Wallace Road
A Muddled Path
Vermont Society Land Surveyors

Hilton Garden, Lebanon, NH
September 14, 2018
Joseph Flynn, L.S.
THANK YOU
GOOD SIR
• Thank you to Dubois & King and Town of Hartford for allowing for the release of the information.
Project Overview

• The Town of Hartford need for a survey to determine the legal status of Wallace Road, pursuant to Statute Title 19 §708(a).
V.S.A Statute Title 19 §708(a)
Right of use of land for enjoyment:

• “Whether a given use is reasonable or not is a question of fact depending on many varied facts” Columbia Law review, Reasonable Use is One’s Property as Justification for Damages to a Neighbor”, May 1917.
Research process
V.S.A. Title 19 §704
Parcel Research

LAYOUT OF WALLACE ROAD IN TOWN RECORDS BOOK 3 PAGE 6, DATED JUNE 3, 1807.
Extrinsic evidence, supporting facts:
Survey procedures:
Evaluation of the Record Evidence with the Physical Evidence:
• Road was originally laid out in Town Records Book 2 Page 64 on June 3, 1807, running from Jericho Street to the Norwich Town line.

Road surveyed by us this 3rd day of June 1807.

Hartford, June 3rd, 1807

The foregoing is a true copy of the original survey.

Solicitmen of Hartfo

Olijah Mason

Attptt Freecon Lewitt, Town Clerk
• Layout followed the 1856 Doton map, Beers Atlas and 1904 USGS map fairly well.
Wallace Road was discontinued in Town Records Book 7 Page 302 on February 29, 1904.

Discontinuance of Jericho - Rodunk Road.

Hartford, Vt, Feb. 29th, 1904

The undersigned, Selectmen of the Town of Hartford, upon suggestion of the Road Commissioners that the following described road was of no public or private use and was of considerable public expense to keep in repair and open for travel, to wit: beginning at a point on the main highway
though Feinsho a few rods north of the present residence of Charles E. Wallace. Thereafter, Westing past the premises of the late Frank E. Hayen, thence running towards West Hartford, to a point in the highway between Martin Harvey's and the old Otis W. Pitney place; accordingly examined the said road and adjudged that the best interests and needs of the public and of individuals did not require said road to be longer maintained as a public highway and gave notice thereof to all persons owning adjoinable lands or otherwise interested in said road so far as the same could be ascertained, and the assent of all such persons being given to the discontinuance of said road the undersigned did accordingly declare said road discontinued and no longer a highway for public travel. No damage was asked for any one and none was accordingly extended.
DISCONTINUANCE OF WALLACE ROAD IN TOWN RECORDS BOOK 7 PAGE 302 ON FEBRUARY 29, 1904.
Conclusions:
Current Status:
• Fee Simple Title rights
Dedication & Acceptance

Public Easements

- Easement by Dedication
  - Common Law Dedication
  - Requires four elements
    - Person is competent to dedicate
    - Public is served by dedication
    - Dedication is actually offered to public
    - Offer of dedication must be accepted
VSA Title 19 §701 (1 & 5):
Acceptance" means receipt of the right-of-way needed for a new highway, in some cases this may include a completed roadway.
• Dedication" means the process of selecting a right-of-way or an alignment for a highway.
Closing Status:
The Town of Hartford did notify the abutting land owners though registered mail that the survey was being performed.

Reggie Redbird
123 State St
Normal IL 61761

# from certified mail slip
Survey was completed and plats drafted.
Corners have been set based on the previous filed subdivision plats, the drafted plats and the requirements of Title 19 § 33.
Town has NOT filed the plats or notified the abutting land owners of the completion of the survey.
Questions on legal status of the Right or Way:
What impact does the survey have on the current land owners?

- Is the survey binding due to failing to follow through with the second warning and the filing of the plats?

- Since deeds have been filed conveying the sections of the road shown on Hawthorns plats to the town what impact does this have based on the way access was conveyed in the original deeds?

- Unrecorded plat status?

- Since the plats have not been filed how does dedication and acceptance affect the status and since the town is now aware of the facts concerning the location and status is dedication and acceptance viable?
Thank you!