

## **Minutes of West Fairlee Selectboard Heatherfield Road Reclassification Hearing February 20, 2010**

**Present from the Selectboard:** Bonnie Cray and Doug Sonsalla

**Visitors:** John Blake and Jonathan Blake (J&J Blake Excavating), Scott Badger, Jennifer Badger, John Bourgeois, Charlene Bourgeois, Cara Ghio, Carl Ghio, Robin Pettingell, and Janet Dattilio (Interpreter)

### **The meeting was called to order at 10:05 am at Heatherfield Road.**

Sonsalla opened the meeting by explaining that at the time of the development of Heatherfield Road, the West Fairlee selectboard agreed to plow Heatherfield Road. The road was never formally classified or adopted by the Town. Cray presented meeting members with documentation explaining the road classification options and documentation of correspondence with the Town legal counsel. Sonsalla explained that the Town attorney had indicated that Heatherfield Road would be legally considered a Town road adopted by dedication and acceptance. Sonsalla explained that a 49.5 foot right of way is required for a Class 3 road. A Class 3 or lower (2 or 1) classification is required for plowing and general road maintenance. Sonsalla explained that Class 4, trails, and private roads are not subject to plowing by the Town.

Jonathan Blake explained that the original agreement established that the Town would plow the road, and did not specify any other maintenance of the road by the Town. The Town completed no formal adoption procedures or notification of the establishment of a right of way to property owners. Blake explained that, in the event that the Town continues to maintain the road, the end of the road should be established. In addition, the Town highway map and mileage should be updated to include the road for State funding purposes towards maintenance.

John Blake pointed out where stakes had been placed by the Blakes to mark where the 49.5 foot right of way would be located along the length of the roads. Blake explained the importance of establishing the classification of the road for liability purposes during road maintenance.

Jennifer Badger expressed a desire to keep the road a Town road.

John Blake explained that the traveled portion of the road is 20 feet and the right of way is 49.5 feet from the centerline.

John Bourgeois expressed concern that the right of way would extend to his property and potentially over the location of their septic system.

Carl Ghio expressed a willingness to accept the right of way.

John Blake pointed out the location of the stakes marking out the right of way adjacent to the Bourgeois property and explained that assuming that the Bourgeois property line was established by several rocks pointed out by Blake, that the right of way would not infringe on the Bourgeois property or septic location.

John Bourgeois asked why the property owners were not notified at the time that the road was put in and asked why a culvert was not installed at the beginning of Heatherfield Road.

Sonsalla responded that the board could not speak for the past decisions made regarding the road but indicated that if the road is classified as a Class 3 road, the installation of the culvert and road maintenance would be Town responsibility.

Carl Ghio asked to clarify which culverts the Town would be responsible for.

Sonsalla responded that maintenance of culverts at driveways and on private property would continue to be property owner responsibility. The Town would be responsible for culverts within the roadway (i.e. if a culvert were installed at the intersection of Crossroads and Heatherfield Road).

John Bourgeois asked if the Town's right of way would impact a right of way for water rights that may be located in the same area.

Sonsalla clarified that if Heatherfield Road is classified as Class 3, any work within the established Town right of way for Heatherfield, would require notification of the Town (i.e. no building is allowed in the Town right of way, no vegetation can be planted that would infringe on driver visibility at the intersection of Crossroads and Heatherfield Road, etc.)

Carl Ghio asked if the Town planned on extending Heatherfield Road to possibly connect with Stevens Road or increase the length in the road.

Sonsalla responded that the board was not considering making any changes to the length of the road.

The Blakes asked the board to establish where the end of the road was located.

Scott Badger indicated that most of the property owners located at the end of the road were not present to discuss the matter.

John Bourgeois expressed a preference for classifying the road in the manner that caused the least impact to their property and asked that maintenance of the road continue as it had in the past.

Sonsalla explained the road reclassification options.

John Blake explained that the Bourgeois property was not a part of the Heatherfield Road development and that he did not believe that their property could be subject to the right of way. Blake also explained that the existing road layout, including the 49.5 foot right of way, would not be located on the Bourgeois property.

John Bourgeois indicated that he was never approached when the development was built and explained that historical access to the Heatherfield Road properties was from another point. Bourgeois explained that the existing location of Heatherfield was established without his consent.

Sonsalla explained that the board would provide a written decision on the classification of the road as required and that the decision could be petitioned if there were any issues.

John Blake asked to establish the location of the end of the road due to concerns on snow placement.

Jennifer Badger suggested that the road end at the farthest driveway to service all residents of the road.

Scott Badger spoke with Richard McCarthy, a property owner at the end of Heatherfield Road, and indicated that McCarthy is fine with the disposal of snow on his property. Badger also indicated that disposal of snow on their property was acceptable.

John Blake expressed concern that property ownerships may change over time and requested that the end of the road be established so that the right of way was clear and so that snow disposal would be located in a right of way. Jonathan Blake expressed a preference to end the road just prior to the driveways to leave ample room for snow disposal due to concerns of gravel/soil deposits on the landscaped portions of the properties at the end of the road.

Jennifer Badger indicated that all homes on Heatherfield Road deserved plowed access to their driveways and suggested that an area for snow removal be dedicated on the Badger property that could be transferred with the property deed.

Jonathan Blake discussed former complaints on the width of the road and explained that without a right of way, snow could not be placed on private property.

Jennifer Badger indicated that the current width of the road was acceptable.

Sonsalla clarified that the adopted Winter Maintenance Policy clearly indicated that the Town and the Blakes were not responsible for damages within the right of way.

John Blake indicated that increasing the width of the road increased the amount of gravel/soil accumulation at the end of the road as well as the chance for damage to property owners' lawns.

Scott Badger requested that the length of the road be extended as far as possible and ensure access to his driveway.

Carl Ghio asked if mailboxes would need to be relocated. The Blakes responded that the mailbox locations were acceptable. Sonsalla indicated that the Town or the Blakes would not be liable for any damages to mailboxes incurred during winter maintenance.

Carl Ghio indicated that due to the location of his property, he was unconcerned with where the end of the road was located. Pettingell and John Bourgeois concurred.

Cara Ghio expressed a preference for the end of the road to extend to all driveways. Jennifer and Scott Badger concurred. Scott Badger suggested that the roadway extend to a circle at the end to cover all of the driveways at the end of Heatherfield Road. John Blake responded that the end of the road did not provide adequate space for a circle with the plowing equipment. Blake also indicated that the plows typically roll snow to the right while plowing making the placement of snow on the Badger property difficult.

Pettingell requested that the road be classified Class 3 and praised the Blakes for their excellent work plowing the road. Pettingell also suggested that the road be well sanded. The board also praised the Blakes for their hard work.

Scott Badger also suggested that the road be classified Class 3.

**Motion by Sonsalla to adjourn the meeting. Cray seconded the motion. The vote was unanimous in favor.**

Respectfully submitted,

Holly Lewis-Poulin  
Selectboard Clerk