

CERTIFICATE OF HIGHWAY MILEAGE

YEAR ENDING FEBRUARY 10, 2008

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2008 to: Vermont Agency of Transportation, Policy and Planning Division, One National Life Drive, Montpelier, VT 05633.

We, the Selectmen or Aldermen or Trustees of MARLBORO in WINDHAM County

on an oath state that the mileage of highways, according to Title 19, V.S.A, Sec #305, added 1985, is as follows:

FEB 20 2008 Vermont Agency of Transportation Policy & Planning Division

PART I - CHANGES TOTALS - Please fill in and calculate totals.

Table with 6 columns: Town Highways, Previous Mileage, Added Mileage, Subtracted Mileage, Total, Scenic Highways. Rows include Class 1, Class 1 Lane, Class 2, Class 3, State Highway, Class 4, Legal Trail, and Total.

* Mileage for Class 1 Lane, Class 4, and Legal Trail classifications is NOT included in total.

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

- 1. NEW HIGHWAYS: Please attach Selectmen's "Certificate of Completion and Opening"
2. DISCONTINUED: Please attach SIGNED copy of proceedings (minutes of meeting) Discontinued 125 feet of Stuart Lane (TH 29)
3. RECLASSIFIED/REMEASURED: Please attach SIGNED copy of proceedings (minutes of meeting) Pent Road to Trail now called South Pond Trail
4. SCENIC HIGHWAYS: Please attach a copy of order designating/discontinuing Scenic Highways

IF THERE ARE NO CHANGES IN MILEAGE: Check box and sign below. []

PART III - SIGNATURES - PLEASE SIGN.

Selectmen/ Aldermen/ Trustees Signatures:

Handwritten signatures of Neil MacArthur and another official.

T/C/A Clerk Signature:

Date Filed: 2.18.2008

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/A Clerk.

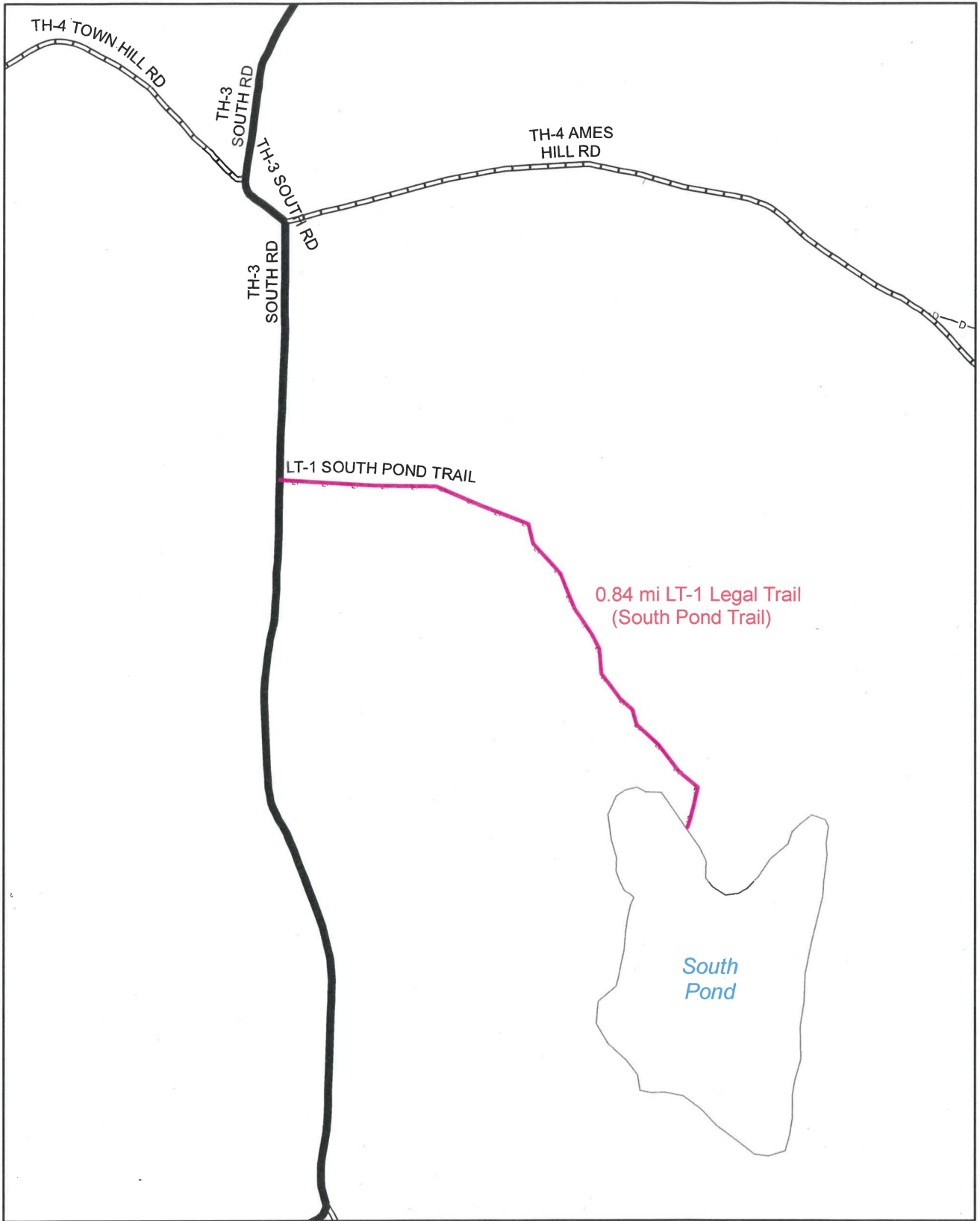
APPROVED:

Representative, Agency of Transportation

DATE:

4/17/2008

Johnathan Croft

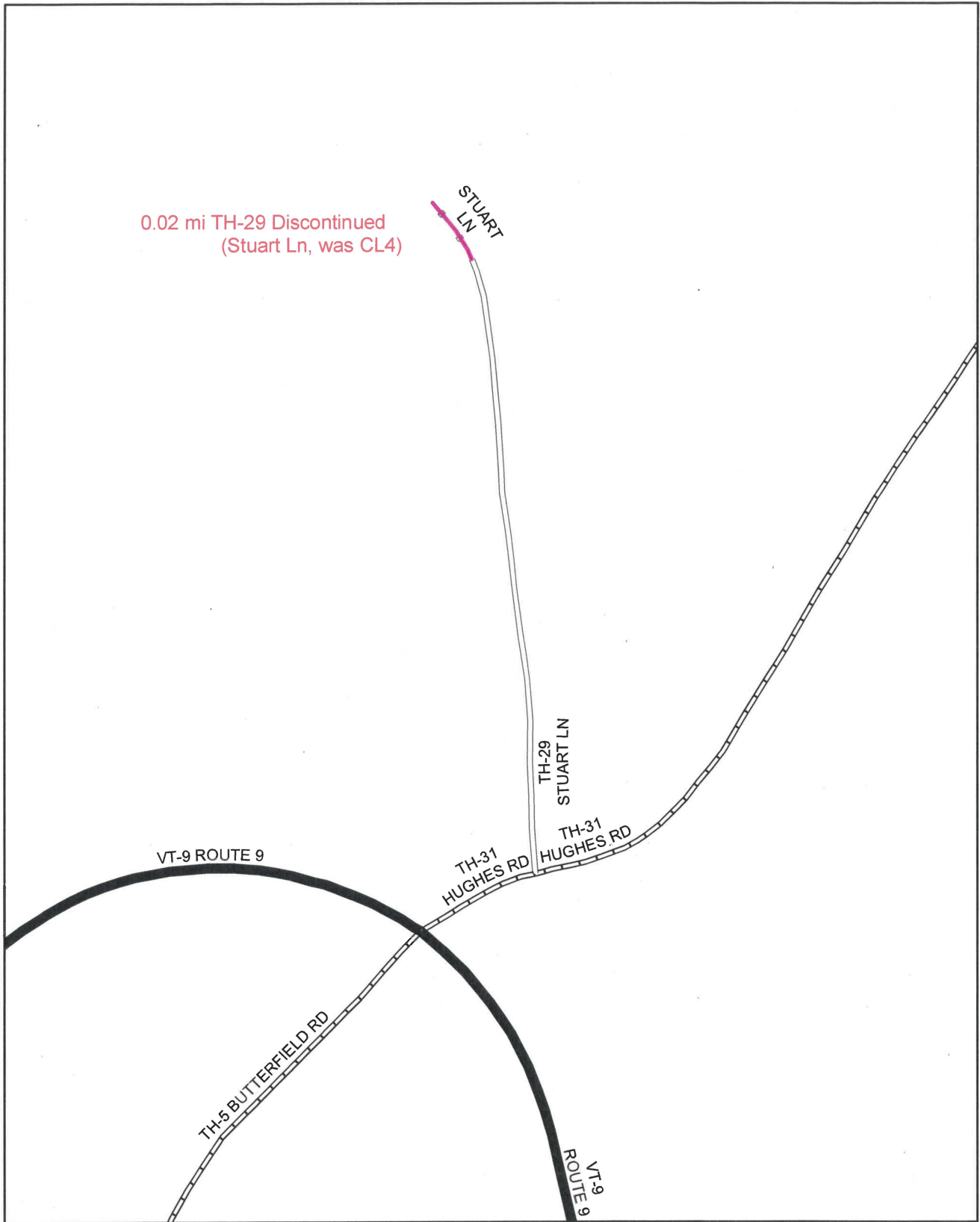


Mileage Certificate Change 2008 -- MARLBORO

Mapping Unit
Policy & Planning Division
Vermont Agency of Transportation -- March 2008



0 0.2 Miles



0.02 mi TH-29 Discontinued
(Stuart Ln, was CL4)

STUART LN

VT-9 ROUTE 9

TH-31 HUGHES RD

TH-29 STUART LN

TH-31 HUGHES RD

TH-5 BUTTERFIELD RD

VT-9 ROUTE 9

Mileage Certificate Change 2008 -- MARLBORO

Mapping Unit
Policy & Planning Division
Vermont Agency of Transportation -- March 2008



0 0.05 Miles



TOWN HWY. NO.	CLASS	LENGTH IN MILES
4	3	0.940
5	3	3.000
6	3	1.800
7	3	(0.650)
8	3	3.470
9	3	0.550
10	3	3.460
11	3	0.530
12	3	0.490
14	3	0.410
15	3	1.370
16	3	3.430
17	3	0.410
18	3	0.350
19	3	(0.150)
20	3	2.400
21	3	0.520
22	3	0.540
23	3	0.170
24	3	(0.220)
26	3	2.070
28	3	0.300
29	3	(0.240)
31	3	1.140
32	3	0.850
33	3	0.800
34	3	1.100
36	3	0.200
37	3	1.130
38	3	1.000
40	3	2.120
41	3	0.500
42	3	0.430
43	3	2.010
44	3	0.700
45	3	0.490
47	3	0.120
48	3	0.170
49	3	0.500
TOTAL	39,330	1,560

* This portion of town highway is Class 3, but is functionally Class 4

MILEAGE SUMMARY

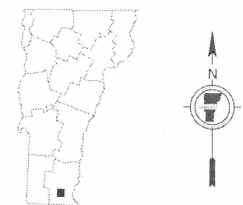
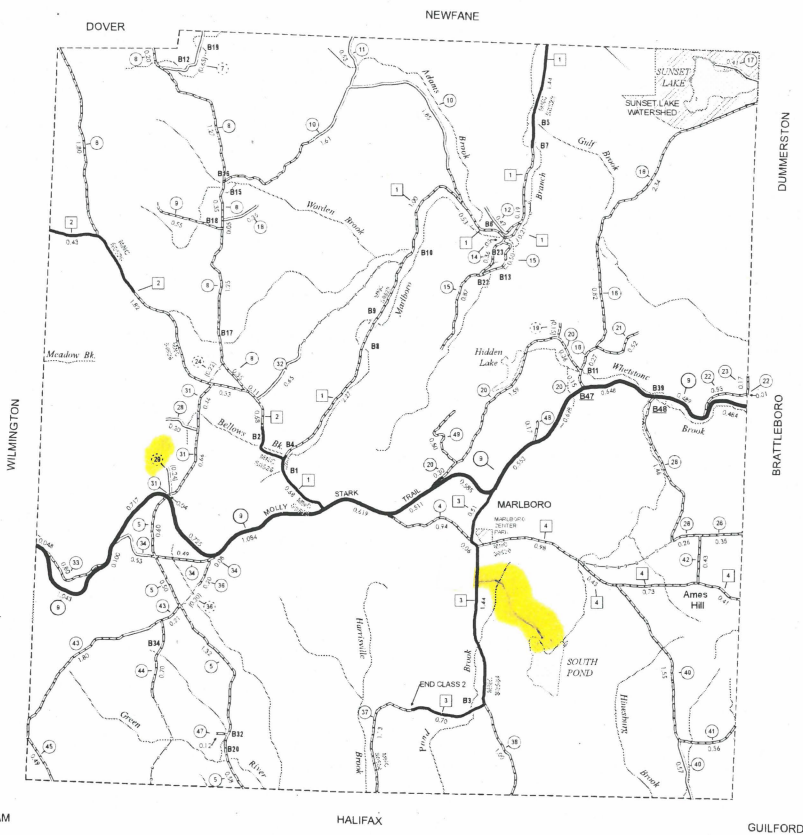
CLASS	LENGTH	TOTAL
CLASS 2		6,320
TH-1		3,370
TH-2		2,710
TH-3		2,550
TH-4		
TOTAL CLASS 2		14,950
CLASS 3		39,330
TOTAL CLASS 3		39,330
TOTAL TOWN		54,280
STATE HIGHWAY		8,304
VT-9		8,304
TOTAL STATE HIGHWAY		8,304
TOTAL STATE		8,304

TOTAL, TRAVELED HIGHWAYS, FEB. 10, 2007: 62,584
(Excludes Class 4 and Legal Trail Mileage)

- HIGHWAYS**
- INTERSTATE
- U.S. ROUTE
- STATE ROUTE
- CLASS 1
- CLASS 2
- CLASS 3
- CLASS 4
- INTERSTATE OR DIVIDED HIGHWAY
- STATE - HARD SURFACE OR PAVED
- TOWN - HARD SURFACE OR PAVED
- GRAVEL
- SOIL OR GRADED AND DRAINED EARTH
- UNIMPROVED OR PRIMITIVE
- IMPASSABLE OR UNTRAVELED
- LEGAL TRAIL
- DISCONTINUED
- HIGHWAY CLASS CHANGE
- RAILROAD
- PUBLIC LAND
- WATER BODIES
- OPEN WATER
- SWAMP
- BRIDGE OR CULVERT
- BRIDGE OR CULVERT GREATER THAN 20'
- BRIDGE OR CULVERT 6' - 20'
- STREAM OR BROOK
- POLITICAL SUBDIVISIONS
- STATE BOUNDARY
- COUNTY BOUNDARY
- TOWN BOUNDARY
- VILLAGE BOUNDARY
- URBAN COMPACT BOUNDARY
- B34 STATE BRIDGE IDENTIFIER
- B34 TOWN BRIDGE IDENTIFIER
- FEDERAL CLASSIFICATION IDENTIFIER
- FAU URBAN ARTERIAL OR COLLECTOR
- MA MINOR ARTERIAL
- MAJ MAJOR COLLECTOR
- MC MINOR COLLECTOR
- PA PRINCIPAL ARTERIAL

DISCLAIMER:
The untraveled highways (lead-out town highways, discontinued highways, and legal trails shown hereon are those of which the Agency of Transportation has record; others may exist.
Highway and bridge data by the Agency of Transportation, Policy & Planning Division. All other data from the Vermont Center for Geographic Information.

Vermont State Plane Coordinate System
North American Datum of 1983
SPCS Zone Identifier: 4800
Geographic Reference System 80
4,000-meter grid, Easting - Northing

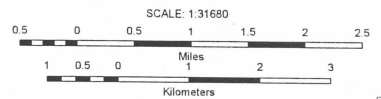


VERMONT GENERAL HIGHWAY MAP
Town of Marlboro
WINDHAM COUNTY

Transportation District #2

Prepared by the
Vermont Agency of Transportation
Policy & Planning Division
in cooperation with
U.S. Department of Transportation
Federal Highway Administration

Map generated October, 2007



COVER SHEET
SUPPORTING DOCUMENTATION
STUART LANE
MARLBORO

- Notice of Hearing, Certificate of Service, Certificate of Posting
- Hearing Minutes
- Selectboard Report of Determination to Discontinue 125 Feet of Stuart Lane
- Description of partial discontinuance of road in 1874; original laying out has not been discerned in Town records;
- 1856 Map showing location of road prior to discontinuance of portion in 1874
- Current Marlboro Lister map showing portion of road that was discontinued in February, 2008
- Current Town Highway Map showing location

**TOWN OF MARLBORO
ROAD DISCONTINUANCE NOTICE**

NOTICE IS HEREBY GIVEN that the Selectboard of the Town of Marlboro propose, pursuant to Title 19 VSA Chapter 7, that the most westerly 125 feet of the following described public highway in the Town of Marlboro be discontinued:

Stuart Lane (TH#29), a Class 4 town highway – Beginning at the intersection with Hughes Road (TH#31) and proceeding in a northwesterly direction for a distance of 0.240 mile to the westerly end of the residence at 232 Stuart Lane.

A site inspection at 232 Stuart Lane beginning at 10:00 a.m. on Wednesday, January 30, 2008 will be held to inspect the premises.

A hearing at the Marlboro Town Office beginning at 10:45 a.m. on Wednesday, January 30, 2008 will be held to consider the discontinuance of the most westerly 125 feet of Stuart Lane from the Marlboro highway system.

THEREFORE, pursuant to Title 19, VSA, Chapter 7, you are hereby notified that a site inspection for the purpose of examining the premises affected, and a hearing will be held at the specified times as listed above, on Wednesday, January 30, 2008, in Marlboro, Vermont, for the purpose of hearing all persons interested in said highway and its partial discontinuance.

Dated at Marlboro, Vermont this 28th day of December, 2007

Marlboro Selectboard

Gail MacArthur, Chair
Lucy Gratwick
Craig Hammond

CERTIFICATE OF SERVICE

I, Marcia L. Hamilton, hereby certify that I sent a copy of the foregoing document on December 28, 2007, by United States Mail, certified postage paid, to the following:

Property Owners Abutting Stuart Property at 232 Stuart Lane (TH#29)

06-01-64 David A. Matt
370 Higley Hill Road, Brattleboro, VT 05301

06-01-16 Douglas K. Swanson
PO Box 851, Wilmington, VT 05363

06-01-59, 06-01-60, 06-01-63, 06-01-70
Richard H. Hamilton
63 Hughes Road, Brattleboro, VT 05301

06-01-63 Estate of Whitney A. Stuart
Elisabeth Stuart, Trustee
623B Old Nassau Road, Monroe Township, NJ 08831

06-01-63 Estate of Whitney A. Stuart
Jay Stuart, Trustee
320 High Tor Drive, Watchung, NJ 07069

06-01-66 Daniel K. Butler, et al
716 West Allens Lane, Philadelphia, PA 19119-3310

06-01-68, 06-01-75 Skyline Partners L.P.
PO Box 587, Jacksonville, VT 05342

06-01-69.2 Michael and Karla Bills
6590 Route 9, Brattleboro, VT 05301-7941

Others

State of Vermont
Agency of Transportation
133 State Street, Drawer 20
Montpelier, VT 05633

T. Wilson, Chair
Marlboro Development Review Board
PO Box E, Marlboro, VT 05344

Dated at Marlboro, Vermont on December 28, 2007

By:

Marcia L. Hamilton
Administrative Assistant
Marlboro Selectboard

ATTEST:

Notary Public
Commission Expires February 10, 2011

CERTIFICATE OF POSTING

I, Marcia L. Hamilton, do hereby certify that I did post the Legal Notice for the hearing to be held on Wednesday, January 30, 2008 for the discontinuance of 125 feet of the most westerly part of Stuart Lane (TH#29) in Marlboro at the following locations:

Town Clerk's Office
525 South Road
Marlboro, VT 05344

Sweeties Market and Deli
1796 Route 9
Marlboro, VT 05344

marlboro.vt.us

Dated at Marlboro, Vermont on December 28, 2007

By:

Marcia L. Hamilton
Administrative Assistant
Marlboro Selectboard

ATTEST:

Notary Public
Commission Expires February 10, 2011

**TOWN OF MARLBORO
SELECTBOARD
PO BOX 518
MARLBORO, VT 05344**

February 15, 2008

To: Elisabeth Stuart
Jay Stuart
Skip Stuart
Richard H. Hamilton
Michael and Karla Bills
Daniel K. Butler, et.al.
David A. Matt
Skyline Partners, LP
Douglas K. Swanson
Town of Marlboro, Development Review Board
Vermont Department of Forests, Parks and Recreation
Vermont Agency of Transportation

From: Marlboro Selectboard: Gail MacArthur, Chair, Lucy Gratwick
and Craig Hammond

Enclosed are the road hearing report and the Selectboard's report of findings
and order to discontinue 125 feet of Stuart Lane

The Marlboro Selectboard reached a decision to discontinue 125 feet of
Stuart Lane February 14, 2008 at a regularly scheduled Selectboard meeting.
Stuart Lane is (Town Highway #29), a Class 4 Town highway beginning at
the intersection with Hughes Road (Town Highway #31) and proceeding in a
northwesterly direction. Prior to the action, the road traveled for a distance
of 0.240 mile to the westerly end of the residence at 232 Stuart Lane. The
new distance of Stuart Lane is 0.216 mile and the terminus is more than 50
feet before the easterly end of the residence.

TOWN OF MARLBORO
SELECTBOARD REPORT
DISCONTINUANCE OF 125 FEET OF STUART LANE
January 30, 2008

At 10:00 a.m. on January 30, 2008, the Selectboard held a site inspection and at 10:45 a.m. convened a hearing at the Marlboro Town Office for the purpose of taking testimony of interested persons and others on whether the public good, necessity and convenience of the inhabitants of Marlboro require 125 feet of Stuart Lane to be discontinued.

When the Selectboard met at 232 Stuart Lane to inspect the site, the ground was icy and it was raining. The inspection lasted approximately 10 minutes. Along with the Selectboard, (Gail MacArthur, Lucy Gratwick, Craig Hammond), present were three abutters of the Stuart land (Michael Bills, Karla Bills, and Richard H. Hamilton), two representatives from the Stuart family (Jay Stuart and Skip Stuart) and Selectboard assistant (Marcia Hamilton).

Stuart Lane (TH#29), a Class 4 town highway begins at the intersection with Hughes Road (TH#31) and proceeds in a northwesterly direction for a distance of 0.240 mile to the westerly end of the residence at 232 Stuart Lane. The road extended west to the Wilmington town line until it was discontinued through petition by the Selectboard (Petition: Town Record Book 4, page 118 dated September 5, 1874; Selectboard action to discontinue: Town Record Book 4, page 119 dated October 29, 1874). The right-of-way along the 125 feet in question is directly in the front yard of the house and is a grassy lawn in spring, summer and fall.

The purpose of the warned action was the result of a letter to the Selectboard dated November 27, 2007, from Jay Stuart, co-trustee of the property at 232 Stuart Lane, requesting the Selectboard take action to discontinue 125 feet of Stuart Lane. He stated he applied for a permit to rebuild after a fire. He met with the Development Review Board (DRB) on November 20, 2007 and the DRB determined that extending the structure five feet would increase the degree of non-conformance, according to the Marlboro zoning bylaws. He stated the DRB recessed without a decision and recommended he address the issue of the road with the Selectboard.

The Selectboard later learned that the variance falls under strict provisions of state statute and it would take an amendment of the zoning regulations or the state statute to cure the problem. Such action would be more unwieldy than discontinuing a portion of the road.

The Selectboard discussed the matter again on December 27, 2007 and voted to begin proceedings to discontinue 125 feet of road.

The Selectboard gave thirty days' notice, by certified mail, to persons owning or interested in lands near the road; gave notice to the Town planning commission; posted copies of the notice inside and outside of the town clerk's office and at Sweeties; and caused a notice to be published in the *Brattleboro Reformer*, on January 16, 2008, which, as required, is not less than ten days before the time set for the hearing on January 30, 2008.

The same persons were present at the hearing as were present at the site inspection.

During the course of the hearing, the following exhibits were introduced by the Selectboard assistant, Marcia Hamilton: photographs of the site in the summer and fall showing a grassy lawn in front of the house; a winter scene showing the road and relationship to the house; the original petition to discontinue the road beyond the home, transcribed from Town Record Book 4, page 118 dated September 5, 1874 and the Selectboard action to discontinue from Town Record Book 4, page 119 dated October 29, 1874; aerial photos from the Marlboro Board of Listers showing the current location of the road and the relationship of the house to the road; and Marlboro maps from 1856 and 1869 showing the entire road as it looked on maps at those times.

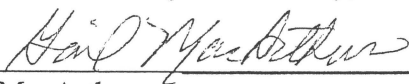
Based on the evidence and exhibits presented at the hearing, the board makes the following findings and decision:

1. The road in question is Stuart Lane, (TH#29), a Class 4 town highway, beginning at the intersection with Hughes Road (TH#31) and proceeding in a northwesterly direction for a distance of 0.240 miles to the westerly end of the residence at 232 Stuart Lane.
2. The 1874 Selectboard discontinued the road beyond the westerly end of the residence by petition. Therefore, it is not a through road.
3. The road acts as a private drive in that it incurs no public traffic.
4. A discernable road ends before it reaches the house. There is a grassy lawn in front of the house. There is little or no maintenance of the road. There is usually no snow plowing and any plowing is done privately.
5. Residents on the road requested discontinuance of only 125 feet of the road to allow them to comply with the current zoning ordinance. The Selectboard concurred.
6. Discontinuance of 125 feet of the road has no impact on the town or the public.
7. There was no opposition from abutters of Stuart Lane to discontinue 125 feet of the westerly end of the road.
8. The public good, necessity and convenience of the Selectboard action to discontinue 125 feet of road is not in jeopardy.


Based on the preceding findings, the Marlboro Selectboard orders 125 feet of Stuart Lane, from the most westerly end of the house, eastward, be discontinued.

Any person interested in this decision to discontinue 125 feet of Stuart Lane may appeal this decision to the Superior Court of Windham County within 30 days of the decision, in writing

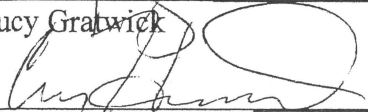
Dated this 14th day of February, 2008, at Marlboro, VT.



Gail MacArthur



Lucy Gratwick



Craig Hammond

TOWN OF MARLBORO
SELECTBOARD HEARING
PROPOSED DISCONTINUANCE OF 125 FEET OF STUART LANE
January 30, 2008

The Selectboard conducted a road discontinuance hearing at Marlboro Town Office on Wednesday, January 30, 2008, beginning at 10:45 a.m. This is a record of the hearing.

BACKGROUND

Jay Stuart, co-trustee of the property at 232 Stuart Lane, sent a letter to the Selectboard November 27, 2007 requesting the Selectboard take action to discontinue 125 feet of Stuart Lane. He stated he applied for a permit to rebuild after a fire. He met with the Development Review Board (DRB) on November 20, 2007 and the DRB determined that extending the structure five feet would increase the degree of non-conformance, according to the Marlboro zoning bylaws. He stated the DRB recessed without a decision and recommended he address the issue of the road with the Selectboard.

The Selectboard met, November 29, 2007 and discussed Jay Stuart's letter. They sent a letter December 12, 2007 to the DRB, copying Jay Stuart, suggesting the DRB grant a variance. They felt it would be an easier remedy and more straight-forward than discontinuing a portion of the road.

The DRB chair replied by e-mail on December 16, 2007 and stated that the variance falls under strict provisions of state statute and it would take an amendment of the zoning regulations or the state statute to cure the problem. He said such action would be more unwieldy than discontinuing a portion of the road.

The Selectboard reconsidered at their December 27, 2007 meeting and initiated the discontinuance proceedings. On December 28, 2007, they sent to abutters a notice of the hearing to discontinue 125 feet of the most westerly end of Stuart Lane at 232 Stuart Lane.

The Selectboard inspected the premises Wednesday, January 30, 2008 at 10:00 a.m., and conducted the hearing immediately after at 10:45 a.m.

HEARING

Gail MacArthur, chair, opened the meeting and Nora Wilson, Town Clerk, swore in all witnesses.

Present were the following: Gail MacArthur, Lucy Gratwick and Craig Hammond, Selectboard members; Skip Stuart and Jay Stuart, building permit applicant; Michael Bills, Karla Bills and Richard H. Hamilton, adjoining land owners; and Marcia Hamilton, Selectboard Assistant.

Witnesses viewed the exhibits, which were as follow:

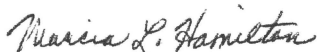
- photographs of the site in the summer and fall showing a grassy lawn in front of the house;
- a winter scene showing the road and relationship to the house;
- the original petition of discontinuance of the road beyond the home, transcribed from Town Record Book 4, page 118 dated September 5, 1874 and the Selectboard discontinuance from Town Record Book 4, page 119 dated October 29, 1874;
- aerial photos from the Marlboro Board of Listers showing the current location of the road and the relationship of the house to the road;
- and Marlboro maps from 1856 and 1869 showing the entire road as it looked on maps at those times.

Jay Stuart stated that Stuart Lane is a private drive that incurs no public traffic. A discernable road ends before the house and grassy lawn is in front of the house. There is little or no maintenance of the road. There is usually no snow plowing and any plowing is done privately. He said there was fire damage at the home on September 28, 2007 and they want to rebuild. They want to install minor upgrades on the same footprint and extend the house an additional five feet to the south. He said the original footprint plus the extension of five feet falls too close to the road. He wants to reduce the length of the road by 125 feet because the extension further into the right-of-way is a degree-of-noncompliance issue with the Development Review Board.

Gail MacArthur asked about the stake in the ground at the site. Michael Bills said he drove the stake into the ground to indicate the end point of the town road taking into consideration the 125 feet the Stuarts requested the town to discontinue. He said he does not care if the distance to discontinue is 10 feet or 125 feet, he will be satisfied with any distance convenient to the town.

There was no further testimony, and Gail concluded the hearing at 10:50 a.m. She said a final report will be prepared and distributed within 60 days to everyone who received the notice.

Respectfully submitted,



Marcia Hamilton
Selectboard Assistant

*Discontinuance of
portion of Stuart Lane
in 1874*

To C. M. Adams, J. H. Hamilton and Elliot Higley, Selectman of the Town of Marlboro in the County of Windham and State of Vermont. The undersigned inhabitants and free holders of said town represent that there now is an open public highway in said town leading from the west line of said town past the premises formerly owned by O. P. Corse in an easterly direction to and past the dwelling house of Emerson Thurbr in said town and that public good and private convenience do not longer require the continuance of said highway. Therefore, your petitioners respectfully request that you will make examination of the premises and cause said highway to be discontinued or such portion thereof as is situated west of a point near the top of the hill west of said Thurber house and such portion of said highway as lies between the above mentioned point and said Thurber house you cause to be changed from an open public highway to a bridle road or lane.

Marlboro Vt. September 5, 1874

Warren Higley	Zenas H. Whitney
Luke Y. Higley	W. H. Whitney
F. R. Howe	Williston Winchester

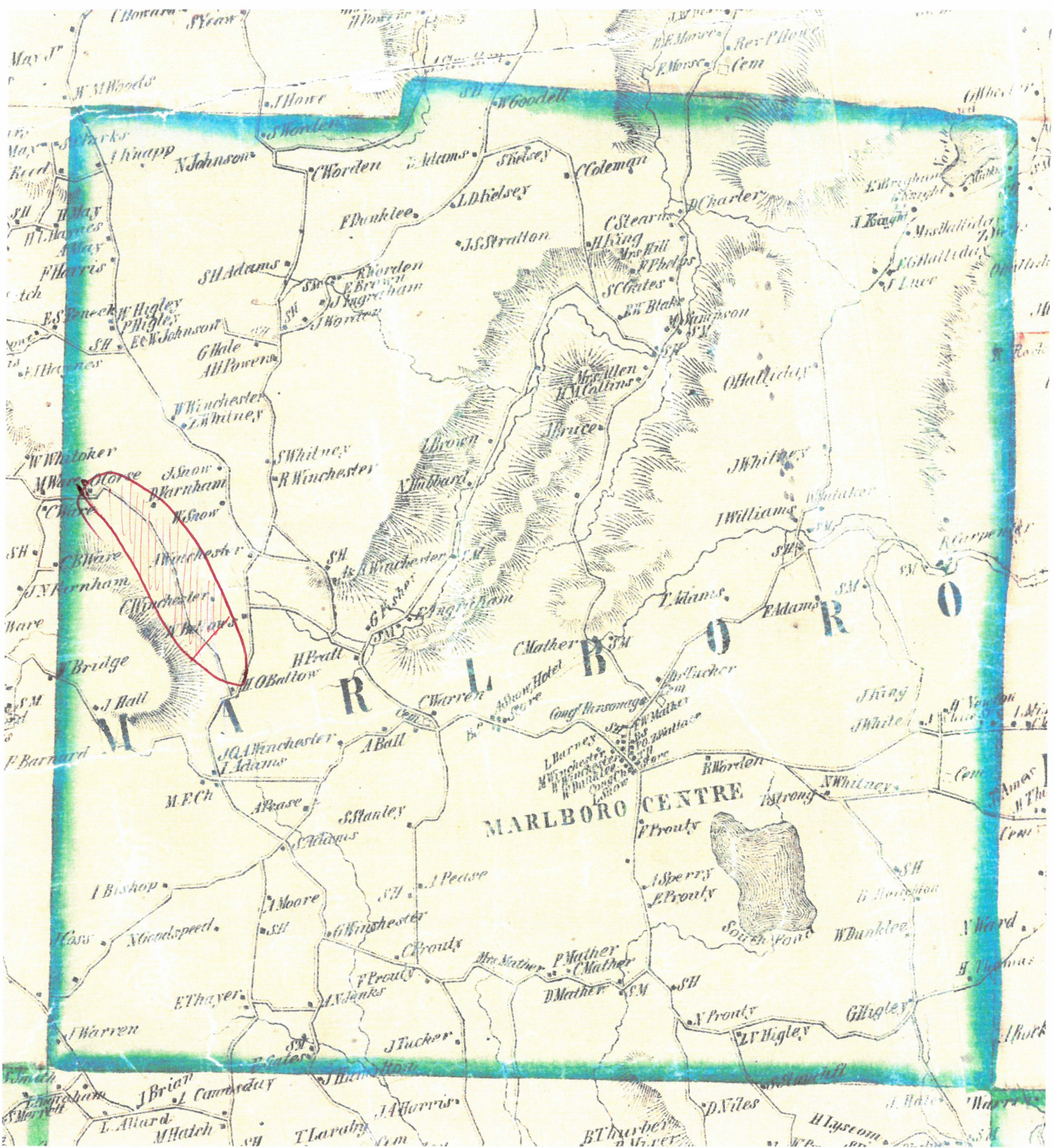
Marlboro, October 29th 1874

When agreeable to the above petition we examined the premises as above described and have discontinued the same as prayed for by the above petitioners.

C. M. Adams	}	Selectmen of
J. H. Hamilton	}	Marlboro

I hereby certify the above and foregoing to be a true record.

W. M. Prouty, Town Clerk



Stuart Lane - T#29 - Before portion was discontinued in 1874

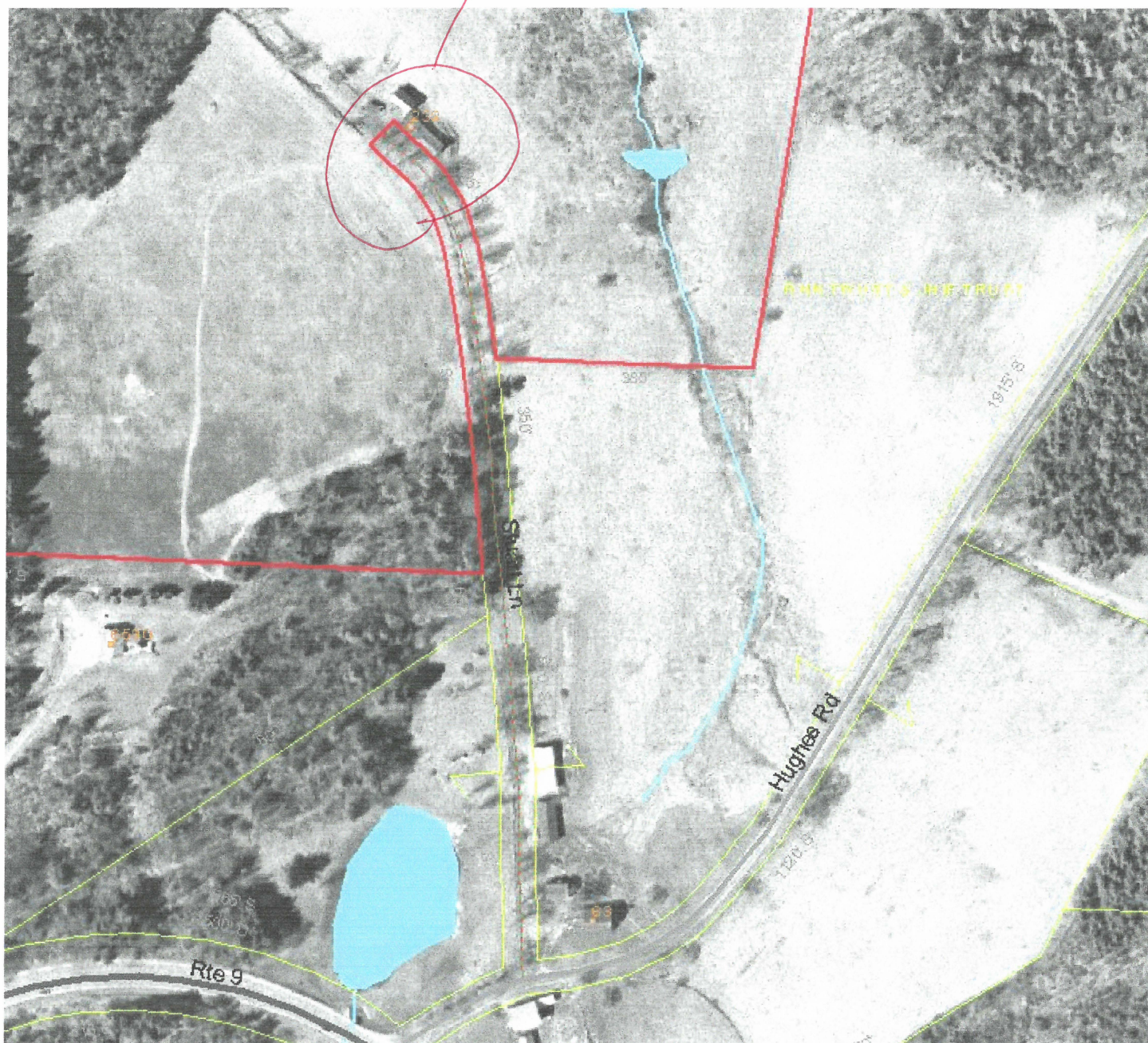
Marlboro, VT	1856	
McClellan's Map	McClellan's Map of Windham County, Vermont	Historical Maps at the Same Size for Easy Study Old Maps PO Box 54 West Chesterfield, NH 03466 413-772-2801

Marcia Hamilton

From: "Marlboro Listers" <marlist@sover.net>
To: "Marcia Hamilton" <mlhamilton@peoplepc.com>
Sent: Wednesday, November 21, 2007 2:24 PM
Attach: 06-01-67.jpg
Subject: pulled back map

*Portion of Stuart Lane
Discontinued 2/14/08*

Marlboro Board of Listers



2/18/2008

COVER SHEET
SUPPORTING DOCUMENTATION
SOUTH POND TRAIL
MARLBORO

- Notice of Hearing, Certificate of Service, Certificate of Posting
- Hearing Minutes
- Selectboard Report of Determination to Reclassify pent road as trail
- Original description of pent road
- Map showing location of South Pond Trail
- Current Town Highway Map showing location

TOWN OF MARLBORO
SELECTBOARD
PO BOX 518
MARLBORO, VT 05344

**NOTICE OF ROAD RECLASSIFICATION
SITE INSPECTION AND HEARING**

NOTICE IS HEREBY GIVEN that the Selectboard of the Town of Marlboro proposes that, pursuant to Title 19, VSA Chapter 7, the following described road in the Town of Marlboro be reclassified as a trail with any possible restrictions:

...”a pent road laid out from some point on the highway [South Road] near the residence of Levi Moore in said Town of Marlboro, [current tax map ID 11-02-26] in a southeasterly direction through the lands of said Levi Moore and the lands of the New England Trout and Salmon Club, so called, and in the most practicable and possible route to the waters of Marlboro South Pond, so called...” [current tax map ID 11-02-22.1]

Marlboro Town Record Book 4, Pages 223-225, June 20, 1892

Therefore, pursuant to Title 19, VSA Chapter 7, you are hereby notified that a site inspection will be held on Thursday, September 13, 2007 on South Road, a short distance south of the Marlboro Firehouse, at 5:30 p.m. for the purpose of examining the premises. Further, a hearing to receive testimony of all persons interested in said pent road and reclassifying it as a trail, with any possible restrictions, will be held at the Marlboro Town Office, soon after the site visit, on Thursday, September 13, 2007 at 7:00 p.m.

Dated at Marlboro, Vermont, this 10th day of August, 2007

TOWN OF MARLBORO SELECTBOARD

Gail MacArthur, Chair
Lucy Gratwick
Craig Hammond

CERTIFICATE OF SERVICE

I, Marcia L. Hamilton, hereby certify that I sent a copy of the foregoing document on August 10, 2007, by United States Mail, certified postage paid, to the following:

Property Owners Abutting the Pent Road

11-02-05.12

Shelby Fernette, P.O. Box 173, Marlboro, VT 05344

11-02-02

Edmund Brelsford, P.O. Box 146, Marlboro, VT 05344-0146

11-02-04

Paul And Patricia Stello, P.O. Box 261, Marlboro, VT 05344

11-02-24

Kenneth Mangan, Po Box 241, Marlboro, VT 05344-0241

11-02-25

Kathryn E. Ratcliff, Po Box 356, Marlboro, VT 05344-0356

11-02-28

Ruth W. Trust 2004 Wright, PO Box 203, Marlboro, VT 05344

11-02-38

Marlboro Whittemore-Paton Trust, PO Box 146, W. Chesterfield, NH 03466

11-02-22.2, 11-02-22.4

Adam Gebb, 45 Flat Street, Brattleboro, VT 05301

11-02-05.11

Betty Jane McCormick, P.O. Box 10, Marlboro, VT 05344

11-02-29

Wemyss lii And Carol Scott, Po Box 439, Marlboro, VT 05344

11-02-30

Hugh And Helen J. Whitney, P.O. Box 17, Marlboro, VT 05344

11-02-22.3

Raphael Rosner, Po Box 460, Marlboro, VT 05344

11-02-13.1

Malcolm S. Estate Of McClintock, Bayview Terrace, Northport, NY 11768-1647

11-02-32, 11-02-33, 11-02-35

Ames Hill-Marlboro Community Center, 4420 Jacksonville Stage Road, Brattleboro, VT 05301

11-02-26

Mark A. Jr. Radman Marcia T. Totaro, 25 Raymond St., New Canaan, CT 06840

11-02-27

Augusta W. Bartlett, Drawer H, Marlboro, VT 05344

Others

Marlboro Planning Commission
PO Box E
Marlboro, VT 05344

State of Vermont
Agency of Transportation
133 State Street, Drawer 20
Montpelier, VT 05633

Dated at Marlboro, Vermont on August 10, 2007
By: S/Marcia L. Hamilton, Assistant
Marlboro Selectboard

ATTEST:
Notary Public
Commission Expires February 10, 2011

CERTIFICATE OF POSTING

I, Marcia L. Hamilton, do hereby certify that I did post the Legal Notice for the hearing to be held on Thursday, September 13, 2007 for the reclassification of the pent road from South Road to South Pond in Marlboro at the following locations:

Town Clerk's Office
525 South Road
Marlboro, VT 05344

Sweeties Market and Deli
1796 Route 9
Marlboro, VT 05344

marlboro.vt.us

Dated at Marlboro, Vermont on August 10, 2007
By: s/Marcia L. Hamilton, Assistant
Marlboro Selectboard

ATTEST:
Notary Public s/Nora Wilson
Commission Expires February 10, 2011

TOWN OF MARLBORO
SELECTBOARD ROAD RECLASSIFICATION HEARING
September 13, 2007

ATTENDANCE

Present were Selectboard members Gail MacArthur, Chair, Lucy Gratwick and Craig Hammond. Also present were Elizabeth S. Walker (President, Ames Hill Marlboro CC), Ann Bartlett (Abutter), Jane N. King (AHMCC), Augusta Bartlett (Abutter), Laura Tarleton (Ames Hill Resident), Sally White (South Road Resident) and Marcia Hamilton, (Selectboard Administrative Assistant and representing the Ancient Roads Committee).

INTRODUCTION

Notice of the Road Reclassification Site Inspection and Hearing was warned by the Selectboard on August 10, 2007. The site inspection was carried out at 5:30 p.m. on this date, and most of those in attendance, not all, walked from South Road to South Pond and back. Gail MacArthur stated to those ready to walk that testimony would be given at the hearing and not during the site inspection, so all should hold their thoughts until the hearing begins. The hearing convened at 7:00 p.m. at the Town Office.

The Notice stated that the Selectboard of the Town of Marlboro proposes that, pursuant to Title 19, VSA Chapter 7, the following described road in the Town of Marlboro be reclassified as a trail with any possible restrictions:

...”a pent road laid out from some point on the highway [South Road] near the residence of Levi Moore in said Town of Marlboro, [current tax map ID 11-02-26] in a southeasterly direction through the lands of said Levi Moore and the lands of the New England Trout and Salmon Club, so called, and in the most practicable and possible route to the waters of Marlboro South Pond, so called...” [current tax map ID 11-02-22.1]

Marlboro Town Record Book 4, Pages 223-225, June 20, 1892

HEARING

All witnesses were sworn in by Linda Peters acting as a notary public. No Selectboard member had an interest in the lands affected. Gail MacArthur, chair, asked of persons present what they wish to say about whether the public good, necessity and convenience of the inhabitants would be served if the pent road is reclassified. Witnesses gave their testimony as follows.

Gail asked Marcia Hamilton, an Ancient Roads Committee member, to report the history of the committee and recommendation made to the Selectboard of the disposition of the pent road. Marcia reported that on November 30, 2006, the Selectboard appointed a committee consisting of Gail MacArthur, Chair, Augusta Bartlett, Marcia Hamilton, Forrest Holzapfel, Edie Mas, Dave Matt, Malcolm Moore, and T. Hunter Wilson. The committee met about 10 times in evenings and several times during days when the Town Records were accessible. The committee purchased a collection of old Marlboro maps reproduced in electronic and paper format for the period from the 1700s to present, for help in studying the network of roads. The

committee identified roads that had been laid out but not legally discontinued. The pent road was identified. It is currently a popular trail used year around. The committee recommended to the Selectboard that this road be officially reclassified as a trail.

Augusta Bartlett asked if motorized vehicles would be allowed. Gail stated that the Selectboard would hear testimony and during deliberations will make a decision. Elizabeth Walker asked if it were possible to reclassify the pent road as a trail to use as it is now. Sally White said the road is used for cross-country skiing, snowshoeing, hiking, horseback riding. It is an alternate way to get in to South Pond all year around, especially for an emergency. Someone could fall through the ice or be injured biking. This byway would provide access from the western side in cases of emergency. Ann Bartlett said there is so much recreational opportunity to lose if we lose the trail. She said snowmobiles are used to groom the trail for the Wendell Cup cross-country race.

Elizabeth Walker said she does not want to see any loss of recreational use of the road now used as a trail, and she gave examples of others who use it, Camp Neringa and Camp Gone To The Dogs. Gail MacArthur stated that the Selectboard can put restrictions on a trail but not on a road. Lucy Gratwick said the purpose of the Selectboard's intent to reclassify the road to a trail is to have local control. Augusta Bartlett pointed out that if the road is left as a road and not reclassified, three people could petition the town to open the road, which may have adverse consequences. Laura Tarleton said it makes sense to preserve it as a trail, at least for now. Lucy stated the reclassification would be legitimizing what has been going on for years.

Discussion moved to signage and Gail suggested language stating non-motorized vehicles only, except in emergency, or except by permission of the Selectboard, such as for grooming for cross-country skiing. Elizabeth Walker asked if the road is reclassified as a trail and motorized vehicles travel on it, how would the restrictions be enforced? Gail stated that the Selectboard would "have a leg to stand on" because of the Selectboard's authority when the road is reclassified to a trail.

Sally White said the area contains a bear corridor and there used to be bear and moose yards, but she has not seen any, or any evidence, out there for two years. Laura Tarleton said she has not seen bear in the area recently. Elizabeth Walker said the Ames Hill Road area and near Turnpike Road was a big bear sanctuary.

There being no further testimony, Gail stated that the Selectboard would make a decision, based on the testimony, within 60 days.

ADJOURN

The hearing adjourned at 7:45 p.m.

Respectfully Submitted,



Marcia L. Hamilton

Selectboard Administrative Assistant

TOWN OF MARLBORO
SELECTBOARD REPORT
RECLASSIFICATION OF A PENT ROAD TO A TRAIL
November 8, 2007

At 5:30 p.m. on September 13, 2007, the Selectboard held a site inspection and at 7:00 p.m. convened a hearing at the Marlboro Town Office for the purpose of taking testimony of interested persons and others on whether the public good, necessity and convenience of the inhabitants of Marlboro require the pent road from South Road to South Pond be reclassified as a trail.

During the site inspection, the board and others walked the road, inspected the bridges along the way and viewed the trail leading to South Pond. Nine persons attended the site inspection, to and from South Pond. In the order they signed their names, they were Elizabeth Walker, President of Ames Hill Marlboro Community Club (AHMCC); Ann Bartlett, Abutter; Jane W. King member AHMCC, Craig Hammond, member Selectboard; Augusta Bartlett, Abutter; Laura Tarleton, Ames Hill Road Resident; Marcia Hamilton, member Ancient Roads Committee; Gail MacArthur, Chair Selectboard; Sally White, South Road resident.

Gail MacArthur stated to those ready to walk that testimony would be given at the hearing and not during the site inspection, so all should hold their thoughts until the hearing begins. The walk lasted approximately 30 minutes. The trail varies in width due to the foliage growth. At times the trail passes over wet areas on which there are several plank or log bridges. No bridges travel over rushing water and the distance from the bridge to the ground is just a step. There is varied terrain but overall it is mostly flat and the trail is a well worn footpath. One area of the trail travels on the edge of a swamp over an old beaver dam.

The purpose of the warned action was the result of a recommendation made to the Selectboard by the Ancient Roads Committee, appointed by the Selectboard on November 30, 2006. Over the course of the following nine months, the committee studied town records, purchased a set of old Marlboro maps and identified roads that had been laid out but not legally discontinued. The pent road was identified as a road not legally discontinued and one which is already being used as a trail used year around. The committee recommended to the Selectboard that this road be officially reclassified as a trail.

As shown in the hearing notice, the description of the pent road is located in Marlboro Town Record Book 4, Pages 223-225, dated June 20, 1892. A portion of the description with tax map citations, is as follows, and was included with the legal notices of the site inspection and hearing.

...a pent road laid out from some point on the highway [South Road] near the residence of Levi Moore in said Town of Marlboro, [current tax map ID 11-02-26] in a southeasterly direction through the lands of said Levi Moore and the lands of the New England Trout and Salmon Club, so called, and in the most practicable and possible route to the waters of Marlboro South Pond, so called....
[current tax map ID 11-02-22.1]

Further, the record also shows the following information relative to the pent road:

The aforesaid survey is the centerline of said Pent Road which we lay out and establish three rods in width and according to the survey aforesaid, and we further direct and order that there be erected and maintained upon the line of said Pent Road gates or bars as follows: one between the lands of said Moores and the land of the said New England Trout and Salmon Club. One at the point of entrance from the public open highway to said Pent Road and near the barn of said Levi Moore, and two others at such places between the two first above mentioned as there may be fences on the premises of said Levi Moore to pass through in going over said Pent Road and as shall be most convenient for said Moore.

The Selectboard gave thirty days' notice, by certified mail, to persons owning or interested in lands near the road; gave notice to the Town planning commission; posted copies of the notice inside and outside of the town clerk's office and at Sweeties; and caused a notice to be published in the *Brattleboro Reformer*, on August 28, 2007, which, as required, is not less than ten days before the time set for the hearing.

The same persons were present at the hearing as were present on the walk with the following exceptions. Jane W. King attended the site inspection but not the hearing and Lucy Gratwick, member Selectboard, was present at the hearing but did not attend the site inspection. Gail MacArthur, chair, asked of persons present what they wish to say about whether the public good, necessity and convenience of the inhabitants would be served if the pent road is reclassified. Witnesses gave their testimony, and a record of the hearing is documented.

Based on the evidence presented in the hearing notice and at the hearing, the board makes the following findings and decision:

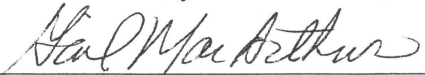
1. The road in question is a pent road laid out, established surveyed by authority of the Marlboro Selectboard on May 30, 1892.
2. In 1892, there were farm animals on the property necessitating gates.
3. No longer are there farm animals necessitating a pent road.
4. The Marlboro Town Records do not show that the pent road was ever discontinued or reclassified.
5. The road has multiple recreational uses year around and it is already being used as a trail.
6. The road is an optional access, emergency and otherwise, to South Pond.
7. There was no opposition at the hearing to reclassifying the pent road as a trail.

Based on the preceding findings, the Marlboro Selectboard concludes that the public good, necessity and convenience of the public justifies an order that public access be preserved on the pent road between South Road and South Pond and that it be reclassified as a trail, with a three-rod right-of-way, as set out in the original description found in Marlboro Town Record Book 4, Pages 223-225, dated June 20, 1892.

Access on the trail by motorized vehicles shall be restricted only for emergency assistance, and access on the trail by motorized vehicles for trail maintenance and grooming shall be at the discretion of the Selectboard.

Any person interested in this decision to reclassify the pent road to a trail may appeal this decision to the Superior Court of Windham County within 30 days of the decision, in writing


Dated this 8th day of November, 2007, at Marlboro, VT.



Gail MacArthur



Lucy Gratwick



Craig Hammond

Formerly Pent Road

Now Known as South Pond Trail

Marlboro Town Records Book 4 Pages 223-225

1

Note to file—Page 223 is the petition (April 3, 1892) to lay out the road and is not transcribed here. The following, beginning at the bottom of page 223, is the description of the road (June 20, 1892). Most of the description is on page 224 and continues on to 225.

“...after hearing the proofs adduced by the parties respectively and the arguments of counsel, we were of the opinion and did so find and decide that the public good and the necessity and convenience of individuals required that a Pent Road be laid out and established over and upon the route and between the (?) mentioned in said petition and on the 30th day of May, AD 1892 we did lay out, establish and cause to be surveyed a Pent Road over and upon the said route mentioned and described in said petition as follows, to wit:

Commencing at a point in the present traveled highway 3 rods 15 links from the N.W. corner of the barn of Levi Moore in said Marlboro and in a line N 37° W of said corner

Thence S 74° E 62 rods 11 links

Thence S 43 ¾° E 12 rods 11 links

Thence S 50 ½° E 12 rods

Thence S 68 ¾° E 21 rods 19 links

Thence S 14 ½° E 9 rods 2 links.

Thence S 42 ½° W 18 rods

Thence S 22° W 16 rods 23 links

Thence S 34° E 14 rods 6 links

Thence S 26 ½° E 7 rods 9 links

Thence S 4 ½° E 10 rods 20 links

Thence S 36 ¾° E 14 rods

Thence S 48 ½° E 7 rods 6 links

Thence S 17 ¼° E 7 rods 4 links

Formerly Pent Road

Now Known as South Pond Trail

Marlboro Town Records Book 4 Pages 223-225

2

Thence S 47° E 12 rods 24 links

Thence S 37 ³/₄° E 15 rods 11 links

Thence S 50° E 10 rods 19 links

Thence S 12 ¹/₄° W 8 rods 19 links

Thence S 15° W 6 rods to the lands of the New England Trout and Salmon Club

Thence S 18° W 4 rods on the lands of said New England Trout and Salmon Club to the waters of Marlboro South Pond, so called, being the southerly terminus of said Pent Road, so by us laid out established and caused to be surveyed as aforesaid.

The aforesaid survey is the centerline of said Pent Road which we lay out and establish three rods in width and according to the survey aforesaid, and we further direct and order that there be erected a [sic] maintained upon the line of said Pent Road gates or bars as follows: one between the lands of said Moores and the land of the said New England Trout and Salmon Club. One at the point of entrance from the public open highway to said Pent Road and near the barn of said Levi Moore, and two others at such places between the two first above mentioned as there may be fences on the premises of said Levi Moore to pass through in going over said Pent Road and as shall be most convenient for said Moore.

And now having laid out, established and surveyed said Pent Road as aforesaid, we duly notify the said Levi Moore and the said New England Trout and Salmon Club landowners as aforesaid to appear before us at the dwelling house of A. W. Prouty in said Marlboro on the 20th day of June AD 1892 at 10:00 o'clock AM at which time and place they could be heard upon the question of land damages should they see fit, and at the time and place aforesaid we were present for the purpose aforesaid and the said New England Trout and Salmon Club did appear by Waterman Martin and Nitt, its attorneys. And the said Levi Moore for himself that after hearing the parties aforesaid, we did and hereby do find and award to the said Levi Moore the sum of \$2 as his just damages and we do award to the

Formerly Pent Road

Now Known as South Pond Trail

Marlboro Town Records Book 4 Pages 223-225

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said New England Trout and Salmon Club the sum of \$12 as (?) for its just damages and in view of the fact that the said Levi Moore has and does consent to our so doing and the further fact that we do find that the lands of the said New England Trout and Salmon Club are neither enclosed or [sic] improved lands. but on the contrary are unenclosed and unimproved.

We do hereby order and direct that the said land owners remove off from said surveyed premises their fences and timber if any item be standing or growing thereon on or before the first day of August AD 1892

Given under our hands at Marlboro aforesaid the 20th day of June AD 1892

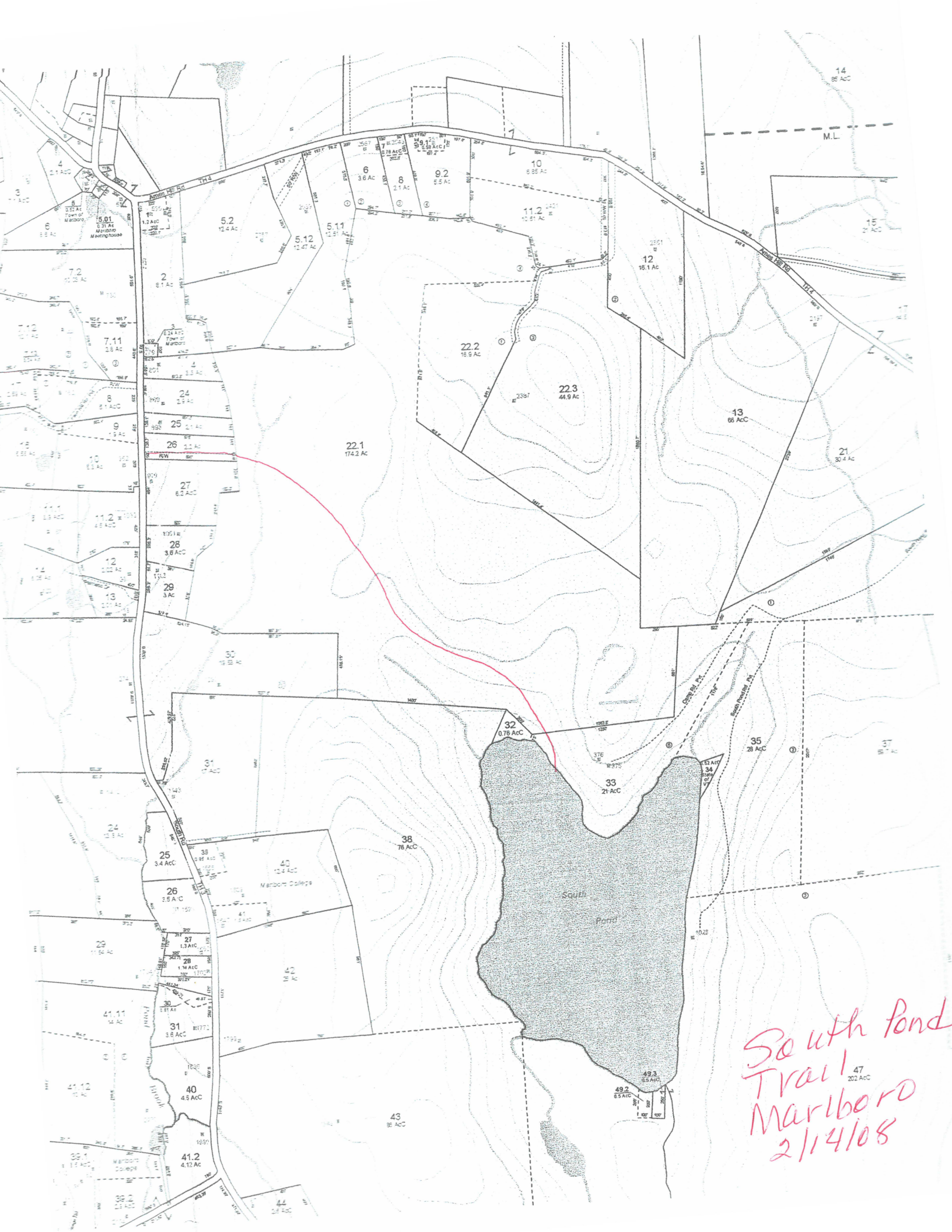
Edwin P. Adams)

Mark W. Johnson) Selectmen of Marlboro

Lurow M. Eames)

I certify the above and foregoing to be a true record of the petition survey of road to us received June 24th 1892

A. W. Prouty, Town Clerk



South Pond
Trail
Marlboro
2/14/08

**TOWN OF MARLBORO
ROAD DISCONTINUANCE NOTICE**

NOTICE IS HEREBY GIVEN that the Selectboard of the Town of Marlboro propose, pursuant to Title 19 VSA Chapter 7, that the most westerly 125 feet of the following described public highway in the Town of Marlboro be discontinued:

Stuart Lane (TH#29), a Class 4 town highway – Beginning at the intersection with Hughes Road (TH#31) and proceeding in a northwesterly direction for a distance of 0.240 mile to the westerly end of the residence at 232 Stuart Lane.

A site inspection at 232 Stuart Lane beginning at 10:00 a.m. on Wednesday, January 30, 2008 will be held to inspect the premises.

A hearing at the Marlboro Town Office beginning at 10:45 a.m. on Wednesday, January 30, 2008 will be held to consider the discontinuance of the most westerly 125 feet of Stuart Lane from the Marlboro highway system.

THEREFORE, pursuant to Title 19, VSA, Chapter 7, you are hereby notified that a site inspection for the purpose of examining the premises affected, and a hearing will be held at the specified times as listed above, on Wednesday, January 30, 2008, in Marlboro, Vermont, for the purpose of hearing all persons interested in said highway and its partial discontinuance.

Dated at Marlboro, Vermont this 28th day of December, 2007

Marlboro Selectboard

Gail MacArthur, Chair
Lucy Gratwick
Craig Hammond

CERTIFICATE OF SERVICE

I, Marcia L. Hamilton, hereby certify that I sent a copy of the foregoing document on December 28, 2007, by United States Mail, certified postage paid, to the following:

Property Owners Abutting Stuart Property at 232 Stuart Lane (TH#29)

06-01-64 David A. Matt
370 Higley Hill Road, Brattleboro, VT 05301

06-01-16 Douglas K. Swanson
PO Box 851, Wilmington, VT 05363

06-01-59, 06-01-60, 06-01-63, 06-01-70
Richard H. Hamilton
63 Hughes Road, Brattleboro, VT 05301

06-01-63 Estate of Whitney A. Stuart
Elisabeth Stuart, Trustee
623B Old Nassau Road, Monroe Township, NJ 08831

06-01-63 Estate of Whitney A. Stuart
Jay Stuart, Trustee
320 High Tor Drive, Watchung, NJ 07069

06-01-66 Daniel K. Butler, et al
716 West Allens Lane, Philadelphia, PA 19119-3310

06-01-68, 06-01-75 Skyline Partners L.P.
PO Box 587, Jacksonville, VT 05342

06-01-69.2 Michael and Karla Bills
6590 Route 9, Brattleboro, VT 05301-7941

Others

State of Vermont
Agency of Transportation
133 State Street, Drawer 20
Montpelier, VT 05633

T. Wilson, Chair
Marlboro Development Review Board
PO Box E, Marlboro, VT 05344

Massachusetts
Agency of Transportation

JAN - 2 2008

Policy & Planning Division

marlboro.txt

DT QB
DU DMS
SP 481619.421 39362.485
DD S74-0-0E 314.023248
DD S43-45-0E 62.563248
DD S50-30-0E 60.3504
DD S68-45-0E 109.435392
DD S14-30-0E 45.665136
DD S42-30-0W 90.5256
DD S22-0-0W 85.094064
DD S34-0-0E 71.615808
DD S26-30-0E 37.014912
DD S4-30-0E 54.31536
DD S36-45-0E 70.4088
DD S48-30-0E 36.411408
DD S17-15-0E 36.009072
DD S47-0-0E 65.178432
DD S37-45-0E 77.650848
DD S50-0-0E 54.114192
DD S12-15-0W 44.055792
DD S15-0-0W 30.1752
DD S18-0-0W 20.1168

Traverse File

South Pond Trail

MARLBORO South Pond Trail 7-Mar-08

rods	links	rods to ft	links to ft	feet	meters
62	11	1023	7.26	1030.26 S 74-0-0 E	314.0232
12	11	198	7.26	205.26 S 43-45-0 E	62.56325
12	0	198	0	198 S 50-30-0 E	60.3504
21	19	346.5	12.54	359.04 S 68-45-0 E	109.4354
9	2	148.5	1.32	149.82 S 14-30-0 E	45.66514
18	0	297	0	297 S 42-30-0 W	90.5256
16	23	264	15.18	279.18 S 22-0-0 W	85.09406
14	6	231	3.96	234.96 S 34-0-0 E	71.61581
7	9	115.5	5.94	121.44 S 26-30-0 E	37.01491
10	20	165	13.2	178.2 S 4-30-0 E	54.31536
14	0	231	0	231 S 36-45-0 E	70.4088
7	6	115.5	3.96	119.46 S 48-30-0 E	36.41141
7	4	115.5	2.64	118.14 S 17-15-0 E	36.00907
12	24	198	15.84	213.84 S 47-0-0 E	65.17843
15	11	247.5	7.26	254.76 S 37-45-0 E	77.65085
10	19	165	12.54	177.54 S 50-0-0 E	54.11419
8	19	132	12.54	144.54 S 12-15-0 W	44.05579
6	0	99	0	99 S 15-0-0 W	30.1752
4	0	66	0	66 S 18-0-0 W	20.1168

4477.44