

# TOWN OF WEATHERSFIELD, VERMONT

## Report of the Selectors for the Town of Weathersfield, Vermont, on proceedings to discontinue a highway in Weathersfield

On the twenty-fifth day of February, 2006 A.D., we, the undersigned Selectors of the Town of Weathersfield, Vermont, a municipal corporation in Windsor County, State of Vermont, prepared a notice, in writing, of the proposed discontinuance of a highway in the Town of Weathersfield, in accordance with the provisions of Title 19, Chapter 7, Sub-chapter 2, of the Vermont Statutes Annotated.

The highway to be discontinued is described as follows:

A portion of what was formerly known as Town Highway 46, which proceeded east from Town Highway 46, Girdlot Road, by Blood Brook, to the boundary of Interstate 91, a distance of two-tenths (0.2) mile through the property owned by the Petitioners, Clive R. and Rhona A. Morris.

In a public notice dated January 6th, 2006, posted at the Weathersfield Town Clerk's office and the U.S. Post Office in Ascutney, and published in the newspaper of record for the Town, it stated that the Select Board would meet at 3:30 o'clock, P.M., on the twenty-fifth day of February, 2006, at the point where Blood Brook crosses Town Highway 48, Girdlot Road, 3101 Route 5, to consider a petition by Clive R. and Rhona A. Morris to discontinue the highway.

A copy of this notice was mailed to the following abutting property owners on January 25<sup>th</sup>, 2006:

Clive R. Morris  
Rhona A. Morris  
Post Office Box 473  
Ascutney, Vermont 05030-0473

Vermont Agency of Transportation  
District 2  
Post Office Box 8236  
North Brattleboro, VT 05304-8236

they being the owners of the land abutting the said highway to be discontinued. The notice was also recorded in the records of the Town of Weathersfield.

At 3:30 o'clock, P.M., on Saturday, February 25<sup>th</sup>, 2006, the Select Board met at the point where Blood Brook crosses Town Highway 48, Girdlot Road, in the Town of Weathersfield, for the purpose of examining the highway to be discontinued. After the site inspection, a public hearing at Martin Memorial Hall. Present were Vice Chairperson Henry C. Cobb, Jr., Board Clerk Norman John Arrison, and Selectors Daniel E. Boyer and Patricia W. Daniels. Chairperson C. Peter Cole was absent.

Also present at the hearing and participating were the Petitioners, Susan A. Boyer and Ruth E. Adams, of the Parks and Recreation Commission, Anthony J. Daniels, of Dake Hill Road, and Julia Lloyd Wright, of the Eagle Times.

After the Board was unable to achieve a majority decision, the public hearing was recessed until 7:30 P.M. on Thursday, March 9<sup>th</sup>, 2006.

On Thursday, March 9<sup>th</sup>, 2006, the Board reconvened the public hearing at Martin Memorial Hall. As the Board had reorganized after the Annual Town Meeting, present were Chairperson Cobb, Vice-Chairperson Arrison, Board Clerk Daniels, and Selectors Boyer and Cole. Present at this hearing were the Petitioners, Stephen R. Mongeon, surveyor for the Petitioners. Mrs. Boyer, Mrs. Adams, Mr. Daniels, and Peter M. Daniels, of Daniels Construction.

After the Select Board's examination of the premises, and receiving testimony and other information from those parties participating, the following facts were determined:

1. Prior to the construction of Interstate 91, a Town Highway proceeded west from the intersection with Town Highway 51, Bowen Hill Road, up to what is now Town Highway 46, Girdlot Road, and then continued on towards Cooks Pond and the Weathersfield Center Road, roughly following the valley of Blood Brook.
2. On November 29<sup>th</sup>, 1963, the State Highway Board issued an order condemning a section of what was then known as Town Highway 46 and Town Highway 54, taken as part of the Interstate 91 construction. This is recorded in Book 40, specifically Page 105, of the Weathersfield Land Records.
3. The road going east from the condemned section to the intersection with Town Highway 51, Bowen Hill Road, was relocated and is now Town Highway 54, Roberts Road.
4. No mention is made of the remainder of the road, going west from the condemned section to the intersection with what is now known as Town Highway 46, Girdlot Road.
5. A map prepared by the Vermont Highway District No. 2, dated February 10<sup>th</sup>, 1975, shows the section of highway remaining to the west of Interstate 91 with a "D" through the right-of-way. Subsequent maps, dated February 10<sup>th</sup>, 1981, February 10<sup>th</sup>, 1982, and February 10<sup>th</sup>, 1983, indicate the same.
6. Johnathan F. Croft, of the Vermont Agency of Transportation's Mapping Unit, provided correspondence that the State's maps "*show, and have shown discontinued roads with a symbol that is a series of dots with a periodic "D".*"
5. The portion of roadway in question is approximately two-tenths (0.2) of a mile long, and goes from Girdlot Road down to the Interstate 91 fencing.
6. The roadway is abutted on both sides by the Petitioners, and ends at the property owned by the State of Vermont.
7. The roadway is still physically evident as a path leading from Girdlot Road to the Interstate 91 fencing.
8. It was first found that there was the status of this portion of roadway was not documented when the Petitioners applied to the Weathersfield Planning Commission for a permit to subdivide their land, approximately thirty-eight and nine-tenths (39.9) acres. The Commission questioned the status of this roadway due to the possibility of it creating a non-conforming separate lot.
9. The Weathersfield Parks and Recreation Commission's general consensus is that they don't want town roads to be discontinued, due to their potential trail use.
10. The Parks and Recreation Commission has suggested that it would be possible to have this roadway continue use as a trail, and that it could cross under the Interstate 91 right-of-way via existing culverts under the roadways.

11. Michael J. Tuttle, Hydraulics Engineer for the Vermont Agency of Transportation, provided correspondence that *“The purpose of corrugated metal culverts under the interstate is to allow the passage of storm water runoff, streams, brooks and their associated sediment, from one side of the interstate corridor to the other side. That is their sole purpose. No other use of these structures is permitted.”*
12. Peter M. Daniels noted that the culvert at the end of the roadway continually flowed water, which emptied into a splash pool, surrounded by a steep embankment, on the east side of Interstate 91.

Based upon the foregoing findings of fact, the Select Board has made the following conclusions of law, in accordance with Title 19, Section 710, of the Vermont Statutes Annotated:

- A. The public good requires the right-of-way be discontinued.
- B. The public necessity requires the right-of-way be discontinued.
- C. The convenience of the inhabitants of the Town of Weathersfield requires that the right-of-way be discontinued.

Therefore, the Selectors of the Town of Weathersfield, Vermont, hereby discontinue and extinguish the former right-of-way for what was known as Town Highway 46, from the intersection with the current Town Highway 46 to the section condemned by the State Highway Board in 1963.

Dated at Town of Weathersfield, Windsor County, State of Vermont, this ninth day of March, 2006.

Henry C. Cobb, Jr., Chairperson  
Norman John Arrison, Vice-Chairperson  
C. Peter Cole, Selector