

**Winhall Selectboard
Site Review, Inspection & Hearing Regarding
Read Road Reclassification To Legal Trail, Tuesday August 1, 2017**

SITE REVIEW & INPECTION OF READ ROAD:

Present were, The Selectboard (represented by Bill Schwartz. The Chair, & Stuart Coleman, Vice Chair, as Dave Glabach was absent for medical reasons), Lucia Wing (Secretary), Trevor Dryden (Highway Foreman), Robert Crabtree (landowner who se property the legal trail adjoins and serves as access), A. Jay Kenlan (Attorney for Crabtree), Ryan Downey Jr. (Surveyor for Crabtree), Hunter Kaltsas (Excavating), Gene Morrison, Bob Whitney, and Deb Hodis (Horses for Hire). All met at the intersection of Read Road (Town Highway #7) and South Road at 5:00 PM per the Notice of Hearing on reclassifying Read Road to a Legal Town Trail (see attached Notice). The purpose of the site inspection was to walk Read Road in its entirety. A Public Hearing at approximately 6:30 PM at the Town Hall in Bondville would follow the inspection walk per the Notice.

CALL TO ORDER:

The Public Hearing was called to order at 6:20 PM at the Town Hall. All persons noted above at the Site Review with the exception of Hunter Kaltsas and with the addition of Marcel Gisquet (Chair, Winhall Planning Commission) were in attendance. Noticed Parties and Abutters not present at the Read Road site inspection or Public Hearing included Green Mountain National Forest, Green Mountain Power, Carolyn Crabtree, The Bank of Bennington, Roger D. Judge, Tracy or Sara Zaino, People's Bank, Edward or Margaret Jesser.

PUBLIC HEARING:

Nicole Dernier, Notary, swore in those present at the Hearing to give testimony. First, *Marcel Gisquet* submitted a letter to the Selectboard as evidence stating the Planning Commission's support of the proposed reclassification of Read Road (Class 3) and Read Road Extension (Class 4) to a legal Town Trail (see attached Exhibit A). A. Jay Kenlan questioned Gisquet about the Planning Commission's position regarding discontinuance of Read Road. *The Chair* objected to the questioning as it was not relevant to the Noticed Hearing of Reclassification but allowed Attorney Kenlan to continue. Gisquet responded the Planning Commission took no position on discontinuance; the WPC was responding in support of the notice to reclassify Read Road to a legal Town Trail.

Next, *Bob Whitney*, (nearby resident on South Road who often walked sections of Read Road), asked what it meant to be a "Legal Trail". *The Chair* responded that the difference was that Legal Trails retained the Towns right of way and public access to and use of the Road without the obligation of maintenance and that presently the Town maintained the first section of Read Road, a class 3 road (plowing, etc.) and provides no maintenance of the rest of the, class 4 Road, but that there has been concern that requirements of maintenance of class 4 roads may be imposed on the Town. As a legal trail the Town would have no obligations to maintain it; however, the Town of Winhall and public retained all rights to use it and that it is easier to reclassify a road in the future (to upgrade the road) than to start over and layout and take over a road anew.

Robert Crabtree responding through *Attorney Kenlan* indicated that he would not maintain Read Road, which he has done for the past year and one-half or so, if the Town reclassified it a legal Town Trail. *Attorney Kenlan* also stated that the road has light use and that *Crabtree* has offered to enter into agreement with some of those present that use Read Road and with the National Forest if Read Road could be discontinued and that *Crabtree* would have no incentive in putting his own money into a road he did not own and requested that the road be discontinued. *The Chair* noted, again, that this was not a discontinuance hearing but a reclassification hearing.

Next, *Deb Hodis* (Horses For Hire) stated she and others had helped maintain Read Road Extension for more than 29 years and used it frequently for horseback riding purposes. Her concern was that if the road were discontinued, gated, and made private, she and future generations would not have use of the access they currently enjoyed. *Attorney Kenlan* responded that *Crabtree* had every intention to draw up agreements with the public who used it currently allowing them to continue using it and added, again, that the public use of the road was light and could be addressed by individual written agreements with *Crabtree* if the road was discontinued. Selectboard member, *Coleman* inquired of *Attorney Kenlan* as to how that might work when an agreement, even recorded in the land records, might simply add litigation between parties to the use of the road and did not address all current users of Read Road or any future parties using the Road if not approved and agreed to by *Crabtree*. *Attorney Kenlan* responded that use would not be for others or future users if not agreed to by *Crabtree*. *Coleman* noted that the Legal Trail status would provide access for all members of the public. *The Chair* made the point again that discontinuance of Read Road was not the topic under consideration, reclassification to a legal Town Trail was the noticed hearing and read the Notice to the assembly for clarity.

Next, *Attorney Kenlan*, stated that he has had a few conversations with the National Forest Service and he believes that they are willing to sit down with him and discuss alternate access and conditional access for the National Forest Service if Read Road would be discontinued and that they have access on the other end of Read Road. It was noted that often the National Forest Service, through their contract loggers, maintain sections of the road as necessary for their maintenance of the National Forest which adjoins most of the class 4 part of Read Road and for maintenance of the trails for its purposes. Currently the Catamount Trail (Walt's Camp Road end) allows public access to the National Forest; in addition, the National Forest maintained a logging trail which was gated and not used by the public. Further discussion included, as noted in Exhibit A, that the National Forest occasionally swaps lands for other lands in a completely different location and the potential impacts on public or private use when ownership changes. *Attorney Kenlan* continued with another reason for Read Road discontinuance adding that *Crabtree* had future intentions of building a house on a portion of his land and was looking for security as well as privacy. Response was that *Crabtree* could gate his driveway and achieve the same result without discontinuing the road. Once again *The Chair* reminded those present that discontinuance was not under consideration. *Coleman* added that depending on what the Selectboard decided whether to reclassify Read Road a Town Trail or keep it a class 3 & class 4 road, the landowner had the right to petition the Town for a discontinuance hearing.

Next *Ryan Downey Jr.* (Licensed Surveyor) submitted the 1940 Winhall Town Highway Map indicating Read Road as 1.4 miles in length (see attached Exhibit B) and a 1847 written Survey of Read Road form when the road was laid out which describes the road by degrees and rods and as a 3-rod wide (see attached Exhibit C). Discussion followed about a 3-rod road versus a 4-rod road. *Downey* gave testimony as a State Licensed Surveyor that he was certain the 1847 Survey was of Read Road and that it was a 3-rod wide road. Official Notice was taken of the 1997 revised 2007 Charlie Stewart survey for Signa Read which shows the entire length of Read Road in metes and bounds as it existed on the ground in 1997 and it is noted as recorded in the Town of Winhall Land Records (see attached Exhibit D).

Trevor Dryden, Highway Foreman, testified that the Town of Winhall Highway Department currently plowed and maintained Read Road to where it intersected with Read Road Extension; at that point, the plow turned around. *Dryden* continued and stated that as a Legal Trail th Highway Department would stay on South Road and not have to go up and back down with plowing or otherwise maintain that, Class 3, section of Read Road.

Attorney Kenlan reiterated that he thought the correct action for the Town of Winhall to take was discontinuance of Read Road and not reclassify it a legal trail.

Crabtree testified that, as *Attorney Kenlan* stated, he has no incentive to maintain the road if it is reclassified as a Legal Trail and that he has been very generous with the use of his land by others and his maintenance of the road. *The Chair* inquired as to whether or not *Crabtree* was aware that Read Road was a Class 3 and Class 4 Road at the time of his purchases of lands adjoining Read Road and *Crabtree* stated that he was but that he thought it a "simple matter" to discontinue the Road. *The Chair* responded, acknowledging that the Board considered discontinuance at the request of *Crabtree* and that is why there was a hearing for discontinuance in September of 2016 and that a site visit and hearing resulted in a determination that discontinuance was not in the best interests of the public.

The Selectboard agreed to admit all evidence as submitted. They recessed the public hearing and would enter into deliberative session at a later date (with findings within 60 days per statute); ***motion by Schwartz; seconded by Coleman; unanimous.***

Lucia Wing, Secretary, Winhall Selectboard



William Schwartz, Chair



Stuart Coleman

David Glabach