

E. LAUCK PARKE--TESTIMONY BEFORE THE RICHMOND SELECTBOARD ON THE DISCONTINUANCE OF A SEGMENT OF WILLIAMS HILL ROAD

(September 21st, 2021)

Madame Chair, thank you for the opportunity to present the petitioners' perspective on the reasons, as a public good, it is in the community's best interest to discontinue this segment of Williams Hill Road. For the record, I have just handed you a printed version of the remarks I am about to make.

THE ORIGINAL WILLIAMS HILL ROAD SURVEY BILL

Prior to beginning our discussion on discontinuance, I assume that the Selectboard does not have a properly executed original "Survey Bill" laying out the section under consideration.

If that is so, the Vermont Supreme Court ruling in the case of Austin vs. Middlesex in 2009, concluded essentially that: lacking a proper "survey bill," there is NO Class 4 ancient road to discontinue, nor is there a Class 4 ancient road to convert into a trail.

THE 1797 HINESBURG SURVEY BILL

Statements made by the town manager at a recent Selectboard meeting indicated that a surveyor was hired by the town to assist in finding such evidence.

In addition, the town manger noted that the surveyor was able to find a 1797 "survey bill" in the Hinesburg town vault, laying out a road in Hinesburg, (and I quote the exact wording in that document) "...to the north line of Hinesburgh there met the road laid out by the Select Men of Richmond this spring. To road laid 4 R(ods) wide..." (end quote)
[Hinesburg Highway Record, vol. 1, p.9]

Hence this appears to imply that the Hinesburg road connected with a corresponding road laid out in Richmond earlier in the spring of 1797, close to the segment of Williams Hill Road in question.

However, to date, no such survey bill for the Richmond segment of that road has been found. Statements made by the Town's surveyor at last week's site visit confirmed this fact.

A proper survey bill specifies the EXACT physical location of a ROW, including compass bearings and distances between changes in the direction of the road.

By "flagging" the Williams Hill corridor for last week's site visit, the Selectboard clearly made the decision that the missing survey bill would have designated the overgrown, untraveled segment, between two parallel rock walls as the town's legal ROW.

However, due to the lack of the actual survey bill, there are serious flaws in this speculative theory about that route.

As noted above, the Hinesburg survey bill, indicates that at the town line, their road meets "...a road laid 4 R.(ods) wide..." The distance between the rock walls of the Hinesburg Road (today known as Palmer Road) leading up to the town line is consistently about 62 feet (center of rock wall to center of rock wall, thus approx. 4 rods).

Recent measurement of the distance between the Williams Hill rock walls (again, center of rock wall to center of rock wall) is never more than 32 feet (i.e. 2 rods). This fact alone raises serious doubts that this is the route of the Richmond road referenced in the Hinesburg survey bill of 1797.

Further, if one is troubled by both the missing Richmond survey bill and the inconsistencies inherent in the assumptions made about this Williams Hill route, then a search for additional information might reveal a more accurate, alternative explanation for the actual route of this 1797 RICHMOND road.

LIDAR EVIDENCE OF THIS ALTERNATIVE ROUTE

Pursuing this possibility, one merely needs to turn to the Vermont Center for Geological Information's on-line "map-viewer" for compelling evidence of the actual route.

When one zooms in on the map area in question, (i.e. the southwest corner of Richmond), and "clicks" on the map overlay boxes on the left hand side of the screen corresponding to "lidar" and "property owners," it becomes very apparent where this 1797 road in Richmond was actually laid out.

Lidar is a laser technology used by surveyors (among others) to highlight slight differences in elevation, such as stone walls that border a field or meadow. And, as is visible in the VCGI's image of the Palmer Road area there clearly appear to be two intermittent, parallel rock walls running almost ramrod straight from the northern end of Palmer Road all the way north to just south of Fays Corners.

Recent, on-the-ground, field investigation of parts of this assumed corridor confirmed the existence of not only ample evidence of rock walls, but more importantly parallel rock walls approximately 60 feet apart (i.e. nearly 4 rods).

Starting one half mile south of Fays Corners, on the eastern side of the modern day Richmond/Hinesburg Road, as one crosses the shallow banks of Johnnie Brook and walks in a southerly direction, substantial segments of two parallel rock walls regularly appear in the forested lands owned by Harriet Ladensack; the upper hay meadows of the Dowd farm; across the properties at the top of Old Farm Road; and continuing across forested lands owned by Patricia Gilbert and meeting the parallel rock walls bordering Palmer Road.

In addition, the existence of this earlier route of the Richmond/Hinesburg Road is corroborated by Harriet Riggs in her *History of Richmond*, (p. 403), when she notes that both the Dowd house and farm buildings, as well as the Hinesburg Road were originally east of their current, modern locations.

THE 1838 NEW COUNTY ROAD TO HINESBURG

Wishing to corroborate this finding of field evidence, I returned to the Richmond town vault in search of records relevant to this southwest corner of town for both survey bills as well as evidence of written decisions to discontinue roads laid out in earlier periods of the town's history. I found ample evidence of both. [See for instance Richmond Land Records Vol. 2, pages: 70, 152, and 162.]

Records from the State Archives and the towns of Richmond, Williston, and Hinesburg reveal that the condition, maintenance, and path of the Richmond/Hinesburg Road was contested and altered several times between 1797 and the mid eighteen hundreds, especially during the period between 1823 and 1841.

In 1838 the county road commissioners laid out a new county road connecting the McNeil ferry landing in Charlotte to Cambridge, passing through the towns of Hinesburg, Richmond, Jericho, and Fairfax. [NOTE: A section of which appears to be the modern macadam Richmond/Hinesburg Road]

Not surprisingly, when the new county road was completed, there is evidence in town records that the Richmond Selectmen discontinued the 1797 road that I just described above. That road connected with Palmer Road in Hinesburg and thus the discontinued road including a section of Palmer Road in Richmond onto which Williams Hill Road "T's."

Historically this alternative route for the Richmond/Hinesburg Road makes much more sense than that of the flagged Williams Hill route which is implied by relying solely on the Hinesburg 1797 survey bill for two reasons:

First, it directly links two of the most important industrial and commercial districts in the area at that time: Fays Corners and Mechanicsville where horse and wagon traffic between the factories and mills of these two dense, river-side settlements would have needed and supported a wide, respectable, well maintained, trade-based highway.

Second, it avoids an additional ascent of 300 feet then a steep descent of approximately 500 feet, not encountered on the Fays Corners route to reach Richmond village.

The burden of traversing these considerable elevations would have given road builders pause as they would have presented all users: humans, horses, and wagon brakes with unnecessary peril.

WILLIAMS HILL ROAD: A MERE PRIVATE FARM LANE?

So, at this point, the question still lingers as to the relevance and significance of the presumed Williams Hill Road. Since the first farmhouse on the hill was not built until approximately 1820, it is unlikely that a road taking the route of the modern Williams Hill Road was laid out in 1797.

Much more likely, if there was any "traveled way" in 1797, it was the remnants of an Abenaki path (between a reported summer camp near Jonesville and a winter camp near the lake in Charlotte).

In about 1823, I believe that a road was laid out to "New Huntington" using the easterly portion of the Williams Hill corridor up to Old County Lane

where the road turned southward toward the Owl's Head Berry Farm, where it joined the southern segment of what is today Hillview Road.

However, that route is just hearsay from a number of elderly residents in town (unfortunately, some of whom are sadly, no longer with us).

As for the abandoned segment of the "traveled way" in question, according to the 1837 Vermont Gazetteer, a farmer by the name of J. Ready was listed as occupying a farmhouse and owning a barn, and 12 head of cattle on the property just south of 1360 Williams Hill Road, now owned by Elizabeth and Julia Parke, (NOTE: the barn foundation is still prominently visible on that parcel).

Since the two segments, one going north from the Ready farm to the Williams farmhouse and the other southward to the intersection of Palmer Road (via Beatty Lane) are only 2 rods wide, it is likely that these were merely private farm lanes, (not unlike private driveways of today), bordered by "stone fences," as described by Eric Sloane in his *Diary of An Early American Boy (1962)*, in order to restrain cattle in adjacent pastures.

Thus, it is highly likely that this "traveled way" was neither laid out nor adopted as a part of a formal town highway. However, simply by the existence of parallel rock walls, a farm lane evolved in town lore as being thought of as abandoned class 4, ancient road.

The lack of a formal Survey Bill for this road should be no surprise, once this verifiable evidence is considered and weighed against rumors and idle speculation as to what some citizens believe the town owns.

In addition, if the Selectboard is troubled by the lack of an original survey bill, it should also closely review the motions and votes of the Selectboard between December 21st, 2009 and April 19th, 2010 concerning the mass discontinuance of "...all known and unknown ancient roads in Richmond." The Agency of Transportation signed off on Richmond's decision in this matter twice, on May 2nd, 2010, and May 19th, 2010.

Given all of the evidence that I have just presented, the Selectboard faces an immediate decision as to whether it should acknowledge that since no legal ROW exists, this hearing should be adjourned.

However, if you disagree, Madame Chair, I will proceed with my prepared testimony on the petitioners' arguments supporting discontinuance.

NEIGHBORS' ARGUMENTS FOR DISCONTINUANCE

Today's hearing on the discontinuance of a segment of Williams Hill Road embraces the very essence of the foundational goals in the recently adopted Town Plan.

Specifically a Selectboard ruling in support of discontinuance would serve as a demonstrative example of community progress toward achieving three core values of that plan:

- (1) First, it would immediately forestall further "intense" rural development along a town highway corridor;
- (2) Second, by stopping the fragmentation of large, uninterrupted parcels it would serve to protect contiguous habitat units, forest, agricultural, and riparian wetland blocks of the working landscape so prized in the plan; and
- (3) Third, it would serve to preserve the rural tranquility, security, and sense of community within a century-old dead-end neighborhood.

A MOUNTAIN BIKE TRAIL IS DESTRUCTIVE DEVELOPMENT

Unfortunately, merely converting the corridor to a seemingly benign mountain biking trail violates all three of the benefits of discontinuance mentioned above. Further, the Trails Committee's inflated sole claim that the Town Plan calls for the "connectivity" of neighborhoods, fails to put that argument into its proper context.

The connectivity to which the committee refers, is, at best, a trivial, third tier, minor aim of the plan, clearly superseded by all of the far more important goals achieved by discontinuance. In the compact, densely populated neighborhoods of the village, the "connectivity" of which they speak may make some sense.

However, for MOST citizens in the rural, sparsely populated corners of Richmond, year-round, connectivity, can only mean, by necessity and practicality, automotive travel.

Richmond is neither Amsterdam, nor Heidelberg where most citizens own bicycles and regularly use them to commute, shop, and visit friends and relatives. In this regard, few Richmond residents will benefit from this trail, as this is clearly NOT a viable commuting or shopping route, especially given the significant elevation and climb from the village. Nor are children

going to use this as a safe route between home and school. Thus, this is NOT about discontinuing a vital public good, convenience, or necessity.

Hence creating the trail in question serves only the recreational desires of a very small segment of Richmond's residents and their wishes to have faster, more direct, personal connectivity to other existing trail systems. At, I might add, to the measurable detriment of homeowners, wild life, and known wetlands.

As to connectivity, it is interesting to note that not only have mountain bikers been banned from the newly established Andrews Town Forest, for environmental reasons, but also that some area landowners, who interestingly enough are, themselves, mountain bikers, prohibit fellow bikers on their property.

This corridor has neither been used, nor maintained by the town as a "travelled way," since at least the early 1940s. Opening it up to use as a mountain bike trail would represent an act of significant development. The destructive acts of clearing trees and brush as well as physically removing boulders and stumps, and then traversing known class II, riparian wetlands will have profound and lasting negative impacts. These impacts would not only be on the land and wildlife, but also on the rural character of two neighborhoods.

As has been noted publicly in a recent Selectboard meeting by the residents of the eastern portion of Hillview Road, proposed development of two agricultural parcels near their properties would seriously impact their neighborhood by increasing the "trip ends" generated by the development beyond the capacity of the town maintained road.

An identical situation exists with Williams Hill Road. By creating two trail heads for mountain bikers at each end of the proposed trail, the Selectboard invites a substantial increase in both traffic and parking on the narrow, lightly traveled sections of both Williams Hill and Palmer Roads.

Since the inception and widespread use of smart phone apps that instantly alert the national mountain biking community to the creation and existence of new riding opportunities, it would be foolish for the Selectboard not to recognize that this proposed trail will generate robust attention and use.

And sadly, as noted in a number of outlets, most recently in the July/August issue of ***Yankee Magazine***, the explosive interest and increase in mountain biking activity inevitably includes clear evidence of intolerable behaviors.

Hence by sanctioning such a trail, the Selectboard explicitly inherits responsibility to manage and police such behaviors.

ADOPT ORDINANCES BEFORE CREATING TRAILS

Unfortunately, however, despite the explicit recommendations of both the Vermont Legislature and the Vermont League of Cities and Towns to do so, Richmond has yet to draft and adopt ordinance(s) establishing clear, enforceable guidelines on the management of all, and I will stress all, of its Class 4, ancient roads and the potential conversion of these to trails, as many other towns in Vermont have already enacted.

With the notable exception of the adoption of the 2009 Town ordinance specifically prohibiting the use of motorized vehicles on the Snipe Ireland trail, no other ordinances seeking to guide or regulate what constitutes acceptable behavior by permitted users of Town trails have been adopted.

In addition, it is important to note that this ordinance applies exclusively to the Snipe Ireland trail and focuses solely on detailed restrictions imposed upon operators of motorized vehicles.

This ordinance makes no reference to prohibiting or restricting potential abuses of the trails by either hikers or mountain bikers when, and if, they engage in offensive behaviors, including environmental abuses or off-trail transgressions.

Further, in this vein, it is interesting to note that recently homeowners in the Cochran Road area have been forced to engage town officials in exactly these very same discussions about behaviors of trail users implied above.

In the absence of clearly enforceable ordinances on parking problems, emergency vehicle access, noise, litter, public urination, and proper land use, creating this trail will generate additional burdens for the Selectboard, town officials, and employees.

As we have all recently seen in the UMIAK, Johnnie Brook trail, Huntington Gorge, and Jonesville river access situations, parking is not an ethereal, hypothetical question. It is, in fact, a very real, concrete example of why towns pass ordinances!

Despite these four thorny examples of parking problems that the Selectboard is currently grappling with, I would point out that it appears that the Selectboard may be ready, by creating a new mountain biking trail,

including two new trailheads, to add a fifth parking headache to its agenda. At the same time, the Selectboard will, knowingly or unknowingly, not only turn its back on the essential goals enshrined in our Town Plan, but also assume the liabilities and responsibilities embedded in this trail decision.

CONCLUSION

At this point, in an effort to capture the passionate feelings expressed by many of the 170 petitioners I offer a brief summary of our three most significant arguments in support of discontinuance:

First, it represents a classic confrontation between the rights and expectations of one group of citizens, as to the public good, in contrast to the perceived interests of another group of citizens. On the one hand are the explicit, well-defined rights and interests of the homeowners and families of two quiet, dead-end neighborhoods, versus the less well defined expectations and rights of an arguably much smaller, more amorphous group of individuals.

On this point, our recently adopted Town Plan provides important guidance. The preservation of our treasured, rural agricultural character is solely dependent upon our ability to protect the working landscape. In order to accomplish this, the Plan clearly specifies that the town must strive continually to protect the environment by limiting intrusion into forests, wet lands, and valued wildlife corridors by protecting large, uninterrupted parcels of land outside of the village center.

“Connectivity,” unless it refers to wildlife and the importance of maintaining continuous habitat units, is clearly a relatively minor, subservient aim mentioned briefly in the Plan.

Second, the development of trails is just that: development. And with such development, costs and negative implications inevitably emerge. These must be carefully weighed and considered as to who will ultimately shoulder those insults, since developers rarely bear the brunt, nor the ugly consequences of the negative outcomes they create.

And it is these punitive costs we petitioners believe will unfortunately and unnecessarily fall on the residents of the two dead end neighborhoods. It is THEIR quality of life that will suffer in order to provide a few with their personal recreational benefits.

Finally, if the creation of a trail in this situation is a forgone conclusion, then, prior to the approval of that decision, constraining ordinances must be adopted to address unacceptable behaviors that inevitably and predictably will emerge as users traverse this and all future trails the Selectboard creates.

The Willams Hill corridor is not the only remaining questionable, Class 4 ancient road in Richmond. Not surprisingly large landowners, including many who signed the petition, are watching this case with heightened awareness of their own vulnerability.

Hence it is pure folly to allow the trails committee arbitrarily to “knock off” these ancient roads one at a time, in their favor, without the proper engagement and involvement of voters in how they want to control all potential public trails.

Drafting and adopting ordinances to guide this process appears to be a more orderly and considered alternative to the current one-at-a-time, situational approach the town seems to have followed to this point.

CITIZENS AND PETITIONERS NOW WISHING TO SPEAK IN SUPPORT OF DISCONTINUANCE

Though you have received many letters and e-mails outlining concerns over these major issues on this discontinuance, a number of my neighbors and fellow citizens have indicated a compelling desire to speak:

-Jack Linn

-Joan Hathaway

-Stevie Rogers

-Doreen Marquis

-John Linn

-Robert Marquis

