

CHAPTER 4

ROAD RESEARCH

Introduction

The Community Development Plans being developed under Executive Order 418 (EO 418), such as this one for Wendell, typically include a transportation element as one of their four main components. Each plan's transportation section centers around specific regional or sub-regional concerns involving the transportation network, and includes a specific project to address these concerns. The Town of Wendell has selected two topics as the focus of the transportation element of its Community Development Plan. The first topic is the status and layout of specific roads in the community. This topic is the subject of this chapter. The second topic is the transportation needs of Wendell residents and the current level of transit services. That topic is discussed in Chapter 5 of the Community Development Plan.

The subject of this chapter, Chapter 4, the road research task, has been divided into two main parts:

- Investigation of the legal status for five roads in Wendell to determine if they are public ways, or have legally been discontinued. The roads for this research are: Rockwell Hill Road, Old Farley Road, Old Egypt Road, Kentfield Road, and Sears Road.
- Research on the legal extent (the width and center point) of the following five roads: Wendell Depot Road, Locke's Village Road, Montague Road, Farley Road, and Mormon Hollow Road.

The Wendell Highway Commission selected the roads which were chosen for this project.

The chapter also contains information on the Massachusetts statutes that govern the creation, alteration, and discontinuance of roads, and on recent Massachusetts court cases regarding public way discontinuances and the use of old public ways to meet access requirements for development. The chapter also includes an overview of the procedure for discontinuing a road. The last section of the chapter contains recommendations for future road research and for future town actions regarding the roads which were investigated for the Community Development Plan. These recommendations were established by the members of the Wendell Community Development Plan Committee.

Context for this Project

This section provides background information and context for this road research project, and gives a brief summary of the relevant Massachusetts statutes regarding public ways.

State Statutes Regarding Public Ways

This section provides an overview of the Massachusetts statutes that govern the creation, alteration, and discontinuance of roads within the State. The statutes have different provisions and requirements for state highways, county highways, town ways, and statutory private ways. Information contained in this section comes from the Massachusetts state statutes themselves and from reference materials such as the report *Discontinuing Town and County Roads* (1990), which was published by the Franklin County Planning Department, the predecessor to the Franklin Regional Council of Governments Planning Department.

State Highways

The Massachusetts Highway Department (MassHighway) oversees the laying out, alteration, and discontinuance¹ of state highways in Massachusetts, pursuant to Chapter 81 of the Massachusetts General Laws (MGL). MassHighway may lay out new state highways as it deems necessary, after public notice and a hearing of all interested parties (MGL Chapter 81, Section 5). State highways may also be created after being requested by written petition submitted by County Commissioners or Town Selectmen (MGL Ch. 81, Sect. 4). Once highways have been laid out and constructed, the Commonwealth can alter their location after proper notice (Ch. 81, Sect. 6). State highways are maintained by MassHighway.

A state highway may be discontinued as a state highway with the agreement of the County Commissioners where the highway is located. Any ways that are discontinued as state highways automatically become town roads (MGL Chapter 81, Sect. 12). MassHighway may also abandon any land or land rights that were acquired for state highways. Upon abandonment, the land or land rights will revert to the abutting property owners (Ch. 81, Sect. 12).

County Roads

Under Chapter 82 of the Massachusetts General Laws, County Commissioners have principal jurisdiction over the creation, alteration, and discontinuance of county roads and highways. In Franklin County, since the dissolution of the Franklin County Commission, the Executive Committee of the Franklin Regional Council of Governments has had jurisdiction over county road actions; therefore, references to Commissioners or County Commissioners in the state

¹The Road Research Appendix at the back of this chapter contains a glossary of these terms. They each have specific meanings under the Massachusetts General Laws. For example, discontinuance refers to a road ceasing to exist legally, not just to the road no longer being maintained.

statutes also apply to the Executive Committee of the Franklin Regional Council of Governments. County Commissioners may lay out, alter, relocate and discontinue county roads within their county as necessity and convenience requires (MGL Chapter 82, Sect. 1), and after the required notice has been given. The creation, alteration, and relocation of county roads can also occur in response to town or citizen petition requests. Town Selectmen or Road Commissioners exercise original jurisdiction, concurrent with the County Commissioners, over such petitions (Ch. 82, Sect. 17). County roads are constructed and maintained by the towns in which they are located.

Only County Commissioners (or the Executive Committee of the FRCOG) have the authority to discontinue county roads. However, their ability to do so is limited. County roads can only be discontinued after the Commissioners receive a petition requesting the discontinuance. In addition, the Commissioners must find that “common convenience and necessity require” the discontinuance (MGL Chapter 82, Sect. 2). When a county road is discontinued, it is discontinued and abandoned, and any fee interest in the land reverts to the abutting property owners, and any easement interest dissolves and the adjacent properties are no longer encumbered by the public easement.

Town Roads

Under the Massachusetts General Laws, towns have the principal jurisdiction over most town road actions, and responsibility for town road maintenance. Generally, a town road may be laid out, relocated, or altered by Town Selectmen with Town Meeting approval (MGL Chapter 82, Sect. 21). Town roads can also be created through prescriptive use validated by court action. In addition, prior to 1857, they could have been created through dedication.

Town roads can be discontinued at Town Meeting (MGL Chapter 82, Sect. 21). For a Town Meeting discontinuance, there are no requirements that abutters be notified, that a public hearing be held, or that there be a particular reason or justification for the discontinuance. If a town road was created by easement and not by eminent domain, it can be discontinued with a simple majority vote at Town Meeting. Discontinuance of a town road taken by eminent domain, however, requires a two-thirds majority vote for approval.

Town actions regarding town roads that fall within five hundred yards of an adjoining town have additional restrictions and requirements over those given above. A town cannot lay out, alter, relocate, or discontinue such roads within proper notice to the adjoining community (MGL Ch. 82, Sect. 1). A public hearing must be held on the proposed action. In addition, written notice must be given to the adjoining town’s Selectmen, and those Selectmen must agree in writing to the proposed action. If the Selectmen do not grant written permission for the proposed action within 90 days, the initiating town may make a written request to MassHighway for approval.

In addition to the already mentioned means of discontinuance, town roads can also be discontinued by action of the County Commissioners (the FRCOG Executive Committee). An individual who is “aggrieved by the refusal of a town to discontinue a town way” can submit a written petition to the County Commissioners for discontinuance (MGL Ch. 82,

Sect. 30). The County Commissioners may consider the petition and then make a decision. If a town road is discontinued by the Commissioners, it cannot be laid out again by the town for two years. This is a little used method for discontinuing town roads.

Statutory Private Ways

Statutory private ways have public access, but no town responsibility for maintenance. Statutory private ways are governed by most of the same statutes that affect town roads, primarily Chapter 82 of the Massachusetts General Laws. Statutory private ways are laid out by Town Selectmen and accepted at Town Meeting (MGL Chapter 82, Sect. 21). Town Meeting also has the authority for relocating, altering, or discontinuing these roads (Ch. 82, Sect. 21). As with town roads, a party who is aggrieved by a town's failure to discontinue a particular statutory private way can petition the County Commissioners for the way's discontinuance (Ch. 82, Sect. 30).

Statutory private ways are generally maintained by the abutting property owners. However, a town can opt to maintain these roads if it so chooses. Under MGL Chapter 40, Section 6D, the town can have a ballot vote to allow the town to maintain private roads that are open to public use, and provide snow removal thereon. Under MGL Ch. 40, Sect. 6N, the town can create an ordinance to allow the town to make repairs on private ways.

Statutory private ways are sometimes created when a discontinuance of a town road would result in access problems for some abutting property owners. After discontinuing maintenance under MGL Chapter 82, Sect. 32A, the Town Selectmen may choose to designate the way as a statutory private way in order to retain public access, but release the town from responsibility for maintenance and liability for use. In addition, statutory private ways are not considered to be public ways under the Massachusetts Subdivision Control Act (MGL Chapter 41, Sect. 81), and therefore cannot be used as frontage for Approval Not Required (ANR) development.²

Massachusetts Appeals Court Cases Regarding Access for ANR Development

This section gives an overview of four recent Massachusetts Appeals Court cases that dealt with the question of access for "Approval Not Required" (ANR) development. ANR development requires adequate frontage on a public way. These cases address the characteristics needed for a public way to qualify for ANR development.

Perry v. Planning Board of Nantucket (15 Mass. App. Ct. 144, 151 (1983))

The court found that a public way had been laid out but never constructed could not be used for frontage for ANR development, and that a proposed development fronting on the way was therefore subject to subdivision review.

²Massachusetts Supreme Judicial Court decision in Casagrande v. Town of Harvard, 387 N.E. 2d 571 (1979).

Sturdy v. Planning Board of Hingham (32 Mass. App. Ct. 72 (1992))

The court held that the level of deficiencies in the subject public way were not grounds for a denial of ANR endorsement.

Gates v. Planning Board of Dighton (48 Mass. App. Ct. 394, 399 (2000))

The court created two categories of access on public ways:

1. “could be better but manageable” which is sufficient to allow ANR development, and
2. “illusory” access which is not.

Ball v. Planning Board of Leverett (58 Mass. App. Ct. 513 (2003))

The court concluded that road in question did not provide adequate emergency vehicular access to one lot and hence was in the illusory category as defined in *Gates*. As such, the road was deemed inadequate to be used for frontage for ANR development. This case appears to define adequate access for emergency vehicles at the time of application as the deciding factor in whether an ANR endorsement can be denied.

Legal Status of Certain Roads in Wendell

The Wendell Roads Commission selected the following five roads for the focus of this research: Rockwell Hill Road, Old Farley Road, Old Egypt Road, Kentfield Road, and Sears Road. All of these roads have questions regarding their legal status. These roads were selected because of concerns about their potential use for access and frontage for new ANR (“Approval Not Required”) development and the degree to which the town is responsible for their maintenance. Wendell’s Zoning Bylaws defines frontage as “that side of a lot abutting on an existing public way.” If a road has not been designated by the town as a public way, or if it once was so designated, but now has been legally discontinued, it cannot be used to meet frontage requirements.

The table on the next page summarizes the information that has been collected on these roads so far, and remaining questions about the roads’ legal status.

In March 1986, the Wendell Town Meeting approved an article (Article 1) to legally discontinue a number of roads in Wendell, was approved. Some of the roads researched here were included in that Town Meeting article. For reference purposes, a copy of that article and a map showing the roads the article asked to discontinue, are provided in the Appendix at the back of this chapter.

Table 4-1: Information on the Legal Status of the Researched Roads

Road Name	Active	Discontinued	Comments
Rockwell Hill Road (also known as Rockwood Hill Road)	Yes	No	Entire length of road in Wendell is a 4 rod wide county layout. The original layout was in 1759 and all but the small isolated portion in the extreme southeast corner of town was altered in 1794. There are two sections of this road in Wendell separated by about 1.2 miles of the road that is in Shutesbury. In the early 1980s, the Town petitioned the County Commissioners to discontinue the road; that petition was dismissed. The Town voted to petition the county again in 1987 to discontinue the road but no petition was ever filed with County Commissioners. If the Town of Wendell still wishes to discontinue all or a portion of the road, the Select Board should send a letter to that effect to the FRCOG, and the FRCOG will then prepare an estimate of the costs for the discontinuance.
Old Farley Road (Portions also known as Old Erving Road and Stone Place Road)	Unsure	3/20/1986	USGS map in Wendell town files showing discontinuances for the March 1986 Town Meeting roads article, indicates that section #8 was not discontinued that date and sections #10 and #11 were discontinued that date. #8 is the section that runs parallel to the Millers River between Farley and Erving village. #11 is listed as Posk Place Road and is the connector road to the bridge in Farley. #10 is listed as Stone Place Road and runs parallel to the section of Farley Road from Posk Place Road south to a point about half way to the junction of Farley Road and Mormon Hollow Road. It is possible that section #8 was discontinued prior to 1986, and that the 1986 Town Meeting article was therefore moot with regards to the status of that section. However, further research is needed to investigate that possibility.
Old Egypt Road	No	3/20/1986	Road is shown on the USGS map for the March 1986 Town Meeting article as two sections of #18 separated by about 1,900 feet of road that lies in Leverett.
Kentfield Road (also known as Kempfield Road)	North end	3/20/1986	The northernmost 3,500 feet appears to still be active, although research for a layout or prior discontinuance has not been completed. There are a number of residences on this section of the road. The remainder of the road was discontinued in 1986 and is shown as #4 on the USGS map for the March 1986 Town Meeting article.
Sears Road	Unsure	Unsure	Further research is necessary to determine the status of the road. Most of the road is located within the Wendell State Forest.

Note: A copy of the March 1986 Town Meeting article for road discontinuances and of the USGS map showing the road segments that were discontinued are contained in this Appendix for this chapter.

In summary, the roads that have been discontinued by Town Meeting on March 20, 1986 are no longer a town maintenance responsibility, and are not eligible for ANR development, or for development on existing lots. These roads no longer exist as a legal entity. Rockwell Hill Road is still an active county way. As such, the Town has the legal responsibility to maintain it, and ANR development can occur along it. If the Town would like the road or a portion of it to be discontinued, the Select Board should send a letter to that effect to the FRCOG, and the FRCOG will then prepare an estimate of the costs for the discontinuance.

The status of the remaining roads cannot be determined at this time without more extensive research of the Town's records (such additional research is beyond the scope of this project). The town could vote to discontinue any of the roads with continuing questions at a Town Meeting and then the roads would no longer be a town maintenance responsibility and they would not be eligible for development. If they never were town roads, a vote to discontinue them would be a moot action. A vote to discontinue a road does not prove it was ever a public town way in the first place should that become an issue. An alternative approach could be for the Select Board to vote to discontinue maintenance of the roads, as allowed under Massachusetts General Laws Chapter 82, Section 32A. This option would not subject the Town to claims for damages due to severance of access, as access would be preserved. However, lots along the road would no longer be able to use the road to meet frontage requirements for development.

The Town of Wendell could be subject to a claim for damages from any abutter that loses access to their property through a road discontinuance vote. The amount of damages could be as much as the value of the land at the time of discontinuance. An aggrieved party has three years to file a suit for damages in Superior Court. It would be the responsibility of a party seeking damages to provide evidence of a layout vote for the road in question. It would then be the Town's task either to discredit the layout vote as not pertaining to the road in question or to find a subsequent discontinuance vote.

Extent and Width of Certain Roads in Wendell

As with the research conducted regarding the legal status of certain roads in Wendell, the Wendell Highway Commission also selected the roads to be researched regarding their location and width. The Highway Commission chose the following five county roads for this second research: Wendell Depot Road, Locke's Village Road, Montague Road, Farley Road, and Mormon Hollow Road. The five roads selected are considered to be the major roads in Wendell with potential future issues regarding their width and location. This section summarizes the results of the research on these roads. The metes and bounds for each of these roads, where available, are provided in the Road Research Appendix at the back of this chapter.

Wendell Depot Road

Location

Wendell Depot Road is located in the central and northeastern portions of the Town. It runs from the Town Common (the intersection of Wendell Depot Road, Locke's Village Road, Morse Village Road, and Montague Road) nearly due north for 1.75 miles (about 9,300 feet) and then turns and runs in a generally northeasterly direction about 3 miles to the Orange town line at the center of the Millers River at Wendell Depot Village.

History

- 1784 Road originally laid out 4 rods wide (66 feet). The current road follows this layout from the Town Common for 1.75 miles. The layout continued running nearly due north through Erving and into Northfield along Mountain Road. The section of this layout in Wendell that does not follow the current Wendell Depot Road was discontinued in 1878. The discontinued portion has been referred to as Old Farley Road. This is the most recent layout of Wendell Depot Road for the section of the road north of the 1794 alteration.
- 1794 An alteration to a 1793 layout was laid along the current route of Morse Village Road and the first half-mile of the current Wendell Depot Road (over a portion of the 1784 layout mentioned above). The alteration then ran in a northwesterly direction until it intersected what is now Farley Road about 1,500 feet west of Wendell Depot Road. The section of this alteration between Wendell Depot Road and Farley Road does not have an actively traveled or maintained road within it, but this portion of the layout appears to never have been discontinued. No layout width is given. This is the most recent layout for the southerly most half-mile of Wendell Depot Road.
- 1837 A new road was laid 3 and 4 rods wide from the old road to Greenfield (close to Route 2A) across the Millers River in Wendell Depot Village and more or less along the present route of Wendell Depot Road to a point a little north of Osgood Brook where it leaves Bowens Pond. This is the most recent layout for much of this route but the survey does not fit the present road well. Portions of this section were changed in 1912 and 1933.
- 1840 A new road was laid 3 rods wide (49.5 feet) from the south end of the 1837 layout. This layout crossed Osgood Brook and ran only about 575 feet. This is the most recent layout for the southerly most 370 feet of this section of the road. The northerly portion was relocated in 1933.
- 1848 The Vermont and Massachusetts Railroad was granted permission to raise the grade of Wendell Depot at the new railroad crossing in Wendell Depot Village. No change to the width or sidelines was given.

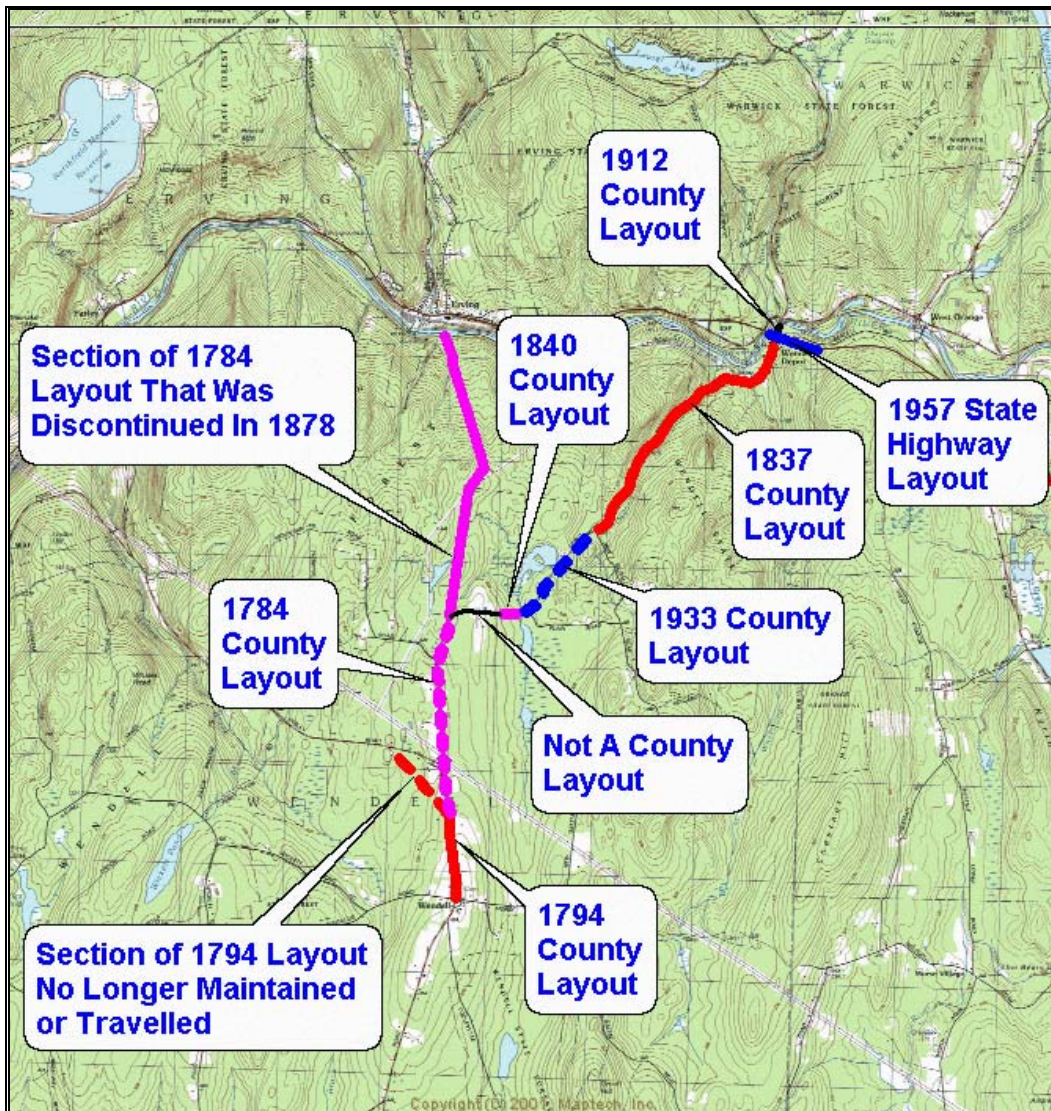
- 1912 The road was altered from just north of the railroad tracks to Route 2A in Orange to accommodate a new bridge that was built just west of an earlier bridge. The width varies. This is the most recent layout for this section of the road.
- 1933 The road was relocated from just south of the bridge over Osgood Brook at the outlet of Bowens Pond northerly to New Salem Road, a distance of about 2,200 feet. The relocation was laid 66 feet wide. This is the most recent layout for this section of the road.
- 1988 The Wendell Board of Selectmen petitioned the Franklin County Commissioners to relocate the portion of Wendell Depot Road from Montague Road to the northerly property line of the Town Highway Department/Fire Department land parcel. The intent was to narrow the layout from 66 feet to 50 feet. A hearing was held, but the action was never completed.

Current Status

The current road follows the 1794 layout from Montague Road north for about a half-mile. No layout width is recorded but stone walls along this section are about 66 feet (four rods) apart. From the north end of the 1794 layout, the current road follows the 1784 layout (four rods in width) to the sharp bend about 1.75 miles north of the common. From the bend to about 500 feet southwest of the outlet of Bowens Pond, Wendell Depot Road is not a county road since no recorded layout for this section can be found. The next 370 feet (more or less) follow the three-rod wide 1840 layout to a point just south of the Bowens Pond outlet. From this point to New Salem Road, about 2,200 feet, the current road follows the 1933 layout which is 66 feet wide. From New Salem Road, the current road follows the 1837 layout to just north of the railroad tracks in Wendell Depot. The width for this section varies between three and four rods. From the tracks north to the south sideline of Route 2, the current road follows the 1912 layout of variable width. From the southerly sideline of Route 2, which is 175 feet from the centerline of the Route 2 overpass bridge, the current road either follows the 1912 layout or is within the 1957 State Highway Layout of Route 2.

The only sections of the current road that are likely to have bounds set to delineate the sidelines are the 1933 and 1957 sections. Any future activities requiring precise knowledge of the road's location outside of the above sections will likely require a relocation of the section of interest.

Figure 4-1: Wendell Depot Road, County Road Index Map



Suggested Future County Road Actions

The 1988 unfinished road action should be reviewed to determine if it is still necessary. If it is needed, a new hearing should be held and an Order of Relocation signed and filed. It will require updating the preliminary relocation plan that was prepared in 1988.

The portion of the 1794 alteration that lies between Wendell Depot Road and Farley Road (about 3,000 feet in length) that does not have an actively traveled or maintained road within it should be discontinued and abandoned.

The section of Wendell Depot Road between the 1784 and the 1840 layouts (about 3,800 feet in length) that is not currently a county road could be made into a county layout by petitioning

the Council of Governments for a section of new highway. This would affect the layout, not the pavement.

As mentioned above, any future activities requiring precise knowledge of the road's location outside of the 1933 and 1957 sections will likely require a relocation of the section of interest.

Locke's Village Road

Location

Locke's Village Road is located in the southern portion of the Town of Wendell. It runs from the town common (the intersection of Wendell Depot Road, Locke's Village Road, Morse Village Road, and Montague Road) south and southwest about 3.3 miles to the Shutesbury town line near Lake Wyola.

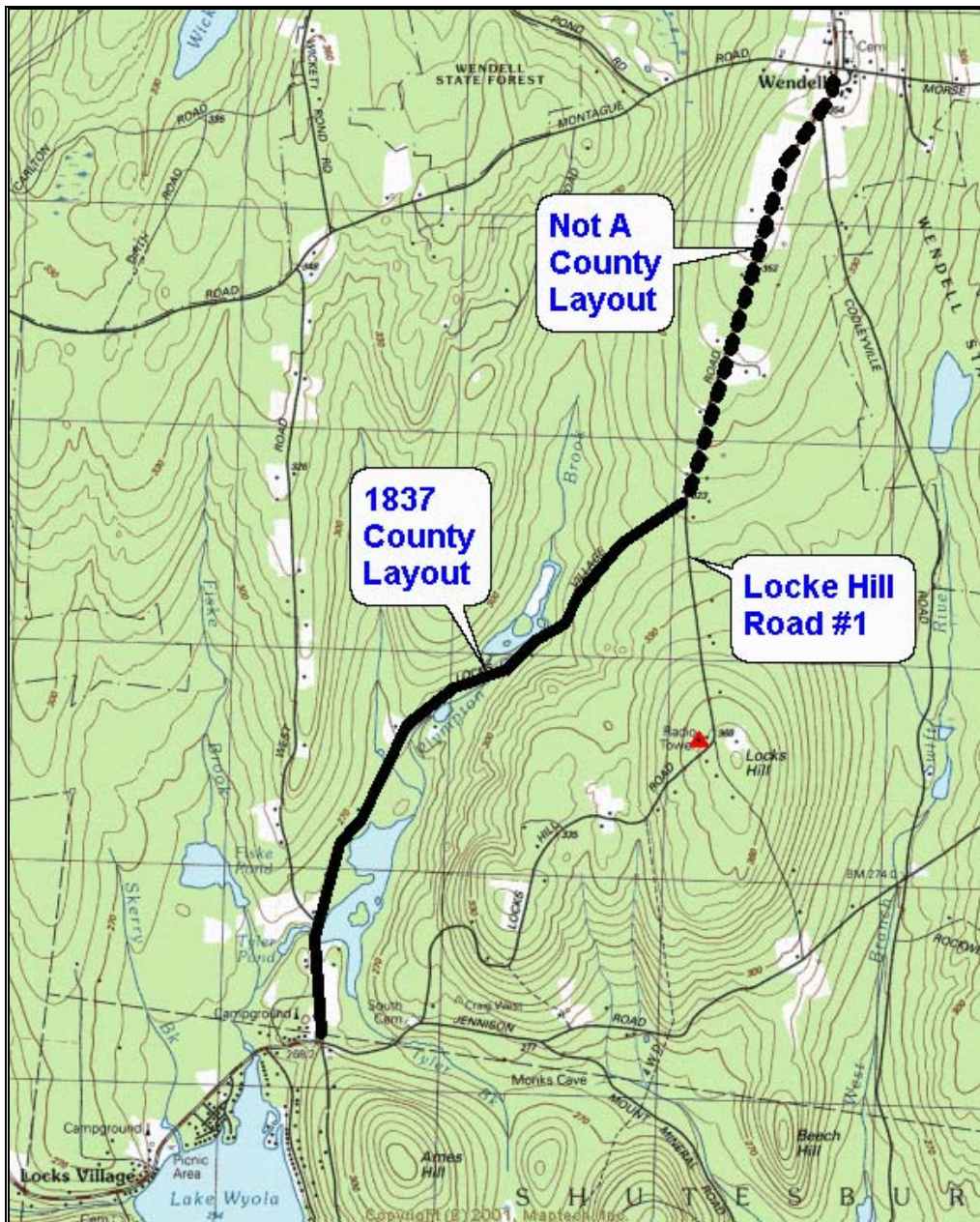
History

Locke's Village Road was laid out as a county road 3 rods wide, from what is now called Locke Hill Road #1 south to the Shutesbury town line. This layout appears to match the shape and location of the current roadway quite well, for this portion of the road.

Current Status

No bounds were set with the 1837 layout, so it would not be possible to determine the exact sidelines without a relocation. The section of the road from Locke Hill Road north is not a county layout and further research of the Town records will be needed to determine if or when the road was laid out by the Town.

Figure 4-2: Locke's Village Road, County Road Index Map



Montague Road

Location

Montague Road is located in the southwestern portion of the Town of Wendell. It runs from the town common (the intersection of Wendell Depot Road, Locke's Village Road, Morse Village Road, and Montague Road) west 3.7 miles (about 19,600 feet) to the Montague town

line near the intersection with Laurel Drive. The road runs along and through the southerly end of the Wendell State Forest for most its length.

History

- | | |
|------|---|
| 1762 | Road was originally laid out 3 rods wide (49.5 feet). This layout covered most of the present route. East and west ends of this layout within the locus of Montague Road were discontinued by 1765 and 1894 road actions, respectively. Remainder of layout was never discontinued. Much of it is under the newer 1826 and 1976 layouts, but portions lie outside of those layouts as well. |
| 1765 | Easternmost one-third mile of Montague Road changed to near its current location and was laid 4 rods wide (66 feet). Most of this layout lies under or near the 1826 layout but was never discontinued. |
| 1826 | New road laid 4 rods wide at or near the location of the road as presently traveled. Since this was a new layout, it did not discontinue any of the older layouts that it covered. All of this layout is active except where it was replaced by the 1976 relocation. |
| 1894 | Discontinuance of the westernmost one-half mile of the 1762 layout. |
| 1976 | Relocated the current road between the Montague town line and West Street. Road was laid out with variable width, mostly 60 feet wide. Filed plan has lines of 1826 layout that do not match the recorded description of the 1826 layout. This is the most current layout and it discontinued the portion of the 1826 layout that covered the same stretch of road. |

Current Status

The current road follows the 1976 relocation from the Montague town line to West Street and follows the 1826 layout from West Street to the town common. Bounds were not found for either the 1826 or the 1976 portions of the road and therefore the road's precise location is not possible to determine exactly, only in a general sense. Any future activities requiring precise knowledge of the road's location will likely require a relocation of the section of concern.

Old Sections to Discontinue

The portion of the 1762 layout between the east end of the 1894 discontinuance and the west end of the 1765 alteration still appears to exist and most likely could be discontinued without affecting any property access. The portion of the 1765 alteration between its western end and the town common still appears to exist and most likely could be discontinued without affecting any property access. Both the 1762 and 1765 layouts continue to the east of the Montague Road locus and would need to be further researched to determine if any access issues exist beyond this locus.

The map is a topographic representation of the Wendell, North Carolina area. It features contour lines indicating elevation, with labels such as 324, 320, 316, 312, 308, 304, 300, 296, 292, 288, 284, 280, 276, 272, 268, 264, 260, 256, 252, 248, 244, 240, 236, 232, 228, 224, 220, 216, 212, 208, 204, 200, 196, 192, 188, 184, 180, 176, 172, 168, 164, 160, 156, 152, 148, 144, 140, 136, 132, 128, 124, 120, 116, 112, 108, 104, 100, 96, 92, 88, 84, 80, 76, 72, 68, 64, 60, 56, 52, 48, 44, 40, 36, 32, 28, 24, 20, 16, 12, 8, 4, 0. Key roads shown include LAUREL DRIVE, BROOK ROAD, WICKETT ROAD, WENDLETT ROAD, and WENDLETT ROAD. Water bodies include Juggles Pond, Wickett Pond, and Brook. The map also shows the 1976 County Layout (thick black line), the 1826 County Layout (dashed line), and West Road. The Wendell State Forest is also labeled.

Location

History

- June 2004

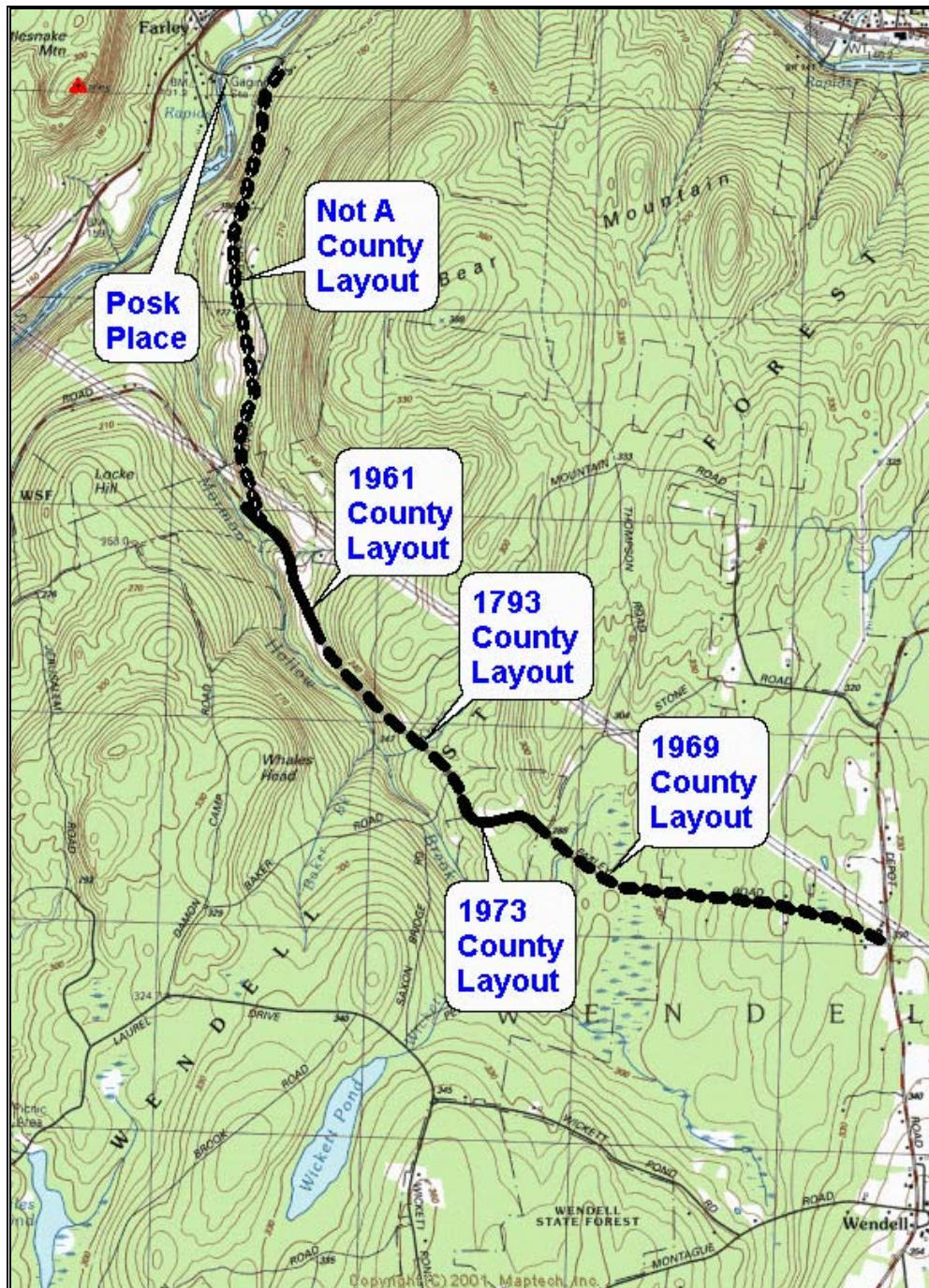
- 1961 A relocation was laid 49.5 feet wide from about one-half mile south of the Mormon Hollow Road intersection to a point on Mormon Hollow Road about 800 feet north of the Farley Road intersection. This is the current layout for the affected sections of Farley Road and Mormon Hollow Road. The 1961 relocation discontinued the underlying section of the 1793 layout.
- 1969 A relocation was laid 60 feet wide from Wendell Depot Road to a point about 1.1 miles to the northwest. This is the current layout for the affected section of Farley Road. This relocation discontinued the underlying section of the 1793 layout and reestablished the easternmost 1,500 feet of Farley Road as a county highway since that portion had been discontinued by the 1794 alteration.
- 1973 A relocation was laid 60 feet wide from the northerly end of the 1969 Farley Road relocation to a point about 1,300 feet north of it. The layout narrows to 50 feet in width at the north end. This is the current layout for the affected section of Farley Road. This relocation discontinued the underlying or adjacent section of the 1793 layout. The 1973 layout plan indicates that the current layout at that time was from 1850. No record of an 1850 county layout for this section of road was found during the course of this research.

Current Status

The current road follows the 60-foot wide 1969 layout from Wendell Depot Road north for about 1.1 miles. From the north end of the 1969 layout, the current road follows the 60-foot wide 1973 layout for approximately 1,300 feet. The layout width narrows to 50 feet at the north end of the 1973 layout. From the north end of the 1973 layout, the current road follows the original 1793 layout for about 0.6 miles to a point approximately 0.5 miles south of the intersection with Mormon Hollow Road. The 0.6 miles south of Mormon Hollow Road was relocated in 1961 and is 49.5 feet wide. There are no records of any county layouts for the portion of Farley Road that lies north of Mormon Hollow Road. A search of the Town Meeting records has not been completed to determine if or when this section may have been laid out by the Town. Further investigation of the records is needed.

The 1961, 1969, and 1973 relocations were all takings in fee and were to have bounds set. It has been the FRCOG's experience that often when bounds were ordered to have been set, towns rarely complied with that part of the order and as result no bounds are to be found today. This assumption needs to be field verified for Farley Road. Without bounds present, any future activities requiring precise knowledge of the road's location will likely require a relocation of the section of interest.

Figure 4-4: Farley Road, County Road Index Map



Mormon Hollow Road

Location

Mormon Hollow Road is located in the northwestern portion of the Town of Wendell. It runs from Farley Road to the Montague town line at Lyons Brook and is about 2 miles in length. The road runs generally parallel to the Millers River and is less than one-half mile south of it.

History

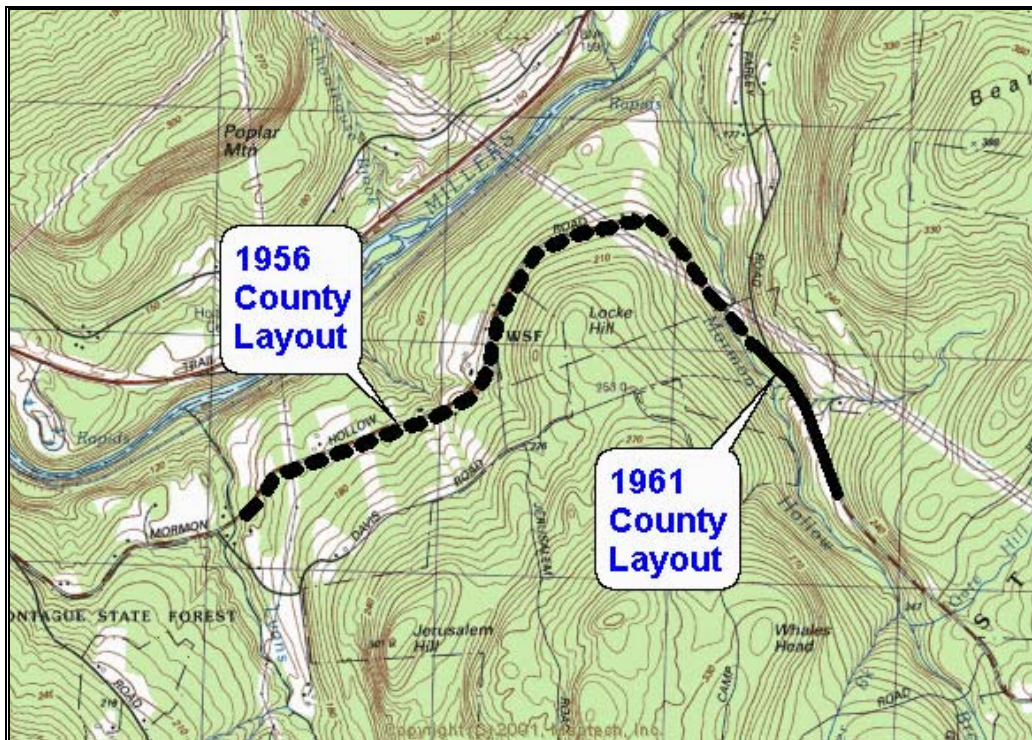
- | | |
|------|---|
| 1793 | Original layout has no recorded width. All portions of this layout along Mormon Hollow Road have been superceded and discontinued by the subsequent actions listed below. |
| 1850 | An alteration or a new road was laid (it is not clear from the record) from the Montague town line to a point about 1,000 feet east of the town line. This entire layout or alteration was subsequently discontinued by the 1956 relocation. |
| 1956 | A 49.5-foot wide relocation was laid from the Montague town line to a point about 400 south of the north end of the 1961 relocation. This is the most current layout for Mormon Hollow Road for all of the road's layouts except the 400 feet that was discontinued by the 1961 relocation. The 1956 layout discontinued all of the 1850 layout and the portion of the 1793 layout beneath or adjacent to it. |
| 1961 | A relocation was laid 49.5 feet wide from about one-half mile south of the Mormon Hollow Road intersection to a point on Mormon Hollow Road about 800 feet north of the Farley Road intersection. This is the current layout for the affected sections of Farley Road and Mormon Hollow Road. The 1961 relocation discontinued the underlying sections of the 1793 and the 1956 layouts. |

Current Status

The current road follows the 49.5-foot wide 1961 layout from Farley Road to a point about 800 feet north of the intersection. From the north end of the 1961 layout, the current road follows the 49.5-foot wide 1956 layout to the Montague town line.

The 1956 and 1961 relocations were both takings in fee and were to have bounds set. . It has been the FRCOG's experience that often when bounds were ordered to have been set, towns rarely complied with that part of the order and as result no bounds are to be found today. This assumption needs to be field verified for Mormon Hollow Road. Without bounds present, any future activities requiring precise knowledge of the road's location will likely require a relocation of the section of interest.

Figure 4-5: Mormon Hollow Road, County Road Index Map



More Information on Public Way Discontinuances

This section provides some additional information regarding public way discontinuances, their pros and cons, and the procedures involved. More detailed information is contained in this chapter's Appendix and in reference guides such as the 1990 report, *Discontinuing Town and County Roads*, which was produced by the Franklin County Planning Department, the predecessor to the Franklin Regional Council of Governments Planning Department.

Advantages and Disadvantages of Discontinuing a Town or County Road

It is important that the Town of Wendell fully consider the advantages and disadvantages of discontinuing a road before deciding to do so.

The primary advantages of discontinuing a town or county road are:

1. The town will no longer be responsible for the maintenance of the road and will avoid the costs of maintaining the road;
2. The town will be relieved of liability for harm to people from using the road; and
3. Discontinuance may prevent future undesired Approval Not Required (ANR) development or other development which would have frontage on the road.

The primary disadvantages of discontinuing a town or county road are:

1. People who rely on the road for travel may be inconvenienced;
2. Owners of property abutting the road may lose access to their land if the road does not become a statutory private way or an easement for access is not in place;
3. Previously potentially buildable lots that front on the road may not be buildable anymore;
4. A town may experience a reduction in state or federal highway funds because of the decrease in the town's road mileage;
5. In some cases, a town may be liable for damages for discontinuing the road if steps are not taken to maintain public access to properties along the road. One option would be establish the road as a statutory private way.

Procedures for Discontinuing a Town Road

As long as the town road does not fall within 500 yards of another town, the road can be discontinued at Town Meeting. For a Town Meeting discontinuance, there are no requirements that abutters be notified, that a public hearing be held, or that there be a particular reason or justification for the discontinuance. If a town road was created by easement and was not taken by eminent domain, it can be discontinued with a simple majority vote at Town Meeting. Discontinuance of a town road taken by eminent domain requires a two-thirds majority vote for approval.

Roads do not actually have to currently be town ways for them to be discontinued. A discontinuance article at Town Meeting can just be used to ensure that the road is officially no longer legally a public way. If a road was never a public way, a vote to discontinue it is a moot action.

The procedure for discontinuing a town road that falls within five hundred yards of an adjoining town is more involved. The town needs to provide notice to the adjoining community and to hold a public hearing on the discontinuance. The Selectmen of the neighboring town must agree in writing to the proposed discontinuance. If the Selectmen do not grant written permission for the proposed action within 90 days, the initiating town may make a written request to MassHighway to have the discontinuance approved.

Below is a summary of the steps for discontinuing town roads. More detailed information can be provided by the FRCOG upon request.

Steps for Discontinuing Town Roads (per MGL Chapter 82, Sections 21-23)

1. Determine if the road is within 500 yards of another town.
 - a. If no, there are no requirements for notifying the abutters or having a public hearing.
 - b. If yes, abutters must be notified and a public hearing held.
2. Determine how the town acquired interest in the public way: fee or easement. If fee, then town owns both the right of travel and land beneath the road. If easement, the town is allowed to cross the land for road, but the land is owned by the abutters.
 - a. If the road was created with an easement and was not taken by eminent domain, then only a simple majority vote in favor of discontinuance is needed.
 - b. If the road was created through fee or easement interest and acquired with a deed stating the purpose of the acquired land was for a public way, then only a simple majority vote in favor of discontinuance is needed.
 - c. If the road was created through eminent domain proceedings, then a two-thirds majority vote in favor of discontinuance is needed.
3. Determine if the town has an official Town Map pursuant to MGL Chapter 41, Sections 81 G-I. (Note: Wendell does not have an official Town Map).
 - a. If yes, Planning Board review is not required, and once the road is discontinued, the official Town Map needs to be updated to reflect the change.
 - b. If no, the Planning Board must have 45 days before Town Meeting to comment to the Selectmen.
4. Schedule a Town Meeting following the regular warrant article posting requirements.

Procedures for Discontinuing a County Road

Only County Commissioners have the authority to discontinue county roads. In Franklin County, since the dissolution of the Franklin County Commission, the Executive Committee of the Franklin Regional Council of Governments has had jurisdiction over County road actions and references to Commissioners or County Commissioners also apply to the Executive Committee of the Franklin Regional Council of Governments.

County roads can only be discontinued after the County Commissioners receive a petition requesting the discontinuance. Such petitions are usually submitted by a town's Select Board after Town Meeting has granted approval for the Selectmen to submit the petition. Petitions may also be submitted by individual citizens. However, these citizens would then be liable for the costs associated with their petition.

There is a fee for the FRCOG to process the petition and to assist with the road discontinuance. Generally, towns enter into a formal agreement with the FRCOG to reimburse the FRCOG for the costs associated with requested county road actions. A sample of such an agreement is included in the Road Research Appendix. The Appendix also outlines the procedural requirements for petitioners for road actions by the FRCOG Executive Committee. These procedures apply to county road actions besides discontinuances, such as county road layouts and alterations.

Below is a summary of the steps for discontinuing county roads. More detailed information can be provided by the FRCOG upon request.

Steps for Discontinuing County Roads (per MGL Chapter 82, Sections 2-5)

1. Town Meeting vote to allow the Select Board to petition the FRCOG to discontinue the road, and to enter into a formal agreement with the Executive Committee of the FRCOG.
2. Prepare plans for discontinuances if plans are needed to adequately describe the extent of the action. If plans are to be filed and are not ready at the time of the public hearing on the discontinuance, a second hearing will be required.
3. Submit petition to the FRCOG, along with the supporting documentation on abutters, and completed agreement with check for initial payment. The agreement typically requires the petitioner to be responsible for all costs of the action including future damage claims and court costs. The agreement also requires an initial down payment of \$500 to be made at the time the petition is submitted. This down payment is credited towards the overall cost of the road action.
4. Set date for public meeting (and viewing if deemed necessary).
5. Prepare notices for public meeting (and viewing if necessary).
 - a. 15 days before public meeting, serve the Town Clerk with notice of meeting and copy of petition.
 - b. 7 days before public meeting, mail notices to abutters.
 - c. 7 days before meeting, post notice and petition in two public places in town.
 - d. 7 days before meeting, publish notice and petition once in newspaper.
6. Hold meeting (and viewing if necessary). Decision to discontinue road may happen at this time.
7. Vote to approve the discontinuance at the next meeting, or to dismiss the petition.

Recommendations Relating to Road Records and Road Status

Road Record Maintenance and Bookkeeping

- **Make two complete copies of the Town Meeting Minutes Books for public use.** The Town Meeting Minutes Books contain a record of all actions taken at Town Meetings since the founding of the Town of Wendell. The Town Meeting records are currently in poor condition and are deteriorating rapidly. These records are one of a kind, and it is important that they be copied and preserved. Town roads are created, relocated, and discontinued through Town Meeting actions and having access to the historic records is invaluable. In addition, under state statute (Mass General Laws, Chapter 82, Section 32), towns are required to maintain a book in which the layouts of town ways or private ways, and relocations of the ways are recorded. The Town Meeting Minutes books can be used for such records. Once the copies of the Minutes Books have been made, it is suggested that one copy be kept at the town offices and one at the town library. Then when members of the public want to review the Minutes Book, they can hopefully be referred to these copies and not the original, deteriorating records.

The Wendell Free Library has a copy of the Town Meeting Minutes Books in slide format. These slides could be used to create the paper copies for public use. It is also recommended that the slide records be transferred to an electronic format which would be accessible to the public, and therefore more useful.

- **Continue the previous work to index road actions that have been taken by Town Meeting since Wendell's founding.** In the late 1970s, a Road Research Committee and town staff members developed a list of Town Meeting articles that have involved road actions. Unfortunately, many early road actions referenced roads and road layouts not by an official road name, but based on property lines at the time and structures such as fences or barns that might no longer be present. As a result, it is often difficult to ascertain what road is being referred to in these older road actions. As part of the work for this road research chapter, the FRCOG has researched some of the early road actions based on the Road Research Committee's list and entered each road action into a database. It would be worthwhile to continue this work. It would also be useful to review the minutes for Town Meetings since the late 1970s to learn what road actions have transpired over the last few decades.

The volunteers or town staff members who work on this project could focus on the most recent records first and work backwards from there. Some of the earlier road actions may have been made moot by more recent actions. Also road actions in this century are most likely to contain a full road name, and be more easy to index. The Board of Selectmen should be encouraged to designate a town staff member or committee to oversee the road indexing work. In addition, it is recommended that the Wendell Highway Commission be involved with this project.

- **Devise a plan to archivally preserve the Town Meeting Minutes Books, and pursue funding for the preservation efforts.** Potential sources of funding for the preservation of the Minutes Books include historic organizations or Town Meeting. Once the Minutes Books have been preserved, store them in an environment with a stable temperature and little humidity. One option may be to have the preserved records stored at the Greenfield Community College.

Road Status and Discontinuances

- **Work to systematically review the road network in Wendell and to classify the roads into different categories** including county ways, town ways, private ways, and ways with an uncertain status. Review the work conducted for the 1986 Town Meeting article to discontinue a number of town roads. Prepare a list of all of roads in Wendell and their current legal status.
- **Work with the Franklin Regional Council of Governments and the Massachusetts Highway Department (MassHighway) to update the State's road data for Wendell.** The road data layer available through MassHighway currently does not accurately depict the current status of some roads in Wendell, especially those roads that the Town has discontinued. A road's status is important for determining whether or not that road can be used as frontage for new development. This is an issue of concern for planning future development and potential growth areas, and the Town could benefit greatly from an updated road map. As part of the Community Development Plan, some updates were made to the MassHighway roads data layer to indicate roads that were discontinued by Wendell Town Meeting in 1986. Continuing the research into the status of roads in Wendell in town as suggested above will help determine what further updates to the roads data layer may be necessary.
- **Consider various options for discontinuing official town ways that are no longer used as roads or/and that have inadequate access for future development.** Possible options include having a blanket discontinuance of all roads that are not contained in an official road list, based on the research conducted for the above recommended actions. Another option is to discontinue older, unused ways one-by-one. If the Town chooses to discontinue an older town way, it may also want to consider re-establishing the way as a statutory private way, an action which would retain public access, but restrict future development along the way.
- **Review county road records, and consider whether any old, unused county ways that are still officially in-place should be discontinued.** Contact the Franklin Regional Council of Governments, the Executive Committee of which has authority over county road actions, if any discontinuances are sought for old county roads or partial segments of them.
- **Stay informed about recent court decisions that could affect a town's ability to discontinue roads or to restrict development along official town ways.**

Road Research Appendix

Road Action Glossary

1986 Wendell Town Meeting Article to Discontinue a Number of Roads in Wendell

Research on the Legal Extent (Metes and Bounds) of Five Wendell Roads

FRCOG County Road Records Project Series List

FRCOG County Road Index - Town of Wendell

Procedural Outline and Requirements of Petitioners of Road Actions by the FRCOG Executive Committee

Sample Agreement with the FRCOG for Reimbursement of Costs Associated with Road Actions

Road Action Glossary

Abandonment: To release the fee interest in land under the road.

Alteration: Major change to the location of a road. This automatically discontinues the old road between the limits of the alteration.

County Road: A road laid out by the County Commissioners, pursuant to Massachusetts General Laws Chapter 82, Section 1.

County Commissioners: The governmental body that has jurisdiction over county road actions, pursuant to MGL Chapter 82. In Franklin County, since the dissolution of the Franklin County Commission, the Executive Committee of the Franklin Regional Council of Governments has had jurisdiction over County road actions and references to Commissioners or County Commissioners also apply to the Executive Committee of the Franklin Regional Council of Governments.

Discontinuance: The official act necessary for a public way, or a statutory private way, to cease to have public status.

Discontinue Maintenance: Action of selectmen to cease to maintain a public way, or a statutory private way. This action releases the town from the responsibility for maintenance, as well as liability for the use of the road, but the road remains open to the public, and is not legally discontinued. Massachusetts General Laws Chapter 82, Section 32A.

Easement: The legal right of passage over land, recorded in a deed, or in an official highway or road layout, not ownership of a fee interest. There are a number of different types of easements. With respect to highways, “a permanent easement for highway purposes” is often used instead of taking a fee interest to establish the public’s right to use a road.

Fee Interest: The legal term for the ownership of land and associated rights.

Fee Simple: See “Fee Interest”

Frontage (as defined in Wendell’s zoning bylaws)³: That side of a lot abutting on an existing public way.

Layout: The description of the location and dimensions of a road, or to establish the locations and dimension of a road.

Plan: A drawing of the road, including bearings, distances, width, property lines, and physical features.

³The legal definition of frontage varies by town.

Public Way: A state highway, county road, town road, or an approved subdivision street, which has been officially laid out and accepted as a road. A discontinued or abandoned road is no longer considered a public way.

Relocation: Minor changes to the location and/or width of roads, usually for re-establishing the bounds or for specific repairs. Massachusetts General Laws Chapter 82, Section 11.

Right of Way: The width of a public way from sideline to sideline. Also used as synonym for easement.

Road Book: Records kept by the town of all town and county road transactions. These records are required by Massachusetts General Laws Chapter 82, Section 32.

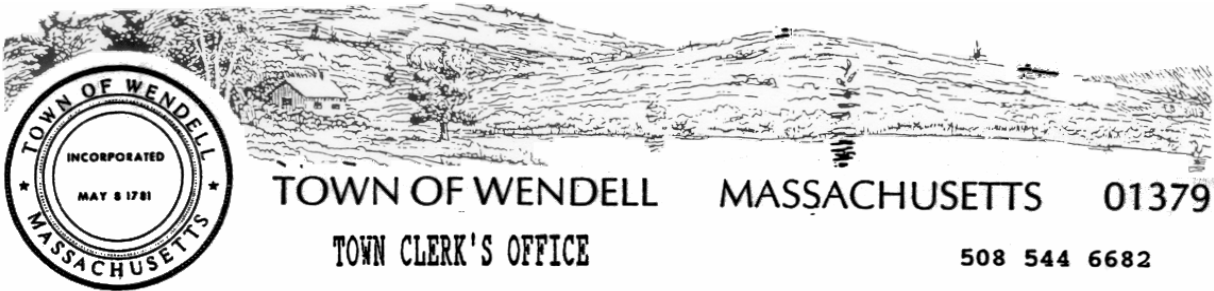
Specific Repairs: Repairs to a road or highway ordered by the County Commission, pursuant to MGL Chapter 82, Section 10. These are not ordinary repairs, but are major changes, such as a change in the width of a traveled way, a change in grade, or a change in drainage. This is a little used action in current times and is more of historic interest.

Statutory Private Way: A private road laid out by the Selectmen (or Road Commissioners) and accepted at Town Meeting with a public right of passage, but no responsibility by the town for maintenance. Massachusetts General Laws Chapter 82, Sections 21-24. Also used to refer to the discontinuance of maintenance by the Selectmen under MGL Chapter 82, Section 32A.

Taking in Fee: The process of acquiring a Fee Interest in a parcel of land as opposed to acquiring an easement over the land.

Town Road: A public road laid out by the Selectmen (or Road Commissioners) and accepted at Town Meeting, pursuant to Massachusetts General Laws Chapter 82, Sections 21 and 23. A town road may also have been created by dedication before 1857, or by prescriptive use validated by court action.

1986 Town Meeting Article to Discontinue a Number of Roads in Wendell



I certify that the following is a true record of the vote taken at a Special Town Meeting held in the Town of Wendell, March 20, 1986, as it pertains to Article 1.

Article 1. Voted, unanimously, to discontinue, in as much as they are Town Ways, and to discontinue maintenance, in as much as they are private ways, the following roads or portions thereof.

All names and locations of roads are referenced to the 1977 United States Geological Survey maps, AMS 6569 III Series V 814, Millers Falls and Orange quadrangles. The mapping coordinates given refer to the 1000 meter Universal Transverse Mercator grid.

1) Rush Road (aka Wren Gould Road): MF: Commencing at the intersection with Jennison Road, thence South to Rockwell Hill Road, a distance of approximately 1,580 feet.

2) Cooleyville Road: MF: Commencing at the intersection with Rockwell Hill Road, thence South to the Town Line with Shutesbury, a distance of approximately 2,650 feet.

3) Rush Road (aka Rush Place Road) Commencing 1,800 feet North of Jennison Road, thence North to the intersection with Morse Village Road (47 13420 mN; 7 15880 mE), a distance of approximately 8,750 feet.

4) Kempfield Road (aka Kentfield Road): O: Commencing at the northern most crossing of the Whetstone Brook, thence South to the intersection with Morse Village Road, a distance of approximately 16,450 feet.

5) Bullard Road: O: Commencing at the intersection with New Salem Road, thence East to the Town Line with Orange, a distance of approximately 4,950 feet.

6) Diamond Match Road (aka New England Box Road): O: Commencing at the intersection with New Salem Road (47 16815 mN, 7 15345 mE) thence North to the intersection with Wendell Depot Road (47 18940 mN; 7 16480 mE), a distance of approximately 8,750 feet.

7) Stone Road: MF: Commencing 2,560 feet West of the intersection with Wendell Depot Road (47 16250 mN; 7 12730 mE), thence West to intersection with Farley Road, a distance of approximately 3,500 feet.

10) Stone Place Road: MF: Commencing at the intersection with Stone Cut-Off (47 1800 mN; 7 10375 mE), thence North to intersection with Old Farley Road (47 19200 mN; 7 10500 mE) a distance of approximately 4,060 feet.

11) Posk Place Road: MF: Commencing at the intersection with Farley Road (47 19200 mN; 7 10500 mE), thence East to Old Farley Road, a distance of approximately 264 feet.

14) Bezio Place Road: MF: Commencing 1,056 feet South of Davis Road (47 15475 mN; 7 08500 mE), thence to the Town Line with Montague, a distance of approximately 825 feet.

15) Davis Road: MF: Commencing 2,640 feet South of the Town Line with Montague (47 16125 mN; 7 08660 mE), thence to the intersection with Farley Road, a distance of approximately 6,860 feet.

16) Cross Road: MF: Commencing at the intersection with Mormon Hollow Road (formerly Millers Falls Road) (47 16960 mN; 7 09225 mE), thence South to the intersection with Davis Road (47 16570 mN; 7 09320 mE), a distance of approximately 1,440 feet.

17) John Quist Road: MF: Commencing at the intersection with Wendell Depot Road (47 16570 mN; 7 13850 mE), thence South a distance of 264 feet (47 16490 mN; 7 13820 mE).

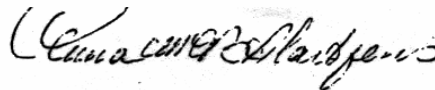
18) Old Egypt Road (aka Catamount Swamp Road): MF: Commencing at the intersection with West Street (47 11320 mN; 7 11285 mE), thence Southwest to the Town Line with Leverett (47 10320 mN; 7 10225 mE). Also, commencing at the Town Line with Leverett, thence South to the Town Line with Shutesbury, an aggregate distance of approximately 6,740 feet (47 09690 mN; 7 10250 mE) to (47 09375 mN; 7 10440 mE).

19) Bullard (Pasture) Road: MF: Commencing 300 feet South of NET&T pole number 22 (approximately 3,960 feet from the intersection with Montague Road) (47 12320 mN; 7 12160 mE), thence South to the intersection with Locks Village Road (47 10940 mN; 7 12160 mE), a distance of approximately 4,570 feet.

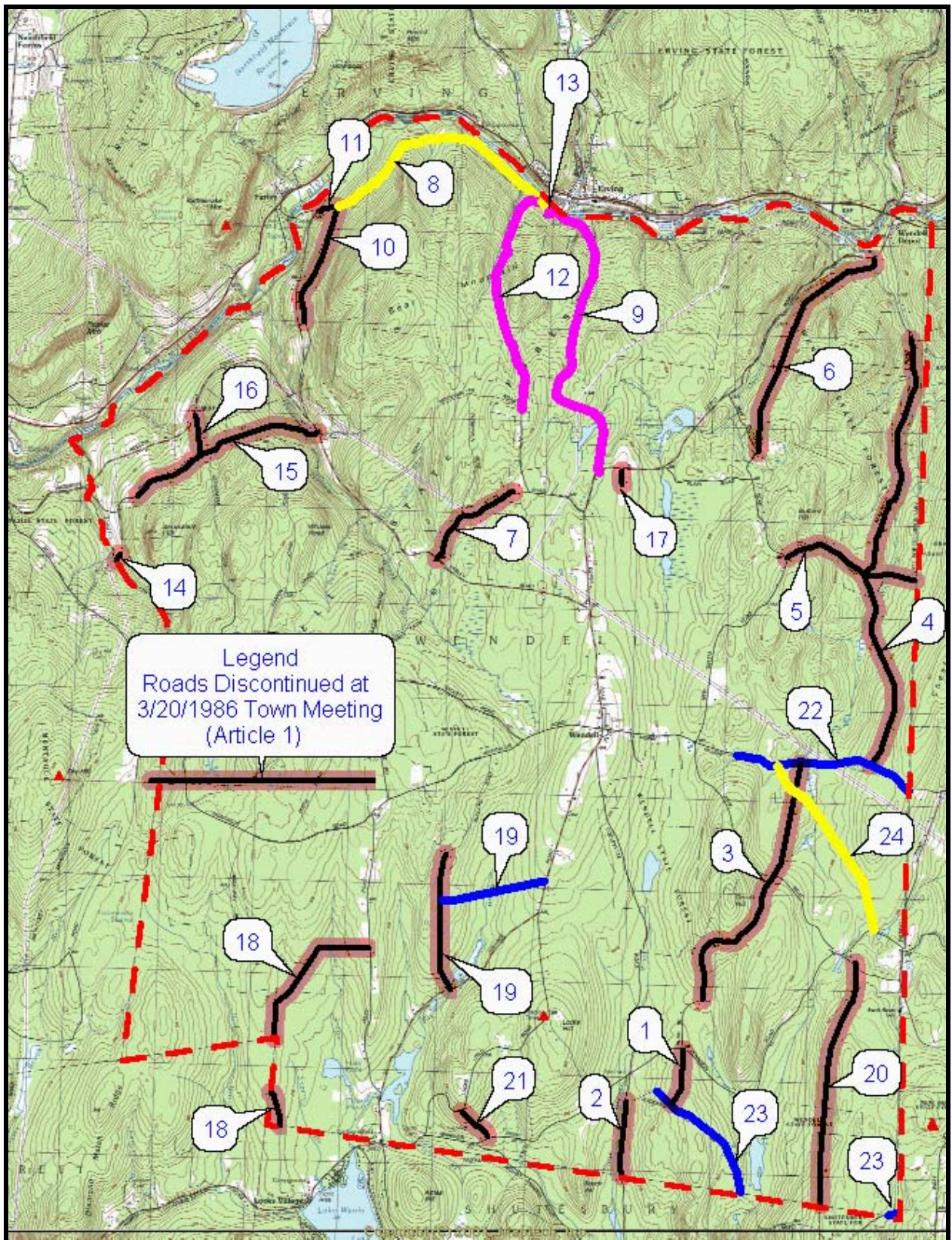
20) Gate Lane: O: Commencing at the intersection with New Salem Road (47 11320 mN; 7 16515 mE), thence South to the Town Line with New Salem (47 08680 mN; 7 16225 mE), a distance of approximately 9,500 feet.

21) Jennison Branch Road: MF: Commencing at the intersection with Jennison Road (47 09350 mN; 7 12625 mE), thence North to the intersection with Locks Hill Number Two (47 09610 mN; 7 12320 mE), a distance of approximately 1,190 feet.

Attest a true copy.

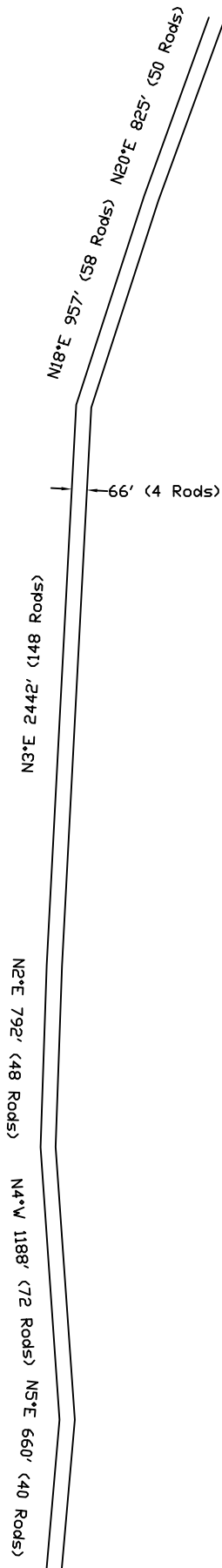


Anna M.C.B. Hartiens
WENDELL TOWN CLERK



Research on the Legal Extent (Metes and Bounds) of Five Wendell Roads

**Wendell Depot Road
Locke's Village Road
Montague Road
Farley Road
Mormon Hollow Road**



Remaining portion of 1784 County Layout of
a portion of Wendell Depot Road
County Commissioners Book D, Page 108
(4 Rods in Width)

Remaining portion of 1794 County Layout of
a portion of Wendell Depot Road
County Commissioners Book D, Page 155
(No Layout Width Recorded)

416 & 421) State Highway Plan
), Page 795

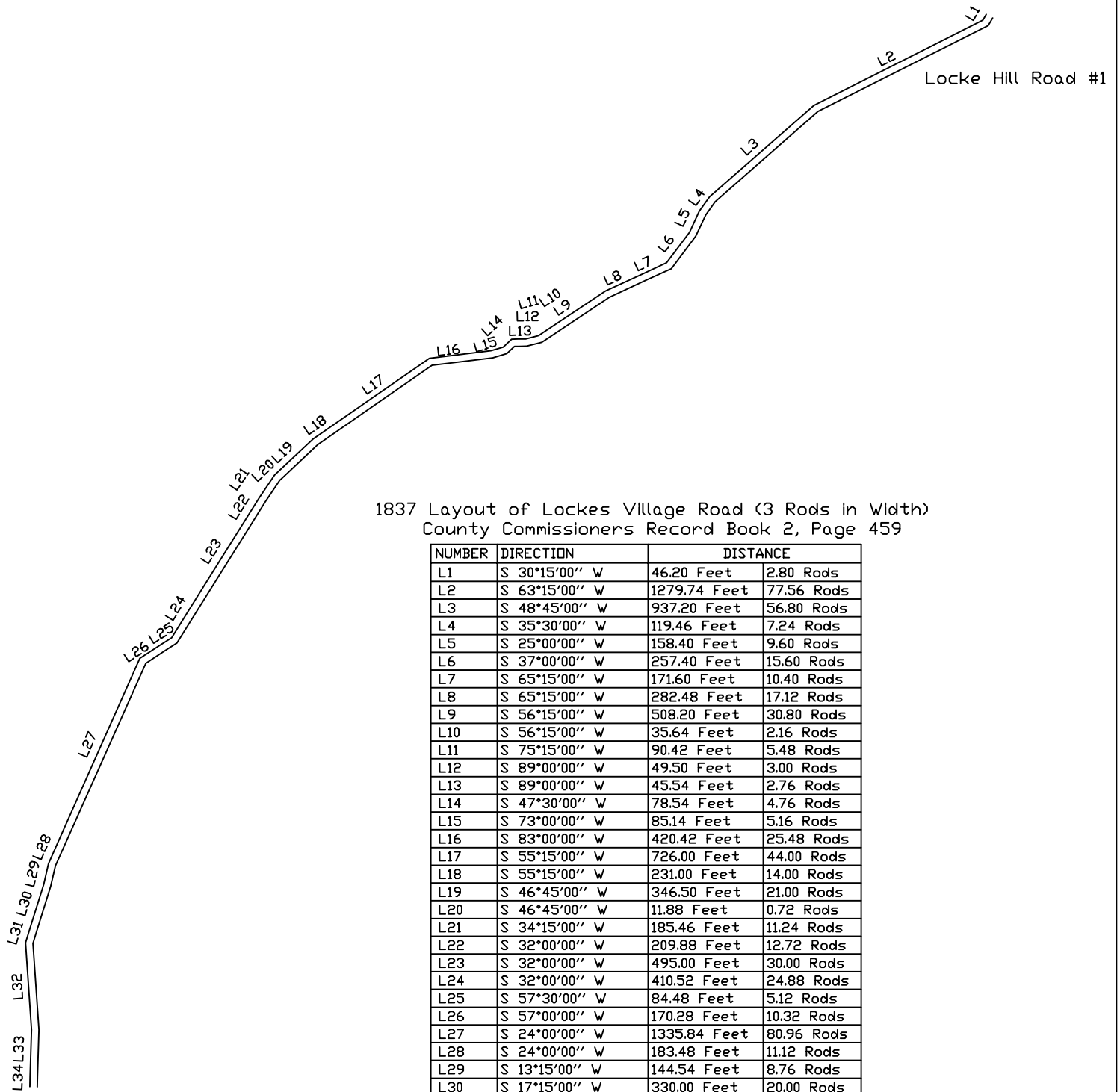
N52°4'E | 355.17'

N53°23'15"E 597.03' R=2328' L=789.61'

66'

49.5' (3 Rods) S 51° W
575.52 Feet
(34 Rods and 22 Links)

NUMBER	DIRECTION	DISTANCE	
1	S 32°15'00" W	232.32 Feet	14.08 Rods
2	S 24°30'00" W	368.28 Feet	22.32 Rods
3	S 27°00'00" W	571.56 Feet	34.64 Rods
4	S 52°15'00" W	240.90 Feet	14.60 Rods
5	S 86°15'00" W	91.08 Feet	5.52 Rods
6	S 86°15'00" W	33.00 Feet	2.00 Rods
7	S 86°15'00" W	203.28 Feet	12.32 Rods
8	S 86°15'00" W	11.22 Feet	0.68 Rods
9	N 79°00'00" W	227.04 Feet	13.76 Rods
10	N 69°45'00" W	166.98 Feet	10.12 Rods
11	N 67°45'00" W	178.20 Feet	10.80 Rods
12	N 85°00'00" W	198.00 Feet	12.00 Rods
13	S 64°00'00" W	260.70 Feet	15.80 Rods
14	S 57°30'00" W	208.56 Feet	12.64 Rods
15	S 78°30'00" W	255.42 Feet	15.48 Rods
16	S 53°30'00" W	155.76 Feet	9.44 Rods
17	S 36°30'00" W	104.28 Feet	6.32 Rods
18	S 59°30'00" W	49.50 Feet	3.00 Rods
19	S 59°30'00" W	93.72 Feet	5.68 Rods
20	S 78°00'00" W	162.36 Feet	9.84 Rods
21	S 59°30'00" W	187.44 Feet	11.36 Rods
22	S 65°15'00" W	191.40 Feet	11.60 Rods
23	S 64°45'00" W	82.50 Feet	5.00 Rods
24	S 37°45'00" W	140.58 Feet	8.52 Rods
25	S 52°45'00" W	128.70 Feet	7.80 Rods
26	S 35°30'00" W	113.52 Feet	6.88 Rods
27	S 42°30'00" W	69.96 Feet	4.24 Rods
28	S 20°15'00" W	207.90 Feet	12.60 Rods
29	S 20°00'00" W	46.20 Feet	2.80 Rods
30	S 55°00'00" W	191.40 Feet	11.60 Rods
31	S 38°45'00" W	111.54 Feet	6.76 Rods
32	S 64°30'00" W	105.60 Feet	6.40 Rods
33	S 43°00'00" W	73.92 Feet	4.48 Rods
34	S 62°45'00" W	130.02 Feet	7.88 Rods
35	S 81°15'00" W	109.56 Feet	6.64 Rods
36	S 33°45'00" W	302.28 Feet	18.32 Rods
37	S 57°15'00" W	107.58 Feet	6.52 Rods
38	S 42°40'00" W	73.92 Feet	4.48 Rods
39	S 14°15'00" W	158.40 Feet	9.60 Rods
40	S 27°00'00" W	113.52 Feet	6.88 Rods
41	S 36°30'00" W	194.04 Feet	11.76 Rods
42	S 15°00'00" W	106.92 Feet	6.48 Rods
43	S 09°00'00" W	76.56 Feet	4.64 Rods
44	S 10°00'00" W	93.72 Feet	5.68 Rods
45	S 34°15'00" W	116.82 Feet	7.08 Rods
46	S 42°00'00" W	82.50 Feet	5.00 Rods
47	S 41°00'00" W	165.00 Feet	10.00 Rods
48	S 62°00'00" W	91.74 Feet	5.56 Rods
49	S 62°15'00" W	104.94 Feet	6.36 Rods
50	S 56°30'00" W	260.70 Feet	15.80 Rods
51	S 37°45'00" W	167.64 Feet	10.16 Rods
52	S 18°45'00" W	157.08 Feet	9.52 Rods
53	S 14°30'00" W	163.02 Feet	9.88 Rods
54	S 11°45'00" W	99.00 Feet	6.00 Rods
55	S 20°30'00" W	45.54 Feet	2.76 Rods
56	S 54°30'00" W	46.20 Feet	2.80 Rods
57	S 54°30'00" W	8.58 Feet	0.52 Rods
58	S 65°30'00" W	147.18 Feet	8.92 Rods
59	S 70°45'00" W	191.40 Feet	11.60 Rods
60	S 68°00'00" W	244.20 Feet	14.80 Rods
61	S 72°00'00" W	168.30 Feet	10.20 Rods



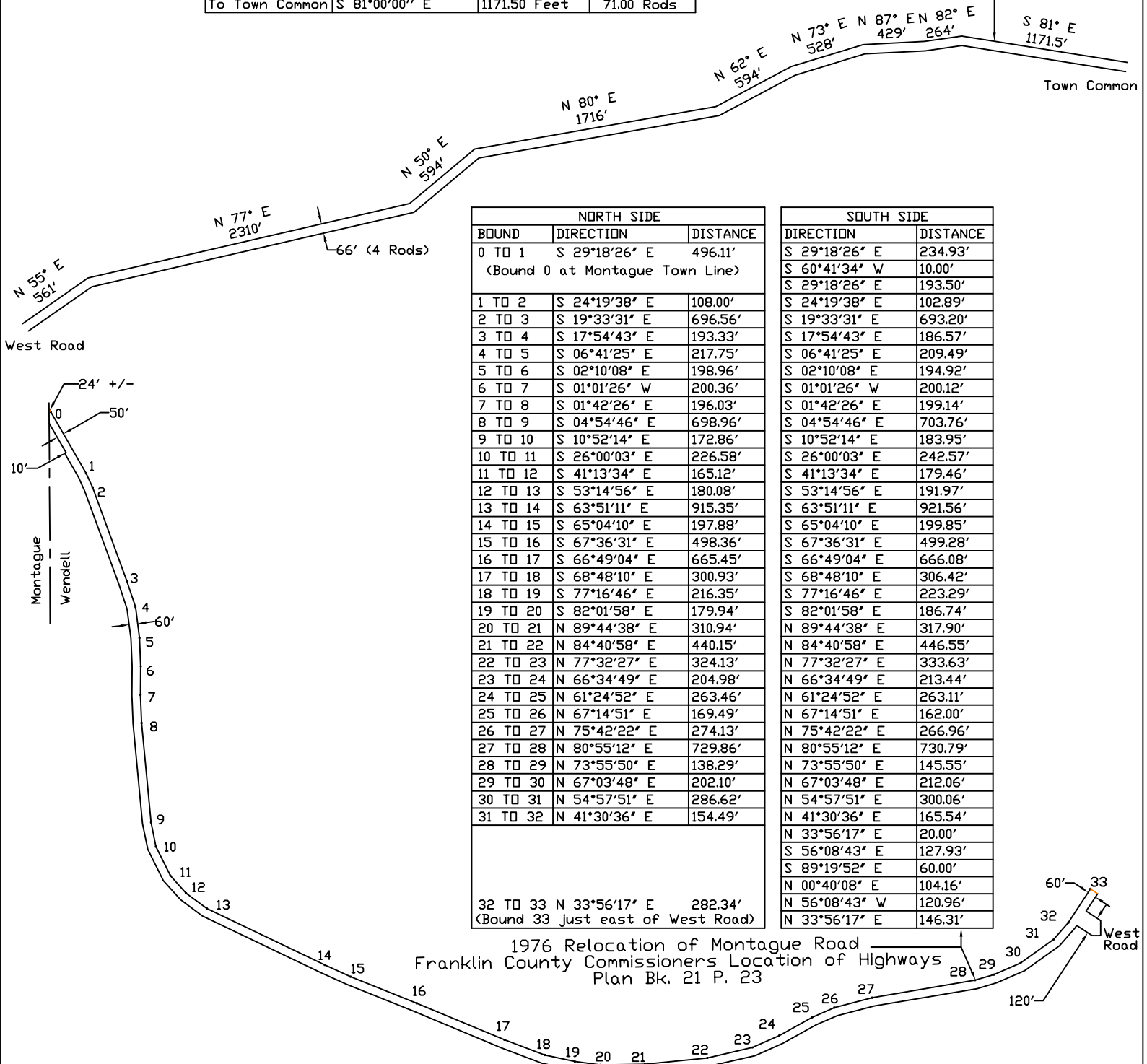
1837 Layout of Lockes Village Road (3 Rods in Width)
County Commissioners Record Book 2, Page 459

NUMBER	DIRECTION	DISTANCE	
L1	S 30°15'00" W	46.20 Feet	2.80 Rods
L2	S 63°15'00" W	1279.74 Feet	77.56 Rods
L3	S 48°45'00" W	937.20 Feet	56.80 Rods
L4	S 35°30'00" W	119.46 Feet	7.24 Rods
L5	S 25°00'00" W	158.40 Feet	9.60 Rods
L6	S 37°00'00" W	257.40 Feet	15.60 Rods
L7	S 65°15'00" W	171.60 Feet	10.40 Rods
L8	S 65°15'00" W	282.48 Feet	17.12 Rods
L9	S 56°15'00" W	508.20 Feet	30.80 Rods
L10	S 56°15'00" W	35.64 Feet	2.16 Rods
L11	S 75°15'00" W	90.42 Feet	5.48 Rods
L12	S 89°00'00" W	49.50 Feet	3.00 Rods
L13	S 89°00'00" W	45.54 Feet	2.76 Rods
L14	S 47°30'00" W	78.54 Feet	4.76 Rods
L15	S 73°00'00" W	85.14 Feet	5.16 Rods
L16	S 83°00'00" W	420.42 Feet	25.48 Rods
L17	S 55°15'00" W	726.00 Feet	44.00 Rods
L18	S 55°15'00" W	231.00 Feet	14.00 Rods
L19	S 46°45'00" W	346.50 Feet	21.00 Rods
L20	S 46°45'00" W	11.88 Feet	0.72 Rods
L21	S 34°15'00" W	185.46 Feet	11.24 Rods
L22	S 32°00'00" W	209.88 Feet	12.72 Rods
L23	S 32°00'00" W	495.00 Feet	30.00 Rods
L24	S 32°00'00" W	410.52 Feet	24.88 Rods
L25	S 57°30'00" W	84.48 Feet	5.12 Rods
L26	S 57°00'00" W	170.28 Feet	10.32 Rods
L27	S 24°00'00" W	1335.84 Feet	80.96 Rods
L28	S 24°00'00" W	183.48 Feet	11.12 Rods
L29	S 13°15'00" W	144.54 Feet	8.76 Rods
L30	S 17°15'00" W	330.00 Feet	20.00 Rods
L31	S 17°15'00" W	83.16 Feet	5.04 Rods
L32	S 04°00'00" E	590.70 Feet	35.80 Rods
L33	S 01°45'00" W	312.18 Feet	18.92 Rods
L34	S 01°45'00" W	72.60 Feet	4.40 Rods

LOCKES VILLAGE ROAD

Remaining Portion of 1826 Layout of Montague Road
Franklin County Commissioners Location of Highways Record Bk. 1 P. 321

From West Road	N 55°00'00" E	561.00 Feet	34.00 Rods
	N 77°00'00" E	2310.00 Feet	140.00 Rods
	N 50°00'00" E	594.00 Feet	36.00 Rods
	N 80°00'00" E	1716.00 Feet	104.00 Rods
	N 62°00'00" E	594.00 Feet	36.00 Rods
	N 73°00'00" E	528.00 Feet	32.00 Rods
	N 87°00'00" E	429.00 Feet	26.00 Rods
	N 82°00'00" E	264.00 Feet	16.00 Rods
To Town Common	S 81°00'00" E	1171.50 Feet	71.00 Rods

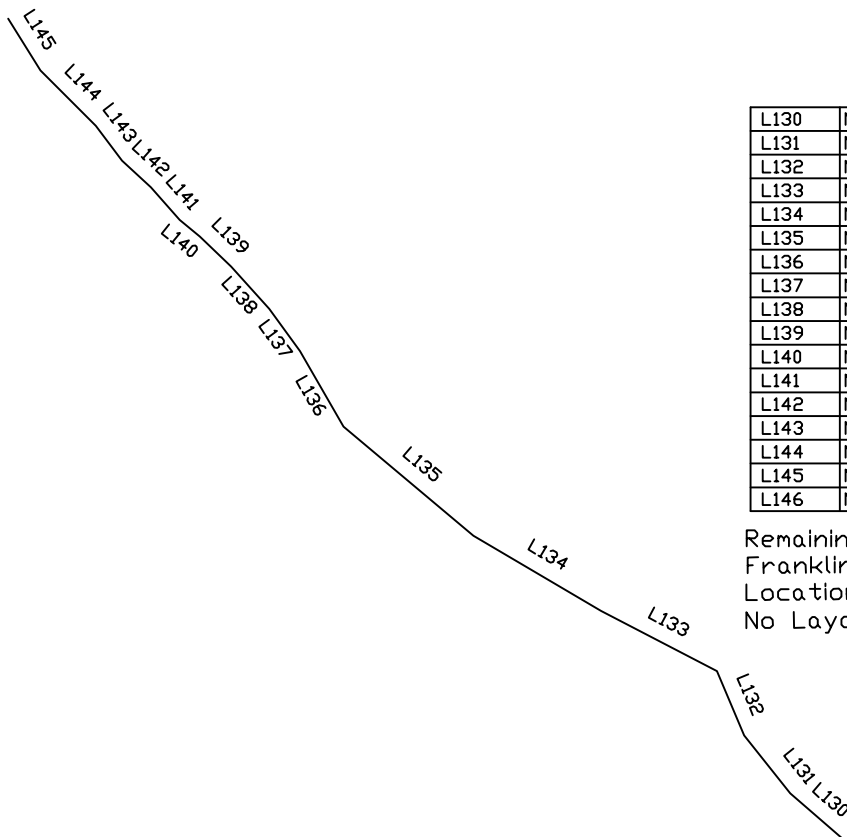
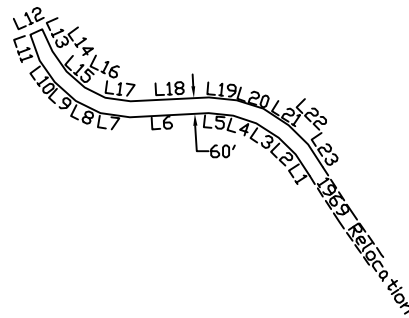


1976 Relocation of Montague Road
Franklin County Commissioners Location of Highways
Plan Bk. 21 P. 23

MONTAGUE ROAD

1973 Relocation of Farley Road
L.D.H. Plan Bk. 21 P. 6

NUMBER	DIRECTION	DISTANCE
L1	N 32°50'40" W	96.94'
L2	N 45°37'00" W	90.86'
L3	N 57°00'15" W	100.47'
L4	N 72°10'30" W	91.45'
L5	N 84°09'40" W	94.98'
L6	S 87°04'60" W	297.91'
L7	N 81°54'45" W	112.22'
L8	N 63°40'60" W	104.47'
L9	N 48°20'00" W	106.95'
L10	N 35°25'60" W	99.60'
L11	N 19°41'54" W	104.20'
L12	N 65°23'00" E	50.00'
L13	S 24°37'00" E	92.56'
L14	S 35°25'60" E	92.82'
L15	S 48°20'00" E	92.08'
L16	S 63°40'60" E	86.76'
L17	S 81°54'45" E	96.81'
L18	N 87°04'60" E	296.72'
L19	S 84°09'40" E	105.87'
L20	S 72°10'30" E	105.74'
L21	S 57°00'15" E	114.44'
L22	S 45°37'00" E	103.56'
L23	S 32°50'40" E	103.66'

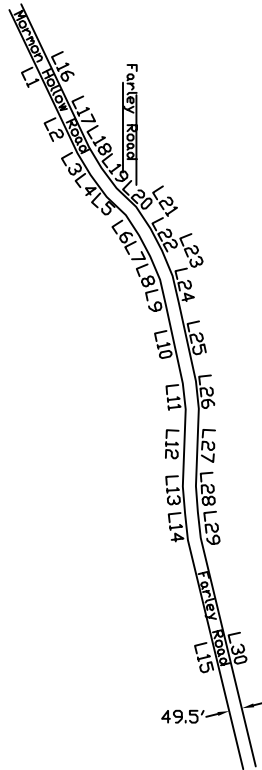


L130	N 49°00'00" W	16.00 Rods	264'
L131	N 38°30'00" W	17.00 Rods	280.5'
L132	N 23°00'00" W	16.00 Rods	264'
L133	N 62°30'00" W	30.00 Rods	495'
L134	N 59°30'00" W	34.00 Rods	561'
L135	N 50°00'00" W	39.00 Rods	643.5'
L136	N 30°00'00" W	20.00 Rods	330'
L137	N 36°00'00" W	12.00 Rods	198'
L138	N 42°00'00" W	13.00 Rods	214.5'
L139	N 46°00'00" W	10.00 Rods	165'
L140	N 51°00'00" W	6.00 Rods	99'
L141	N 41°30'00" W	10.00 Rods	165'
L142	N 47°00'00" W	9.00 Rods	148.5'
L143	N 37°00'00" W	10.00 Rods	165'
L144	N 45°00'00" W	18.00 Rods	297'
L145	N 32°00'00" W	41.00 Rods	676.5'
L146	N 15°00'00" W	46.00 Rods	759'

Remaining Portion of 1793 Layout
Franklin County Commissioners
Location of Highways Record Bk. 0 P. 137
No Layout Width Recorded

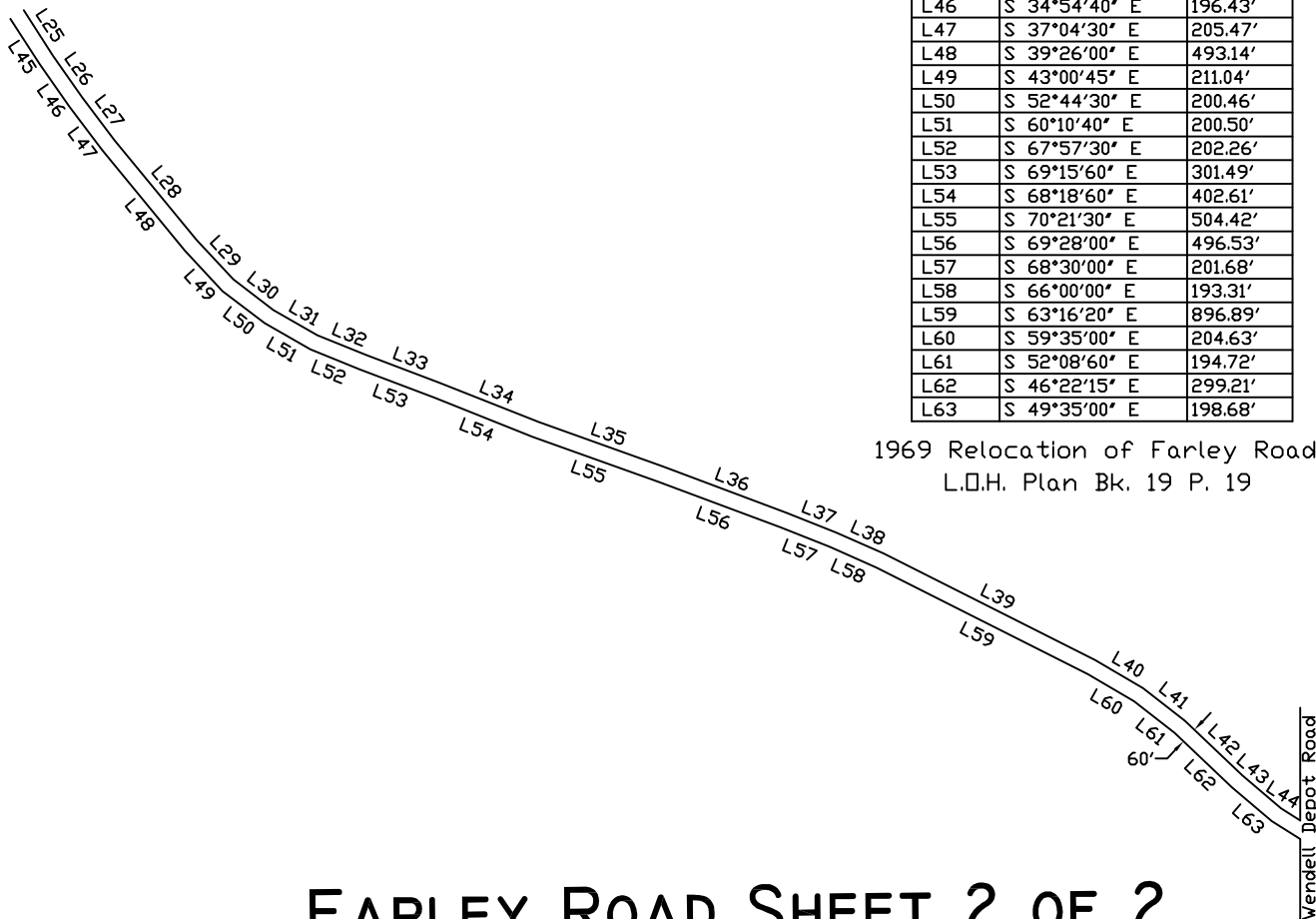
1961 Relocation of
Portions of Farley and
Mormon Hollow Roads
L.O.H. Plan Bk. 15 P. 22

NUMBER	DIRECTION	DISTANCE
L1	S 25°26'30" E	400.66'
L2	S 25°27'00" E	201.56'
L3	S 30°41'40" E	96.08'
L4	S 36°44'45" E	102.49'
L5	S 46°40'20" E	100.34'
L6	S 33°11'15" E	91.16'
L7	S 27°59'45" E	90.26'
L8	S 22°14'20" E	96.60'
L9	S 13°12'00" E	97.65'
L10	S 12°17'40" E	303.59'
L11	S 06°14'20" E	99.10'
L12	S 02°05'50" W	292.54'
L13	S 04°11'15" E	102.42'
L14	S 06°28'30" E	101.80'
L15	S 13°32'30" E	893.76'
L16	S 25°26'30" E	400.66'
L17	S 25°27'00" E	199.29'
L18	S 30°41'40" E	91.20'
L19	S 36°44'45" E	95.57'
L20	S 46°40'20" E	101.89'
L21	S 33°11'15" E	99.26'
L22	S 27°59'45" E	94.99'
L23	S 22°14'20" E	103.00'
L24	S 13°12'00" E	101.95'
L25	S 12°17'40" E	306.60'
L26	S 06°14'20" E	105.33'
L27	S 02°05'50" W	293.43'
L28	S 04°11'15" E	98.71'
L29	S 06°28'30" E	97.76'
L30	S 13°32'30" E	890.70'



NUMBER	DIRECTION	DISTANCE
L25	S 32°49'30" E	204.50'
L26	S 34°54'40" E	194.20'
L27	S 37°04'30" E	203.10'
L28	S 39°26'00" E	490.03'
L29	S 43°00'45" E	204.06'
L30	S 52°44'30" E	191.45'
L31	S 60°10'40" E	192.52'
L32	S 67°57'30" E	197.49'
L33	S 69°15'60" E	301.30'
L34	S 68°18'60" E	402.04'
L35	S 70°21'30" E	503.82'
L36	S 69°28'00" E	497.50'
L37	S 68°30'00" E	203.50'
L38	S 66°00'00" E	196.05'
L39	S 63°16'20" E	900.25'
L40	S 59°35'00" E	210.46'
L41	S 52°08'60" E	201.65'
L42	S 46°22'15" E	300.56'
L43	S 49°35'00" E	192.60'
L44	S 57°58'00" E	86.11'
L45	S 32°49'30" E	205.59'
L46	S 34°54'40" E	196.43'
L47	S 37°04'30" E	205.47'
L48	S 39°26'00" E	493.14'
L49	S 43°00'45" E	211.04'
L50	S 52°44'30" E	200.46'
L51	S 60°10'40" E	200.50'
L52	S 67°57'30" E	202.26'
L53	S 69°15'60" E	301.49'
L54	S 68°18'60" E	402.61'
L55	S 70°21'30" E	504.42'
L56	S 69°28'00" E	496.53'
L57	S 68°30'00" E	201.68'
L58	S 66°00'00" E	193.31'
L59	S 63°16'20" E	896.89'
L60	S 59°35'00" E	204.63'
L61	S 52°08'60" E	194.72'
L62	S 46°22'15" E	299.21'
L63	S 49°35'00" E	198.68'

1969 Relocation of Farley Road
L.O.H. Plan Bk. 19 P. 19



Lyons Brook
Montague
Wendell

49.5' (3 Rods)

1956 Relocation of Mormon Hollow Road, FKA Millers Falls Road
L.D.H. Plan Bk. 12 P. 24

NUMBER	DIRECTION	DISTANCE
L1	N 56°14'49" E	430.00'
L2	N 42°00'00" E	198.54'
L3	N 49°03'00" E	96.86'
L4	N 62°37'00" E	116.72'
L5	N 76°01'00" E	97.67'
L6	N 82°34'30" E	98.14'
L7	N 83°17'27" E	650.69'
L8	N 84°02'06" E	599.80'
L9	N 81°44'30" E	201.17'
L10	N 82°11'00" E	150.21'
L11	S 88°42'30" E	341.52'
L12	N 85°41'30" E	168.74'
L13	N 80°35'00" E	193.52'
L14	N 76°11'00" E	192.23'
L15	N 69°16'33" E	309.41'
L16	N 58°02'30" E	208.00'
L17	N 38°04'00" E	356.07'
L18	N 26°05'30" E	202.40'
L19	N 16°13'00" E	103.40'
L20	N 15°36'30" E	90.10'
L21	N 24°02'12" E	90.84'
L22	N 33°58'46" E	109.23'
L23	N 39°38'01" E	786.85'
L24	N 49°16'00" E	91.20'
L25	N 60°41'00" E	311.66'
L26	N 69°48'30" E	90.10'
L27	N 78°38'30" E	100.00'
L28	N 86°56'30" E	144.40'
L29	N 88°17'22" E	951.66'
L30	S 87°25'10" E	95.96'
L31	S 81°27'31" E	101.34'
L32	S 67°40'27" E	90.39'
L33	S 55°11'52" E	93.61'
L34	S 51°26'30" E	77.22'
L35	S 26°04'18" E	693.30'
L36	S 14°24'43" E	96.51'
L37	S 11°02'20" E	200.39'
L38	S 19°19'44" E	97.89'
L39	S 26°34'50" E	99.94'
L40	S 31°50'40" E	499.02'
L41	S 25°46'05" E	100.31'
L42	S 21°24'52" E	403.36'

NUMBER	DIRECTION	DISTANCE
L43	N 56°14'49" E	
L44	N 42°00'00" E	195.40'
L45	N 49°03'00" E	105.80'
L46	N 62°37'00" E	128.42'
L47	N 76°01'00" E	106.32'
L48	N 82°34'30" E	101.29'
L49	N 83°17'27" E	651.32'
L50	N 84°02'06" E	599.13'
L51	N 81°44'30" E	200.37'
L52	N 82°11'00" E	154.34'
L53	S 88°42'30" E	343.04'
L54	N 85°41'30" E	164.11'
L55	N 80°35'00" E	189.41'
L56	N 76°11'00" E	187.34'
L57	N 69°16'33" E	301.55'
L58	N 58°02'30" E	194.41'
L59	N 38°04'00" E	342.16'
L60	N 26°05'30" E	192.93'
L61	N 16°13'00" E	98.86'
L62	N 15°36'30" E	93.48'
L63	N 24°02'12" E	98.79'
L64	N 33°58'46" E	115.98'
L65	N 39°38'01" E	793.47'
L66	N 49°16'00" E	100.32'
L67	N 60°41'00" E	320.56'
L68	N 69°48'30" E	97.87'
L69	N 78°38'30" E	107.41'
L70	N 86°56'30" E	148.57'
L71	N 88°17'22" E	954.10'
L72	S 87°25'10" E	100.39'
L73	S 81°27'31" E	109.90'
L74	S 67°40'27" E	101.78'
L75	S 55°11'52" E	100.64'
L76	S 51°26'30" E	89.98'
L77	S 26°04'18" E	709.50'
L78	S 14°24'43" E	103.02'
L79	S 11°02'20" E	198.26'
L80	S 19°19'44" E	91.17'
L81	S 26°34'50" E	94.53'
L82	S 31°50'40" E	499.37'
L83	S 25°46'05" E	104.82'
L84	S 21°24'52" E	405.24'

MORMON HOLLOW ROAD

FRCOG County Roads Records Project

Series List

Introduction

The Engineering Program for the Franklin Regional Council of Governments is the custodian for the road records of Franklin County, Massachusetts. The Franklin County government was abolished June 30, 1997 by an Act of the Commonwealth's legislature. The Council of Governments was chartered at that time to take up the duties of the former county. The Engineering Program continues to work with its member towns designing alterations, relocations and new highways. The County Roads Records Project is internally funded at this time to increase subject access to the records in a digital format, by consolidating disparate indexes. An additional aspect of the project is to evaluate preservation of the materials in their various formats, and weigh issues of preservation versus access with a goal of increasing accessibility in the digital format for use by the engineering program, area surveyors, title examiners, lawyers, town highway personnel, and the other users of the records.

Scope and Content Note

Franklin County road records date back to 1810 when the county was first chartered. The records also include transcriptions of Hampshire County records for roads in Franklin County. Prior to the establishment of the county. Commissioners' Records include petitions and actions by the County Commissioners with detailed descriptions of road layouts for county roads. They also include information related to the business of running the county, including accounts of monies expended. The Location of Highways Books include information about county roads only. In most cases, there is a record of the road action in the Commissioners' Records, but the Location of Highways Books consolidate and in some cases, expand upon, the information in the Commissioners' Records. Plan Books are a plan or graphic record of the road layout for some of the roads. Miscellaneous plans in drawers are indexed in a digital format, and include records which may be duplicates or more recent, or could be reclassified as part of some of the other series, most notably the plan books.

Series: Docket Folders

134 Metal Drawers filled with envelopes, continued in flat folders in the 1990s. Individual envelopes for County actions beginning in c.1812. Earliest envelopes are not labeled with dates. Filed by term (March, June, September and December), more or less. The envelopes contain all the official papers associated with an action. Actions include, but are not limited to, highway actions (new highways, alterations, relocations, discontinuances and specific repairs), actions associated with county real estate (court house and jail), other county business (annual statements, estimates for county taxes, other accounts), and dam plans. Indexes typically are docket sheets, with one page for each docket number, describing all activity on the action.

Series: County Commissioners' Books

23 Books; averaging 535 pages per book. Book 0 is a transcription of Hampshire County Records of road actions in Franklin County beginning with a 1732 action in Deerfield, and ending in 1810, at the creation of Franklin County.

Book 1 includes the Records of the Court of Sessions and Franklin County Commissioners from 1812 to 1829. The following books are filed chronologically by session, later called term. The series ends in 1963 with Book 22. These books record the actions taken in the docket folders.

County road actions prior to 1872 include petition, location, width, specifications and votes. Actions subsequent to 1872 often do not include location width and specifications, as this information was entered into the Location of Highways Series. There are various alphabetical indexes, some as part of the books themselves, and some as separate booklets inserted within the books.

Series: Location of Highways Books

6 Books; averaging 650 pages per book. Books are numbered 1 through 6. Pre-printed petition forms for county road actions, with a record of action taken by the county commissioners, and the location, width and specifications for the roads in Book 1. Book 2 follows the same format, but is hand-written. Books 3 on follow the same format, but are typed. Book 6 includes action by the Franklin Council of Governments. The series covers the time period from 1872 to 1998.

Series: Plan Books, called Location of Highways

22 Books; averaging 28 pages per book. Plans bound and filed chronologically from 1894 to 1984. Each book has an index as its first page. The earlier books are ink plans on heavy paper, subsequently hand-colored. The plans in the later books are ink on mylar. Plans in books 21 and 22 do not contain County Commissioners' signatures. Prints of these plans containing original signatures are found in the miscellaneous plans in drawers.

Series: Miscellaneous Plans in Drawers

443 Loose Plans; of various sizes, stored in boxes, bins and drawers in the records room. Paper, blue-print, linen and mylar plans dating from c.1880 to 1998. Some of these plans could be bound as part of the Plan Book Series. There are multiple copies of some of the plans. A number of original mylar plans were not signed; paper copies were signed, creating some question as to which would be the official original document.

Series: Railroad Locations

33 plan books of various sizes; averaging 32 pages per book. Locations of lands within Franklin County purchased for railroad purposes filed with the county commissioners, with a notation in later years that the filing was pursuant to Chapter 356 of the Acts of 1895. The plans date from 1869 to c.1905.

Series: State Highway Plan Books, called Plan Books – Franklin County

35 plan books; averaging 80 pages per book. The first three books of this series contain County road layouts, railroad plans, and building plans. Books 4 through 35 are bound in order to file state road layouts that were sent to the county pursuant to state statute. Books 4 through 13 are filed alphabetically by town with plans dating from 1897 to 1929. The following books have road layouts through 1985, arranged more or less chronologically. There is a digital and paper index for these state highway plans. More recent state highway layouts are in the Miscellaneous Plans in Drawers series.

Series: County Roads in Franklin County and Index to County Road Maps

1 Atlas; 16 pages; 1 Index; 69 pages [typewritten]

Atlas showing status of county roads, with accompanying documentation (year, action, citation in record books) provided in the typewritten index. County roads within each town have been given a unique number, which is used in the index. Compiled in 1924 by E. E. Davis, Certified Engineer of Northampton, MA. The atlas and the index have been updated with hand-written notations by William B. Allen, former FRCOG Regional Engineer.

Series: Town Folders for County Roads numbered within the system originated in the 1924 County Roads in Franklin County Book and the Index to County Road Maps

Folders for each town with plots generated by William B. Allen using Design-Plus software for a selection of the road layouts in Commissioners' Books, indexed by road number (corresponding to the system used in the 1924 County Roads in Franklin County Book and the Index to County Road Maps. Annotated photocopies of the Commissioners' Book records accompany the plots. The CAD Drawings in the Electronic Records (below) were made from these plots.

Series: CAD Drawings

352 CAD documents of road layouts that had been previously plotted by William B. Allen from the original record books, and ongoing newer plots directly plotted from plans and/or descriptions of road locations. They are indexed in the Access database (below).

Access Database

A database in Access which is designed to provide subject access to the Franklin County road records. It is a consolidated index, using a controlled vocabulary of current road names as access points. An individual location may be for all or only a portion of the road. Actions may affect more than one road. In some cases, where there is no current road name, the most appropriate adjacent road is named. This index is intended to be used as a starting point for research. While it is intended to be a first step, it is not intended to be the conclusive evidence of the status of any individual road; corrections and additions to the data are welcome. This database is maintained by the FRCOG Engineering Program.

FRCOG
County Roads Index
Report for the Town of Wendell

Road Name	Year of Action	Commissioners' Book-Page	Plan Book-Page	Location of Highways Book-Page	1924 Atlas Road Number
Arch St	1806	00-220			007
Cooleyville Rd	1844	03-309			020
	1848	04-097			022
County #9.5	1828	01-400			009.5
	1877	07-240		1-046	029
	1878	07-281			030B
Farley Rd	1793	00-137			004
	1794	00-155			005
	1961	21-398	15-22	4-212	
	1969	22-563	19-19	5-117	
	1973		21-06	5-296	
Jennison Rd	1759	00-025			002
	1794	00-156			006
	1828	01-400			009.5
	1832	02-119			010
	1835	02-263			012
	1835	02-311			013
	1837	02-477			016
	1839	03-036			017
Locke's Village Rd	1837	02-459			015A
Montague Rd	1762	00-045			001
	1765	00-058			002.5

* See the State Highway Plan Books.

** Hampshire County Record Books, copy available in Town Folder.

This is an index only, and is not intended to be evidence of the status of any individual road. The Franklin Regional Council of Governments is the keeper of the records and does not, by inclusion on this list, warrant or conclude the status of any road. To determine the status of a road, one must research numerous records and other evidence. Often vagueness or contradictions in the records may prevent the researcher from drawing a clear conclusion.

12/3/2003

Wendell Report

Page 1 of 2

Road Name	Year of Action	Commissioners' Book-Page	Plan Book-Page	Location of Highways Book-Page	1924 Atlas Road Number
Montague Rd	1826	01-321			009
	1894	09-176			032
	1976		21-22	5-358	
Mormon Hollow Rd	1793	00-137			004
	1850	04-250			023
	1956	20-202	12-24	3-459	
	1961	21-398	15-22	4-212	
Morse Village Rd	1765	00-058			002.5
	1794	00-155			005
	2003			6-240	
Mt Mineral Rd	1867	06-295			025
	1870	06-445			027
New Salem Rd	1762	00-045			001
Old Farley Rd	1878	07-281			030A
Rockwell Hill Rd	1759	00-025			002
	1794	00-156			006
Rush Rd	1833	02-175			011
Sears Rd	1852	04-339			024
	1884	08-175			031
Wendell Depot Rd	1784	00-108			003
	1794	00-155			005
	1837	02-459			015A
	1840	03-107			019
	1848	04-039			021
	1912	11-235	06-01	2-175	
	1933	14-320	*19-0795	2-421	
	1933	14-320	*19-0795	2-416	
	1988		D6-46	Unfinished	

* See the State Highway Plan Books.

** Hampshire County Record Books, copy available in Town Folder.

This is an index only, and is not intended to be evidence of the status of any individual road. The Franklin Regional Council of Governments is the keeper of the records and does not, by inclusion on this list, warrant or conclude the status of any road. To determine the status of a road, one must research numerous records and other evidence. Often vagueness or contradictions in the records may prevent the researcher from drawing a clear conclusion.

Procedural Outline and Requirements
for Petitioners for Road Actions
by the FRCOG Executive Committee

Effective July 1, 1997, county road actions as defined in the Annotated Laws of Massachusetts, Chapter 82, within Franklin County are the jurisdiction of the Franklin Regional Council of Governments (FRCOG) Executive Committee. During formation of the FRCOG, the member towns chose to limit services supported by general assessment and to fund several services by fee. All services provided by the FRCOG Executive Committee in connection with road actions are fee based. It is the responsibility of a petitioner for a road action to be knowledgeable of the laws and procedures involved with the action. To that end, the petitioner must seek and contract for specific legal, engineering and surveying assistance. The services of the FRCOG Engineering Program are available to towns, organizations and individuals for a fee. A petitioner also has the option of independently contracting with any outside firm that is licensed to practice their trade in Massachusetts.

Petitioners for road actions by the FRCOG Executive Committee must provide the following at the time of presenting the petition to the Executive Committee for action.

1. A copy of the Assessor's plan covering the entire length of the roadway petitioned for in the action and any other areas directly affected (both sides of the roadway).
2. List of current abutters of the proposed action sorted by index numbers from the Assessor's plan.
3. Current mailing address of each abutter.
4. Registry Book and Page for the most recent deed for each parcel abutting the proposed action.
5. Completed and signed "Agreement for Reimbursement of Costs Associated with Road Actions."
6. Check payable to the Franklin Regional Council of Governments in the amount of Five Hundred and no Cents (\$500.00) as initial payment as called for in item 10 of the Agreement for Reimbursement of Costs Associated with Road Actions.
7. A completed petition with signature(s) and names printed or typed below each signature. Note that top name on the petition will be used as reference on all legal documents.

Sample Agreement with the FRCOG for
Reimbursement of Costs
Associated with Road Actions

AGREEMENT made this **XXX** day of **XXX** by and between the Town of **XXX** (hereinafter referred to as the **Petitioner**), and the **FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS** (hereinafter referred to as the **FRCOG**), with its principal offices located at **425 Main Street, Greenfield, Massachusetts**. Any and all references within this Agreement to the parties shall mean the aforementioned **Petitioner** and **FRCOG**.

RECITALS

WHEREAS, the **Petitioner** desires to have the **FRCOG** Executive Committee accept and take action on a road action petition as they deem appropriate; and

WHEREAS, the **FRCOG** Executive Committee is willing and able to accept and take appropriate action on road action petitions;

PROVISIONS

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. The term of this agreement shall run from **XXX** to **XXX**.
2. The **Petitioner** hereby agrees to pay the **FRCOG** for all costs associated with this petition. The **Petitioner** hereby agrees to pay the **FRCOG** for all **FRCOG** personnel time spent on the action on a cost-reimbursement basis. The **Petitioner** hereby also agrees to pay the **FRCOG** for out-of-pocket expenses on a direct charge basis and for mileage at the current rate (presently 34 cents per mile). Out-of-pocket expenses shall include but not be limited to administrative expenses and costs, legal fees, engineering fees (other than **FRCOG** engineering fees, which shall be paid as **FRCOG** personnel costs), property appraisals, monetary damages, construction costs, service by sheriff, legal notices, copying, printing, and mailings.
3. The estimated costs for the action are included in the attached **Road Action Cost Estimate**. **The costs for the various steps and items listed are estimates. The Petitioner is responsible for actual costs incurred during the course of the action.**

If the actual costs for any step exceed the estimated costs by more than 50% the **Petitioner** will be so advised upon **FRCOG** being made aware of same. The **Petitioner** shall then have the option of paying all costs incurred to date and withdrawing the petition before a hearing date is set and notice given. If a hearing date has been set and notice given, or if the hearing has been held, the **Petitioner** shall have the option of paying all costs to date and having the Executive Committee dismiss the petition without prejudice.

4. Whenever required, the Petitioner is responsible for providing an appropriate layout plan and descriptions of parcels to be taken. The Petitioner further understands that these are additional costs and are not part of the costs estimated with this Agreement.

5. The Executive Committee will contract for appraisals of the parcels of land or portions thereof to be taken, or otherwise affected and thereby incurring monetary damage by the petitioned action. The Petitioner will be responsible for reimbursements to the Executive Committee for costs to prepare all appraisals.

6. The Executive Committee will award damages based on the appraisals, as listed in #5 of this agreement. **The Petitioner agrees that Petitioner shall be responsible for any and all damages associated with the damage awards pursuant to the road action.** The Petitioner further agrees to financially secure the above costs in a manner acceptable to the Executive Committee if the Executive Committee so requires.

7. **The Petitioner agrees that the Petitioner shall be responsible for any and all costs of construction associated with the road action.** The Petitioner further agrees to financially secure the costs of construction in a manner acceptable to the Executive Committee if the Executive Committee so requires.

8. The Petitioner may be required to execute a Performance Bond in the format attached hereto. Said Bond shall secure the FRCOG from any and all costs of the road action including, but not limited to, engineering, construction, and damages.

9. The Petitioner and FRCOG Executive Committee agree to meet at the earliest opportunity to confer about the need for the payment of monetary damages and/or construction costs pursuant to paragraphs #6 and 7 above. If the costs are not feasible for the Petitioner, the Petitioner shall then have the option of paying all costs incurred to date and withdrawing the petition before a hearing date is set and notice given. If a hearing date has been set and notice given, or if the hearing has been held, the Petitioner shall have the option of paying all costs to date and having the Executive Committee dismiss the petition without prejudice.

10. The Petitioner hereby agrees to make an initial payment of Five Hundred Dollars and no Cents (\$500.00) to the FRCOG before any action will be taken by the FRCOG with respect to the petition. Costs exceeding this amount will be invoiced to the Petitioner and will be payable within 30 days. Failure to keep payments current may result in dismissal of the petition and will also result in additional legal and collection costs to be borne by the petitioner. Petitioner hereby agrees to pay all costs of collection if a collection action is necessary including attorneys fees. If total action costs are less than the initial payment, the balance will be returned to the Petitioner at the end of the action.

11. COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS The Petitioner shall comply with all applicable laws, ordinances and codes of the local, state and federal government.

12. EMPLOYEE PARTICIPATION IN POLITICAL ACTIVITY All personnel rules and regulations of the FRCOG include restrictions barring any employee participation in political activity which utilizes any funds or any equipment, supplies, or employee time, paid for with funds under this Agreement. Neither the FRCOG, nor the personnel employed in the Administration of the road action, shall in any way or to any extent engage in the conduct of political activities in contravention of Chapter 15 of Title 5 of the United States code (Hatch Act).

13. CONFLICT OF INTEREST Each party shall adhere to the provisions of Massachusetts General Laws, Chapter 268A, with respect to the Conduct of Public Employees. In addition, no member, officer, or employee of the either party, or its designees, or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter (or such longer period as may be provided in Chapter 268A of the Massachusetts General Laws), shall have any interest in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Each party shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest, pursuant to the purposes of this subsection.

Further, each party shall adhere to the provisions of the Hatch Act (5 U.S.C. 1501, et seq), which limits political activities by employees whose principal employment is in connection with an activity which is financed in whole or in part by federal funds.

14. LIABILITY The Petitioner shall assume the defense of and hold the FRCOG harmless from all suits or claims against the FRCOG which may arise from the use of any copyright, patent or patent right, materials, labor or implement by the Petitioner in carrying out this Agreement.

The Petitioner shall also assume the defense of and hold the FRCOG harmless from all suits or claims against them rising out of any act or omission of the Petitioner in the performance of this Agreement or from any suit instituted for damages associated with this action. The Petitioner shall indemnify the FRCOG from any damages assessed in any manner whatsoever and whenever, which may arise out of this action.

The Petitioner is not authorized by the existence of this Agreement or by the terms hereunder, to incur any indebtedness or liability on the part of the FRCOG, or to pledge the credit of same, or to bind the FRCOG in any manner beyond those obligations which arise from work done under this Agreement in a timely and proper manner.

15. DOCUMENTS The Petitioner shall be required to provide FRCOG with any documents associated with the road action that FRCOG requests.

16. AVAILABILITY OF FUNDS If any funds are to be provided by FRCOG pursuant to this Agreement then this Agreement is subject to the continued availability of funds.

17. INDEMNIFICATION The Petitioner shall indemnify and save the FRCOG harmless from any and all claims, costs, expenses, losses and damages resulting from negligence, errors, omissions, or fault by the Petitioner including subcontractors and their employees. Such obligation shall not be construed to negate or abridge any other obligation or indemnification running to the FRCOG which would otherwise exist.

18. PERSONNEL The Petitioner represents that if necessary to secure outside services it will do so at its own expenses.

All personnel so engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

19. FRCOG's RIGHTS The FRCOG's rights and remedies provided in these clauses are in addition to any other rights and remedies provided by law or this Agreement.

20. The Petitioner shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all outside contracted work under this Agreement. The Petitioner shall be responsible to correct or revise any errors, omissions, or other deficiencies in the outside work.

The FRCOG's approval of drawings, designs, specification, reports, and incidental architectural work or materials furnished hereunder shall not in any way relieve the Petitioner of responsibility for the technical adequacy of the work. Neither the FRCOG's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under the Agreement or of any cause of action arising out of the performance of this Agreement.

21. TERMINATION Either party may terminate this Agreement, in whole or in part, in writing, if the other party substantially fails to fulfill its obligations under this Agreement through no fault of the terminating party. However, no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

The FRCOG may terminate this Agreement, in whole or in part, in writing, for its convenience, if the termination is for good cause (such as for legal or financial reasons, major changes in the work or program requirements, initiation of a new step) and the Petitioner is given (1) not less than ten (10) calendar days written notice (Delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party before termination.

If the FRCOG terminates for default, all payments due FRCOG will become due and payable immediately.

Upon termination, the FRCOG may take over the work and prosecute the same to completion by agreement with another party or otherwise.

Except as this Agreement otherwise provides, all claims, counter-claims, disputes, and other matters in questions between the Petitioner and the Executive Committee arising out of or relating to this Agreement or the breach of it will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction.

22. MISCELLANEOUS PROVISIONS

a. Modification Waiver of Change No modifications, waiver or change shall be made in the terms and conditions of this Agreement, except as may be mutually agreed upon in writing by all parties hereto.

b. Successors and Assigns This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the parties hereto.

c. Marginal Headings, Pronouns The marginal headings used in this Agreement are for convenience only and shall not be deemed to be a binding portion of this Agreement. The pronouns he, she, or it, are also used for convenience, and in the event that an improper pronoun has been used, it shall be deemed changed so as to render the sentence in which it is contained effective in accordance with its terms.

d. Cooperation Each party agrees to cooperate with the other in fulfilling the duties and responsibilities under the program.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

NOTE: THIS IS A BINDING LEGAL DOCUMENT. IT SHOULD BE READ CAREFULLY AND UNDERSTOOD PRIOR TO SIGNING. IT IS RECOMMENDED THAT THE PETITIONER SEEK LEGAL ADVICE PRIOR TO SIGNING THIS DOCUMENT.

FRANKLIN REGIONAL COUNCIL OF
GOVERNMENTS

Witness

Linda Dunlavy, Executive Director Date

TOWN OF XXX (Petitioner)

Witness

Chairman, Board of Selectmen Date

Approved as to appropriation:

Town Accountant