§ 200. Petition for street improvement and proceedings thereon. 1. The owners of real estate fronting or abutting upon either side of a street or highway or private road or right of way used for access to said premises or to a portion thereof to the extent of at least one-half of the entire frontage or bounds on both sides of said street or highway or private road or right of way or portion thereof, may petition the town board or the town board on its own motion may adopt a resolution to improve said street or highway, private road or right of way or portion thereof, by the construction of sidewalks, curbs, gutters, culverts, and other necessary improvements in connection therewith, or by construction and paving of such street or highway or private road, or right of way or portion thereof; but such curbs, gutters, culverts and other necessary improvements shall not be constructed under authority of this section unless a pavement has been constructed prior thereto or is to be constructed at the same time upon said street, highway, private road, right of way or portion thereof.

2. If the proposed improvement will serve the property on only one side of a street, highway, private road or right of way, or portion thereof, the petition for such improvement shall be signed by the owners of real property fronting or abutting upon the side to be served of said street, highway, private road or right of way to the extent of at least one-half of the entire frontage on such side of said street, highway, private road or right of way, or portion thereof.

3. Streets or highways which may be improved pursuant to this section shall include the portion of any state highway or county road which lies within the town. No state highway shall be improved pursuant to this section until the commissioner of transportation shall consent thereto and approve the plans and specifications which shall be prepared therefor as hereinafter provided. No county road shall be improved pursuant to this section until the county superintendent of highways shall consent thereto and approve the plans and specifications which shall be prepared therefor as hereinafter provided.

4. Before any such street, highway, private road or right of way or portion thereof other than a state highway or a county road shall be

improved pursuant to this section, the town board shall cause it to be surveyed, and the lines and grades thereof to be established and such survey and a profile of the grade shall be filed in the town clerk's office.

5. But if there be any resident owners, no petition for improvements shall be of any force or effect, nor shall such petition be acted upon by said board unless thereon appear the signatures of resident owners owning not less than one-half of the frontage owned by resident owners residing in or along the street or highway or private road, right of way or part of street or highway or private road or right of way covered or represented by such petition; provided, however, that if such petition shall have thereon the signatures of owners of real estate fronting or abutting upon either side of the street or highway or private road, right of way or portion of street or highway or private road or right of way covered or represented by such petition to the extent of at least eighty per centum of the entire frontage or bounds, then the foregoing requirements as to signatures of resident owners shall not apply thereto.

6. Such petition for improvements shall be signed by the petitioners, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions, and shall state the maximum amount proposed to be expended for the improvement. A resolution adopted pursuant to subdivision one of this section shall state the improvement proposed, the maximum amount proposed to be expended and the area benefited.

7. When a petition for improvement containing the required signatures shall have been presented or a resolution adopted by the town board on its own motion, the town board shall adopt an order and enter the same in the minutes of its proceedings, reciting in general terms the filing of such petition or adoption of such resolution as the case may be, the improvement proposed, the maximum amount proposed to be expended for the improvement and the area benefited as stated in the petition or the resolution, and specifying the time when and the place where said board

will meet to consider the petition or resolution and to hear all persons interested in the subject thereof concerning the same. The board shall cause a copy of such order, certified by the town clerk, to be published at least once in the official paper, the first publication thereof to be not less than ten nor more than twenty days before the day set therein for the hearing as aforesaid, and shall cause a copy thereof to be posted on the sign-board of the town maintained pursuant to subdivision six of section thirty of this chapter and conspicuously in five public places along the street or highway or private road or right of way or portion thereof to be improved not less than ten nor more than twenty days before the day designated for the hearing as aforesaid.

8. If the town board shall determine after such hearing and upon the evidence given thereat, that it is in the public interest to make the improvement, the board shall direct the engineer to prepare definite plans and specifications and to make a careful estimate of the expense, and with the assistance of the town attorney or an attorney employed for that purpose, to prepare a proposed contract for the execution of the work. Thereupon the said board shall examine such definite plans, specifications, estimate and the proposed contract, and may reject the same or make such modifications and changes therein as shall seem necessary and desirable.

9. If the estimate of the cost of the improvement as prepared by said engineer exceeds the maximum amount proposed to be expended for said improvement, the town board shall adopt an order calling a further public hearing at a definite place and time not less than fifteen nor more than twenty-five days after such determination. A notice of such further hearing shall be published and posted in the manner hereinabove in this section provided and there shall be included in such notice a statement that the improvement cannot be constructed within the maximum amount proposed to be expended, the cost of said improvement as estimated by the engineer, a brief description of the improvement and the place and time at which the town board will conduct such further hearing. A copy of such notice shall also be sent by regular mail to the last known address of each person who has signed the petition, but failure to receive said notice shall in no way affect the validity of

any proceedings hereunder. Such further hearing shall be conducted in the same manner as the original hearing upon the petition or resolution.

10. If after such further hearing said board shall determine that it is in the public interest to construct said improvement within the cost estimated by the engineer it shall adopt a resolution providing for such definite plans, specifications, estimate and the proposed contract and cause the improvement to be constructed all in the same manner as hereinbefore in this chapter provided for the construction of trunk sewers, drains and water systems. Where necessary, provision shall be made in such resolution for acceptance of any outstanding offer of dedication of such street, highway, private road or right of way. In any case where such public hearings were held as a result of the adoption of a resolution by the town board in lieu of taking action pursuant to petition, the resolution provided in this subdivision shall be subject to a permissive referendum in article seven of this chapter, except as hereinafter provided. The proposition submitted must be approved by the affirmative vote of a majority of the owners of real property situate in the proposed benefited area described in the resolution as shown upon the latest completed assessment roll of the town, voting on such proposition. A petition requesting a referendum shall be sufficient if it is initiated and signed, and acknowledged or proved, or authenticated in the same manner as a petition for improvements pursuant to this section.

11. Where such petition or resolution is for the construction of sidewalks, curbs, gutters, culverts and other necessary underground works in connection therewith along different streets or highways or private roads or rights of way or portions of streets or highways or private roads or rights of way, such construction of streets or highways or private roads or rights of way or portions thereof shall be deemed one continuous street or highway or private road or right of way for the purposes of this section.

12. Where the petition or resolution seeks the improvement of such a street or highway or private road or right of way not previously dedicated, the amount to be expended for the improvement shall include

the cost of the proceeding to acquire so much land as may be necessary to lay out such highway and the cost of the land and the town board shall in making its determination authorize and direct the town superintendent of highways to take and complete condemnation proceedings pursuant to the applicable provisions of law and the town superintendent shall take and complete such proceedings before such determination shall become final.

13. Any such street or highway or private road or right of way not previously dedicated shall not be less than three rods in width, provided however, that upon certification in writing by the commissioner of transportation, of the necessity therefor and the filing of such certification in the office of the town clerk of such town, any such highway may be of such width less than three rods as the commissioner shall specify in such certificate.

14. Any street or highway or private road or right of way improved or laid out under this section shall after such improvement is constructed, be maintained as a public highway under the applicable provisions of law and not as a charge against such real property, anything in this article to the contrary notwithstanding.