



**TOWN OF RICHMOND, VT SELECTBOARD
PETITION FOR DISCONTINUANCE OF CLASS 4 ROAD
FINDINGS AND DECISION**

**RE: Petition to Consider Discontinuance of a Portion of the Class 4 Section of Town Highway 20
also known as Williams Hill Road and/or Palmer Road**

INTRODUCTION AND PROCEDURAL HISTORY

On June 10, 2021, voters and/or landowners of the Town of Richmond, comprising at least five percent of the voters, submitted a petition to the Richmond Selectboard (hereinafter “Selectboard”) requesting that the Board “hold a site visit and hearing on the discontinuance of Williams Hill Road from the residence of the Parkes (1360) southward to the point where it intersects with Palmer Road and Beatty Lane, pursuant to 19 V.S.A § 708 and following.” Thereafter, the Selectboard promptly set a time and date, upon 30-day notice, by certified mail, to the petitioners and to persons owning or interested in the lands through which the highway passes or abuts, for:

1. Inspection – or examination – of the premises by a quorum of the Selectboard, open to members of the public; and
2. A public hearing to receive testimony from all persons abutting, owning, or interested in the matter of discontinuance of the above-described section of Town Highway 20.

In addition to these required actions, the Selectboard gave notice to the Richmond Planning Commission, posted a notice in the office of the Town Clerk, and caused the notice to be published in a local newspaper of general circulation not less than ten days before the hearing, all in accordance with 19 V.S.A. § 709.

To facilitate its examination of the premises and fulfill its obligations under Chapter 7 of Title 19, the Town contracted with Button Professional Land Surveyors (“Button”) to perform a records search to locate documentation relevant to the creation and specific location of the right-of-way of the Class 4 section of Williams Hill Road. Button’s research did not produce a survey bill for this segment of the highway. However, using various maps and GPS technology, Button flagged what it believes to constitute the centerline of the roadway, which was used as a visual guide for the Selectboard’s examination of the premises.

The site inspection of the town highway segment referenced in the petition was held at 6:00 PM on September 14, 2021. Subsequent to the inspection, a public hearing was held at 6:00 PM on September 21, 2021. A record of witnesses who participated in the public hearing and admitted exhibits is attached hereto as Appendix A.¹

¹ A list of witnesses who participated in the public hearing is included in Exhibit 9A, the minutes of the September 21, 2021 Selectboard meeting.

FINDINGS

1. Town Highway 20 is a public highway located on the westerly side of Richmond, running between Hillview Road (Town Highway 9) and the Town's boundary with Hinesburg (and vice versa). On its westerly end, Town Highway 20 is known as "Palmer Road." Exhibit 3A.
2. Approximately 1.4 miles of Williams Hill Road is shown on the 2019 AOT Map as Class 3 Town Highway, with approximately 0.7 miles shown as Class 4 Town Highway.² It is the Class 4 segment of Williams Hill Road that is at issue in this proceeding.
3. Williams Hill Road has a long history, appearing on maps dating to the 1830's.
4. The petition at issue asks the Selectboard to discontinue a segment of the Class 4 portion of Williams Road "from the residence of the Parkes (1360) southward to the point where it intersects with Palmer Road and Beatty Lane."
5. All members of the Selectboard completed a site inspection of the Class 4 portion of Williams Hill Road prior to the start of deliberations on the petition. Exhibits 2J & 2L.
6. In accordance with its existing Town Highway Repair Policy, the Town does not maintain, and requires Selectboard approval for others to maintain, Class 4 Town Highways. Exhibit 4A.
7. The Town does not receive State aid for the Class 4 segment of Williams Hill Road through the State Aid To Town Highways Program (19 V.S.A. § 306) and it does not maintain the same, in accordance with its Town Highway Repair Policy. Exhibit 5A. The Town has a roadway maintenance agreement for a portion of the westerly-most Class 4 segment of Town Highway 20, known as "Palmer Lane."
8. The existing Class 4 segment of Williams Hill Road is characterized as an old single-lane road bed, with stone walls on either side for the majority of its length. In the upper (easterly) section, the stone walls are consistently 44' apart, and the roadbed is largely centered between them. In the lower (westerly) section, paralleling the O'Neil driveway, the road changes character and is barely one lane in width, with the walls varying from 20-30 feet apart. Exhibit 3C.
9. Presently, much of the Class 4 segment of Williams Hill Road is overgrown, with vegetation and mature trees located within the roadbed. Exhibit 2L. Located in the Town's Agricultural/ Residential (AR) zoning district, the Class 4 segment ostensibly connects areas of low-density residential use, surrounded by woodlands, meadowland, and agricultural areas in both Richmond and Hinesburg. Exhibit 3D.
10. The discontinuance petition at issue is a response to a request by the Richmond Trails Committee to create a connector trail for bikes and pedestrians on the Class 4 section of Williams Hill Road. Exhibit 8AF.
11. In connection with the hearing, the Selectboard received testimony and other evidence from both opponents and proponents of discontinuance.
12. Generally, the majority preference received from town residents at hearing, and the preference of public bodies documented in written statements received from the Town of Richmond Planning Commission, Transportation Committee and Trails Committee, was that maintaining the status

² A notation on Exhibit 3A states, which respect to the Class 4 mileage that "[t]he sections of the town highway listed above are legally Class 3, but have been deemed 'Not Up to Standard' and are functionally Class 4 Town Highways."

quo, by not discontinuing the roadway, best served the public interest now and in the future as a potential connection between neighborhoods and as a means to provide safe passage for non-vehicular traffic.

13. Virginia Clarke, Chair of the Richmond Planning Commission, testified that the Planning Commission supports retaining the Class 4 section of Williams Hill Road.
14. Retaining this section of Williams Hill Road supports goals and actions in the 2018 Town Plan, including by ensuring that Richmond residents can meet basic needs and access affordable good and services, including in times of emergency, and increasing the resilience of town infrastructure to be able to withstand a variety of hazards and disasters. Keeping the right-of-way would enable the town and its residents to utilize the right-of-way in case of unforeseen circumstances, such as road closures on Hinesburg Road, and enable the Town to flexibly plan for growth (should the need arise in the future) as a network of collector roads improves traffic circulation. Exhibits 7A and 9A.
15. Retaining the Class 4 segment of the roadway gives the Town the option, but not the obligation, to establish a recreational trail within the right-of-way in the future. As the Planning Commission, Transportation Committee and Trails Committee all observed, creating a maintaining a trail over this Class 4 segment is potentially consistent with several Town Plan goals and would facilitate the connection of and to roadways and recreational resources in other communities. Exhibits 7A-C.
16. From the standpoint of reducing the Town's contribution to the climate crisis, retaining the Class 4 portion of the roadway potentially provides shorter travel distances and increases the potential for lower-energy consumptive travel.
17. Support for discontinuance focused largely on perceived or anticipated impacts to the Williams Hill Road neighborhood if a trail for bikes and pedestrians is established within the Class 4 roadway segment.
18. Concerns expressed by proponents of discontinuance include the impact of a potential trail on the character of the Williams Hill Road neighborhood, as well as on wildlife, wetlands, and "rural development" more generally. In addition, numerous people supporting discontinuance expressed concerns about increased traffic and a lack of parking on either end of the Class 4 segment if a trail is formally established.
19. There is no substantial evidence that the current status of the Class 4 segment of Williams Hill Road has resulted in harm or adverse impacts to any adjoining landowners or other interested persons.
20. The Selectboard, subject to certain requirements, may designate a specific highway or portion of a highway proposed to be discontinued as a trail. 19 V.S.A. § 305(j), § 775.
21. As noted above, the issue of creating a trail within the right-of-way of the Class 4 segment of Williams Hill Road has been raised by the Trails Committee and addressed by numerous commentators to this proceeding.
22. Class 4 Town Highways are included in the Municipal Roads General Permit and the Town is responsible for ensuring that hydrologically connected road segments meet applicable standards. There are some hydrologically connected segments on the Class 4 section of Williams Hill Road, but they are presently in compliance with Vermont DEC standards.

CONCLUSIONS

The Selectboard's decision is based on whether the public good, necessity, and convenience of the inhabitants of the Town require the highway to be discontinued as claimed in the petition. 19 V.S.A. § 710. In the context of 19 V.S.A § 710, the term "public necessity" is defined as "a reasonable need which considers the greatest public good and least inconvenience and expense to the [Town] and to the property owner. Necessity shall not be measured merely by expense or convenience to the [Town]....

Consideration also shall be given to the effect upon home and homestead rights and the convenience of the owner of the land; to the effect of the highway upon the scenic and recreational values of the highway; to the need to accommodate present and future utility installations within the highway corridor; to the need to mitigate the environmental impacts of the highway construction; and to the effect upon the grand lists and revenues. 19 V.S.A. §501(1). Further, the term "public good," while not formally defined by statute, generally means that which is beneficial to the community at large, not only a few members of a community. Additionally, the Selectboard's consideration of public good is not limited to the present, but may also take into account the effect of discontinuance or reclassification on future generations of Town residents.

Based on the foregoing findings of fact and other record evidence adduced at hearing, and given the relevant legal standards, discussed above, the Selectboard concludes as follows.

As the Planning Commission observed, retaining the Class 4 section of Williams Hill Road supports the 2018 plan goals and actions to ensure residents will be able to meet basic needs and access affordable foods and services, including in times of emergency, and to increase resilience of infrastructure to survive a variety of disasters. In terms of best planning practice, keeping the right-of-way, as opposed to discontinuing it as requested by the petition, would enable the Town and its residents to utilize the right-of-way in the event of unforeseen circumstances, such as prolonged road closures on the Hinesburg Road. By retaining the road, the Town can flexibly plan for future growth as a collection of connecting roads improves traffic circulation in congested areas.

Current potential non-motorized uses of the Class 4 road are also consistent with: (1) decreasing the amount of fossil fuel used for transportation by Town government, residents, and businesses through conservation and improved efficiency, (2) encouraging walking and the use of bicycles, (3) facilitating the substitution of electricity and renewable fuel for fossil fuels, (4) maintaining a complete streets policy that encourages walking and biking in addition to vehicle travel, (5) supporting interconnectivity of trails and connectivity of trails with destinations to provide for non-motorized means of travel, and (6) supporting and creating outdoor and recreational opportunities that are available to the public. Richmond Climate Action made observations similar to the Planning Commission regarding retaining the Class 4 segment for energy conservation purposes. The above-referenced factors are relevant considerations in evaluating whether discontinuance is in the public good; they weigh in favor of retaining the Class 4 segment of the road.

During the hearing, many witnesses also expressed the view that the Class 4 segment of Williams Hill Road is a public asset that should not be discontinued by the Town without a specific, corresponding public benefit (i.e., a specific benefit to the residents of the Town as a whole). The Selectboard agrees. The Board has identified no significant benefit the public would receive through discontinuance. Also, with the advent of more frequent and extreme adverse weather events it is prudent to maintain a public right-of-way along the full length of Williams Hill Road to provide for alternative public access, if needed. There are no substantial costs to the Town in retaining the Class 4 segment, in its present condition, at this time.

Discontinuance might benefit certain Williams Hill Road landowners by potentially enhancing their property rights and interests and sense of privacy. However, there was no evidence submitted that the

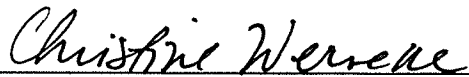
Class 4 status of a portion of Williams Hill Road has resulted in monetary harm to, or the loss of enjoyment of property by, any adjoining landowners or interested persons.

The concerns of those residents and landowners who support discontinuance, while sincerely held and deeply felt, do not outweigh the factors listed above that support retaining the Class 4 segment of Williams Hill Road. For the reasons stated by the Planning Commission and others, the Selectboard believes that, on balance, the public good, necessity and convenience weigh heavily in favor of retaining the Class 4 segment of Williams Hill Road. The record evidence supports the conclusion that the public good is best served by maintaining the status quo, and not discontinuing the Class 4 segment, at this time. As indicated below, that is the decision of the Selectboard.

Much of the support for discontinuance appears to be driven, in part, by concern over the prospect of a “connector” trail for bikes and pedestrians through the Class 4 segment of Williams Hill Road. This is particularly true for residents who live off Williams Hill Road, many of whom have identified issues that should be considered fully before any decisions regarding a trail through the Class 4 segment are made. Therefore, the Selectboard, taking into account all of the foregoing and in the exercise of its discretion, declines to reclassify the Class 4 segment of Williams Hill Road as a legal trail at this time.

DECISION

For the foregoing reasons, the Richmond Selectboard unanimously orders that the Class 4 segment of Williams Hill Road (Town Highway 20) shall continue as currently classified. The petition to discontinue the Class 4 segment of Williams Hill Road is DENIED. The Selectboard declines to reclassify the Class 4 segment as a trail at this time.



Christine Werneke, Chair
Town of Richmond Selectboard

Dated: November 17, 2021