14b and declined the purchase.

Recommendation – Staff recommends Board *approval* of the sale of the 5,608.3 sq.ft. (0.129 acre), commercially-zoned wooded strip of land for \$37,000.

- The proposed sale complies with Sections 4b-21, 3-14b, and 13a-80 of the CGS in that City of Bristol declined to purchase.
- The legislative delegation received the required notification.
- The release value of \$37,000 is reasonable in that it represents 123% of the appraised value.



PRB # 19-077
Transaction/Contract Type: RE – Voucher
Origin/Client: DOT/DOT
Project Number: 161-141-005
Grantor: Grumman Seven Associates, LLC
Property: Wilton, Danbury Rd (78)
Project Purpose: Safety & Operational Improvements on Route 7 at Grumman Hill Rd
Item Purpose: Voucher for Partial Take (225 sf), Defined Traffic Easement (191 sf), Aerial Easement (516 sf), Construction Easement (501 sf) and Right to Construct Driveways Acquired (206 sf)

Damages \$32,200

PROJECT: The improvements on Route 7 (Danbury Road) at the intersection of Grumman Hill Road will include roadway widening to accommodate northbound and southbound left-turn lanes and a minimum of 4-foot shoulders. The widening will take place on the west side of Route 7 and sidewalks will be installed on the east side of Route 7. The traffic signal for the intersection of Route 7 and Grumman Hill Road will be replaced to better accommodate the proposed left-turn lanes. Short, left-turn slots will also be installed on Route 7, south of the Grumman Hill Road intersection, at Hollyhock Lane and the commercial driveway opposite to Hollyhock Lane (per DOT, November 2017).

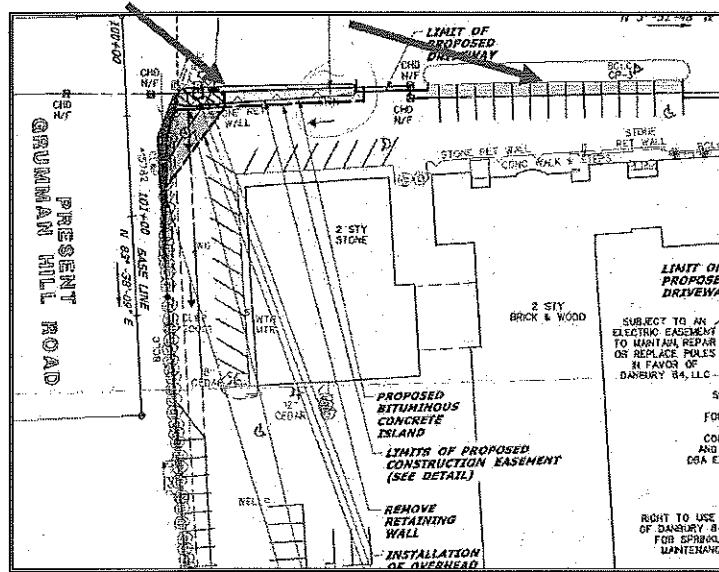
SITE & TAKING DESCRIPTION: The subject consists of a 3.154± acres (137,388± sf), with 355.59 feet of frontage on the east side of Danbury Road, with additional frontage on Grumman Hill Road. The site is improved with a 43,682 sf retail building, 4,076 sf warehouse and a 1,920 sf office building. The property is located in the DE-5 (Designed Enterprise District) zone and conforms to zoning. Average daily traffic counts (ADT) were 27,900 cars/day in 2014. There is a full traffic control signal at the intersection of Danbury Road and Grumman Hill Road.

The building improvements are not impacted by the easements. Site improvements including a stone retaining wall/seeded lawn within the easement area are impacted by the project.

The Appraiser opined the highest and best use of the property, either vacant or improved, is for commercial development.

DOT requires acquiring the following:

- A partial take in fee-simple – 225± sf
- A Defined Traffic Easement – 191± sf
- Construction Easement - 501± sf
- Defined Aerial Easement - 516± sf
- Easement to Install and Maintain Traffic Signalization Devices
- Right to construct driveways acquired – 206± sf



Partial Take, Aerial Easement, Defined Traffic Easement, Construction Easement (& Stone Retaining Wall), Encroachment, State Highway Line

Valuation: An appraisal was done by DOT Appraiser Thomas L. Fox, as of 11/09/2018. Based on the sales data comparison approach, the appraiser concluded that the fair market value of the entire property (land only) is \$24.00/sf of land area.

The table shows the appraiser’s summary of damages:

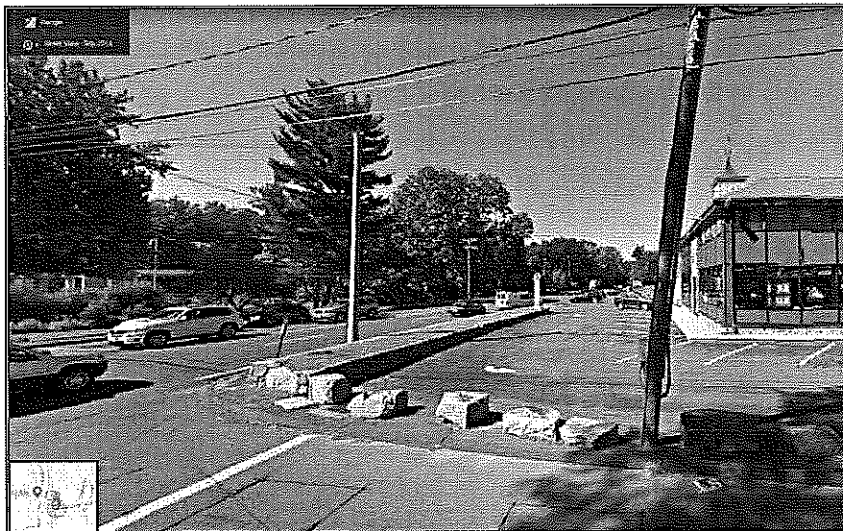
Item	Estimated Value
Before: 137,388 sf @ \$24.00/sf =	\$3,297,312
Affected Site Improvements (stone retaining wall)	\$20,000
Buildings	N/A
Fair Market Value Before	\$3,317,312
Rounded	\$3,317,000
After: 136,456 sf in Fee @ \$24.00/sf =	\$3,297,944
Defined Traffic Esmt: 191 sf @ \$24/sf x 1% =	\$46
Defined Aerial Esmt: 516 sf @ \$24/sf x 85% =	\$10,526
Affected Site Improvements (stone retaining wall)	\$0
Buildings	N/A
Total Site – After (rounded)	\$3,286,000
Damages (Value of Acquisition)	\$31,000
Temp. Const Esmt: 501 sf @ \$24/sf x 10% x 1yr =	\$1,200
Total Damages:	\$32,200

Staff had the following inquiries regarding this proposal:

1. Did DOT seek to negotiate a reduction in the Damages due to the property owner’s encroachment of State-owned land being utilized as a portion of the stone retaining wall with the DOT appraiser assigning a \$20,000 contributory value.
 - No; that is not something we quantify or negotiate
 - DOT must take into consideration the encroachment of state-owned land in valuing affected site improvements and make adjustments to the before value.

2. Did DOT seek to negotiate a reduction in the Damages due to the property owner's encroachment of State-owned land being utilized as a portion of 13 parking spaces benefiting the owner.
 - No; the potential encroachment issue would be handled separate from acquisition negotiations.
3. Why is there a need for an aerial easement as the construction plans (dated March 6, 2019) do not identify any overhead wires in the aerial easement area or any trees
 - There is a proposed utility wire and cross arm located within the easement area (Taking Map dated June 2018). The plans do not show the proposed location however, it is designed into the project.
 - Revised construction plans should be submitted to show overhead wires in the aerial easement area for which State is compensating the owner for.
4. Is DOT going to enter into a lease agreement with the owner for utilizing the encroached state owned property as described above?
 - The Department will review the issue and address it accordingly.
 - DOT should provide the negotiated arrangement including financial with the owner.

RECOMMENDATION: It is recommended that the Board **SUSPEND** this item pending submission to the Board, by the appropriate division(s) within DOT, an agreement to address the encroachment issue impacting the 13 parking spaces either via a Release (Sale) or Lease; submission of revised construction drawing and adjustment to the before value.



5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS

6. ARCHITECT-ENGINEER - NEW BUSINESS

7. OTHER BUSINESS

8. VOTES ON PRB FILES: The Board took the following votes in Open Session:

PRB FILE #19-033 – Mr. Valengavich moved and Mr. Halpert seconded a motion to reject PRB FILE # 19-033. The motion passed unanimously.

PRB FILE #19-076 – Mr. Halpert moved and Mr. Valengavich seconded a motion to approve PRB FILE # 19-076. The motion passed unanimously.

Minutes of April 4, 2019

PRB FILE #19-077 – Mr. Valengavich moved and Mr. Josephy seconded a motion to suspend PRB FILE # 19-077. The motion passed unanimously.

9. NEXT MEETING – Monday, April 8, 2019

The meeting adjourned.

APPROVED:  **Date:** 4/8/19
John Valengavich, Secretary

