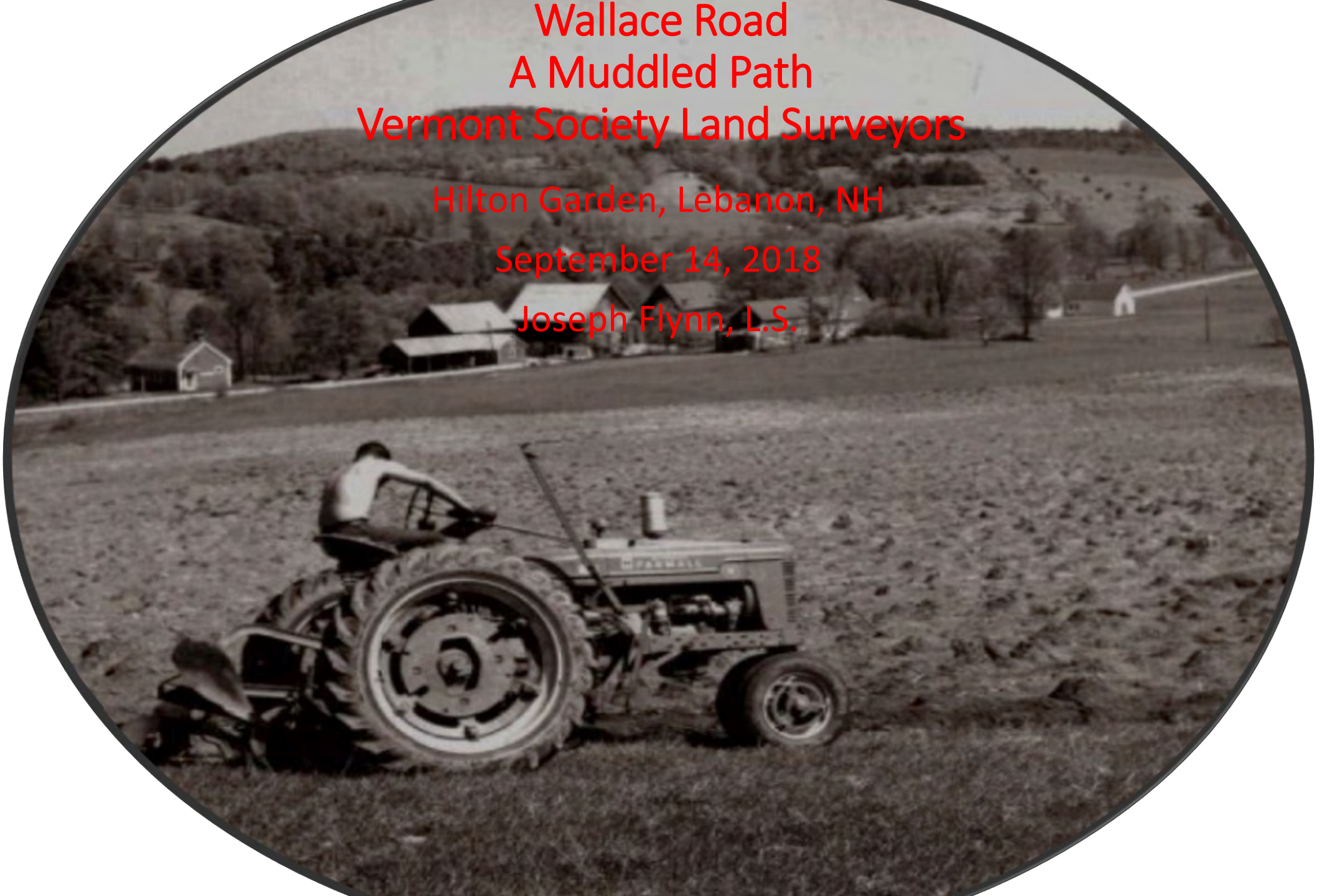


Wallace Road  
A Muddled Path  
Vermont Society Land Surveyors

Hilton Garden, Lebanon, NH

September 14, 2018

Joseph Flynn, L.S.



**THANK YOU**



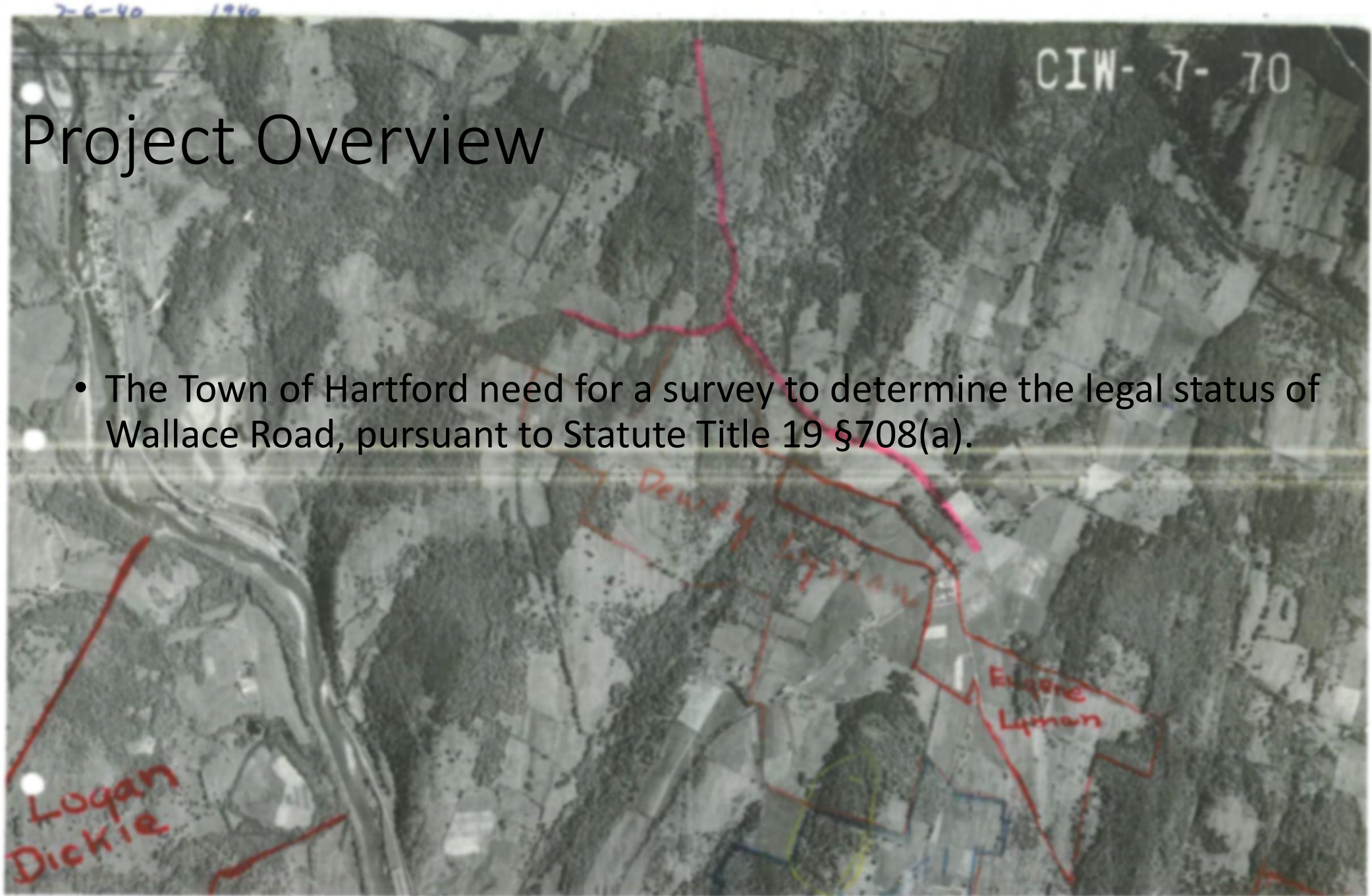
**GOOD SIR**

- 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)



# Current

# Future?

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

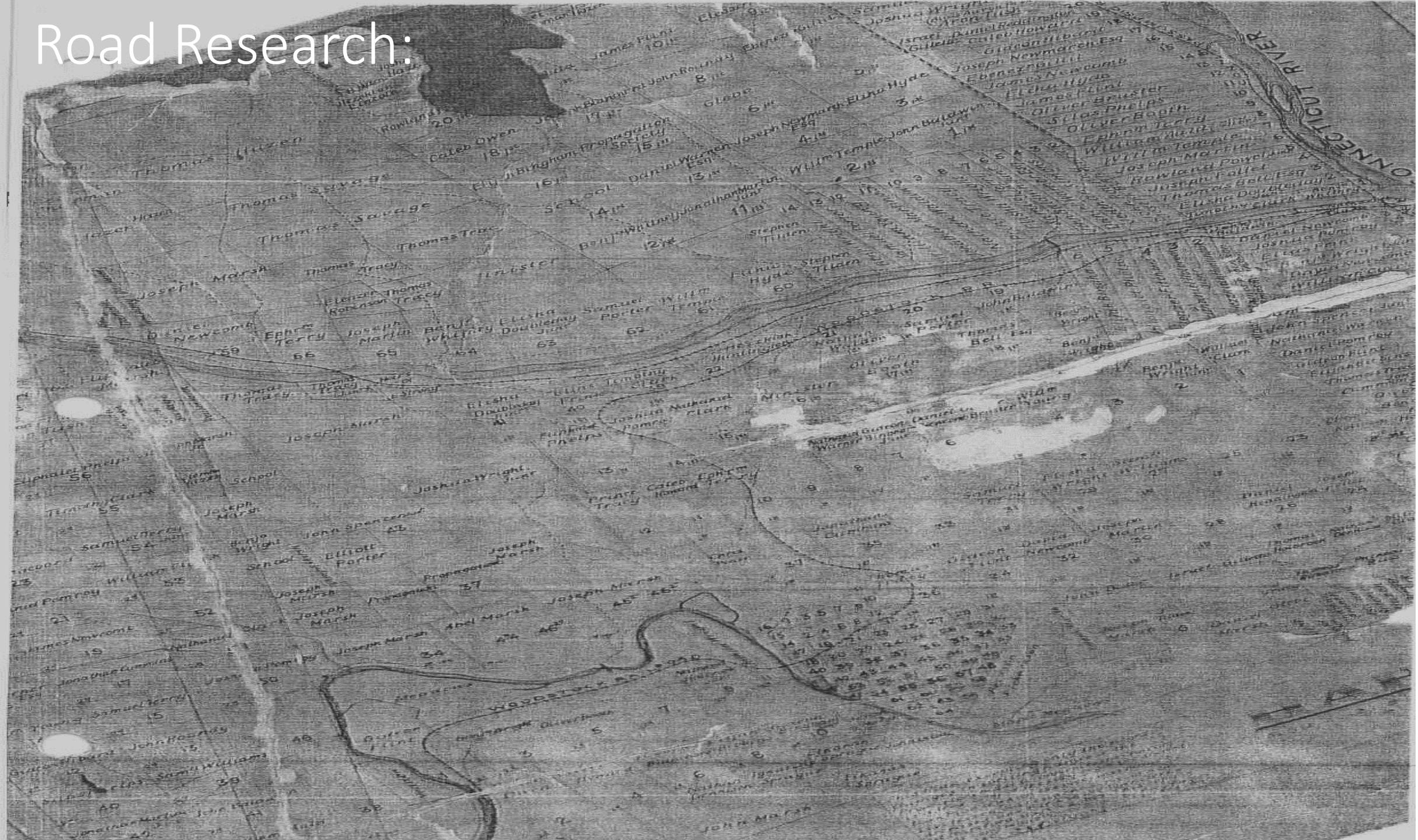


[illegible]

LAYOUT OF WALLACE ROAD IN  
TOWN RECORDS BOOK 3 PAGE 6  
, DATED JUNE 3, 1807.



# Road Research:



al  
nts  
d  
it

Extrinsic evidence,  
supporting facts:



1761

1974

Historical Highlights  
Of The Town Of  
**HARTFORD**  
**VERMONT**

by  
John W. St. Croix

# Seneca Rural Historic District



Historic Tour No. 5  
in the Town of

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.

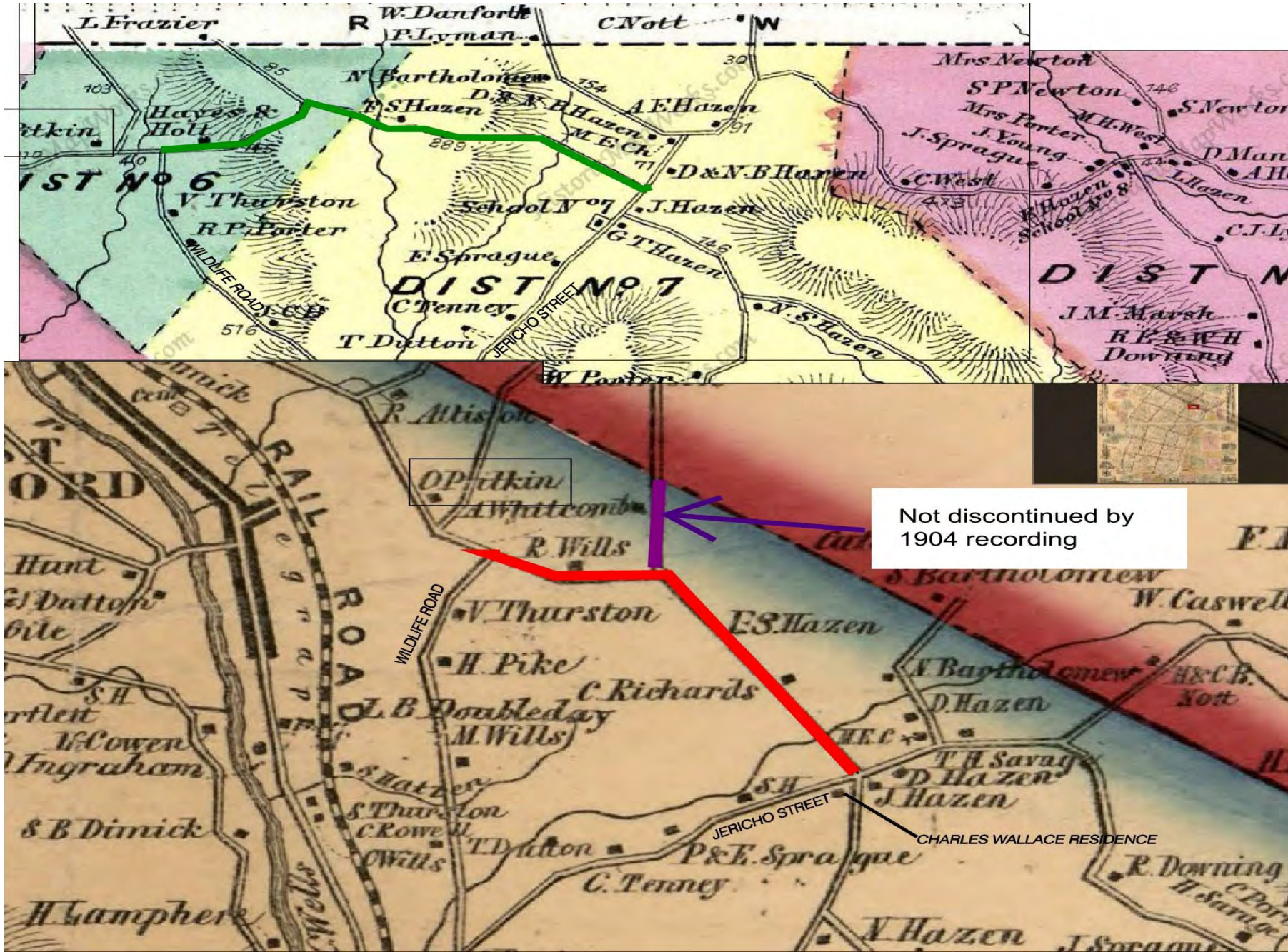
Surveyd. by us this 3<sup>d</sup> day of June 1807 -  
 Hartford June 5<sup>th</sup> 1807 }  
 The foregoing is a true copy }  
 of the original Survey. }  
 Isaac Lee Leewitt } Selectmen  
 Philamon Hazen } of Hartford  
 Elijah Mason }  
 Attest Isaac Lee Leewitt Town Clerk

wallace  
Rd.

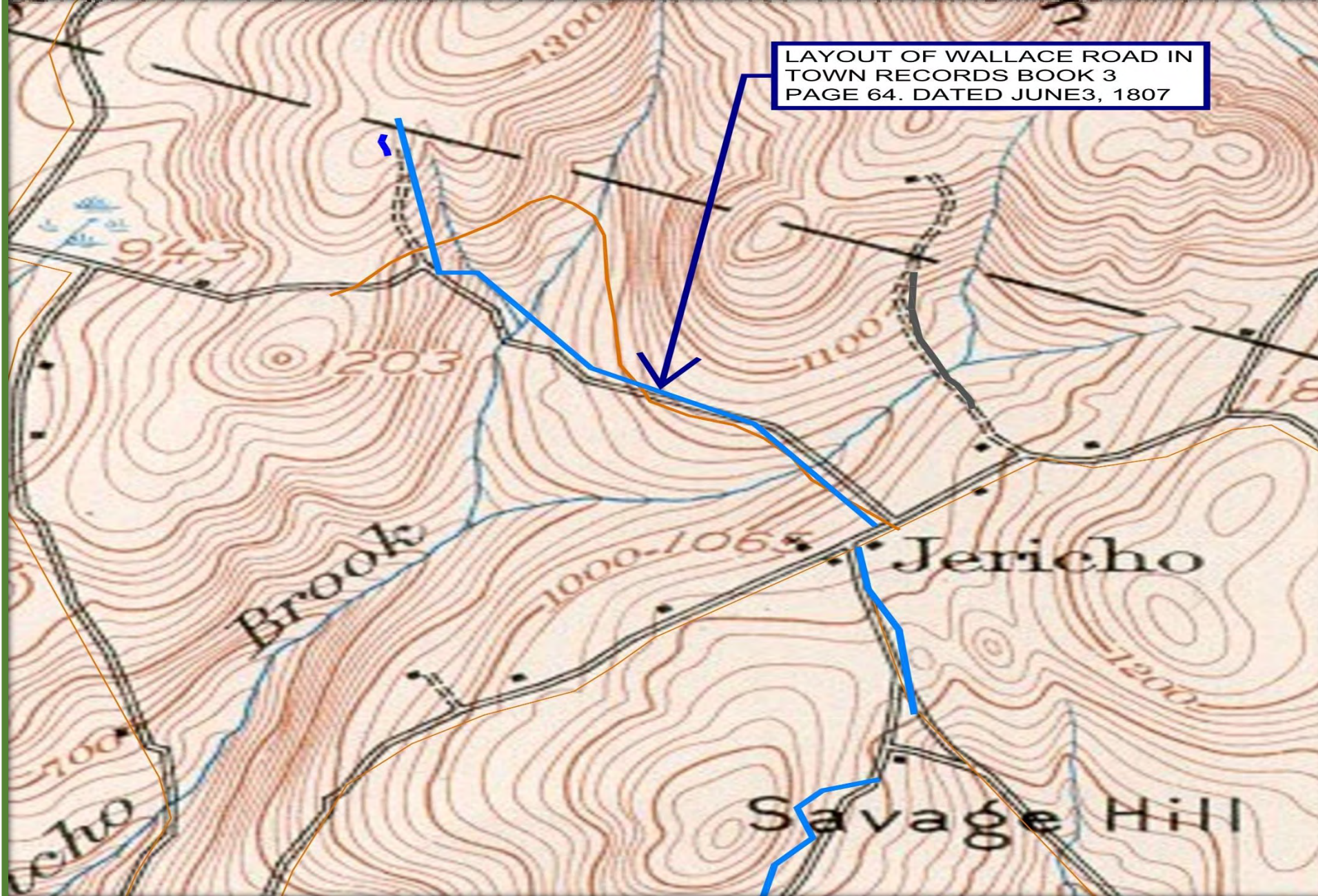
A road Survey beginning at the bound Stone between Daniel & Philamon  
 Hazens by the side Mill house - from thence N. 35° W. 88. rods thence N.  
 60° W. 70. rods thence N. 35° W. 82. rods thence W. 16. rods thence N. 9° W.  
 110 rods to Norwich line - thence beginning at the back of the land on  
 Chapman Hill W. 37° S. 24. rods thence W. 6° N. 17. rods thence  
 W. 10° S. 29. rods thence 30° N. 185. rods thence N. 12° W. 24 rods thence  
 W. 50° N. 80 rods thence W. 39° N. 60. rods - To Daniel Kings

Surveyd. by us this third day of June 1807 -  
 Hartford June 9<sup>th</sup> 1807 }  
 The foregoing is a true }  
 Copy of the original Survey }  
 Elijah Mason } Selectmen of Hartford  
 Philamon Hazen }  
 Isaac Lee Leewitt }  
 Attest Isaac Lee Leewitt Town Clerk - -

- Layout followed the 1856 Doton map, Beers Atlas and 1904 USGS map fairly well.



LAYOUT OF WALLACE ROAD IN  
TOWN RECORDS BOOK 3  
PAGE 64. DATED JUNE 3, 1807



Wallace Road was discontinued in Town Records Book 7 Page 302 on February 29, 1904.

Discontinuance of Jericho - Rodunk Road.

Hartford, Vt, Feb. 29<sup>th</sup> 1904

The undersigned, Selectmen of the town of Hartford, upon suggestion of the Road Commissioner 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:

SEE INDEX  
ON Bk 31/109

through Jericho a few rods north of the present residence of Charles E. Wallace thence westward past the premises of the late Frank S. Hayden thence running towards West Hartford to a point in the highway between Martin Hayden's and the old Otis W. Pitkin 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 adjoining 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 by any one and none was accordingly awarded.

Hartford, Ct. Feb. 29/17. Scott J. Ingham S. Secy.



BEERS ATLAS 1869



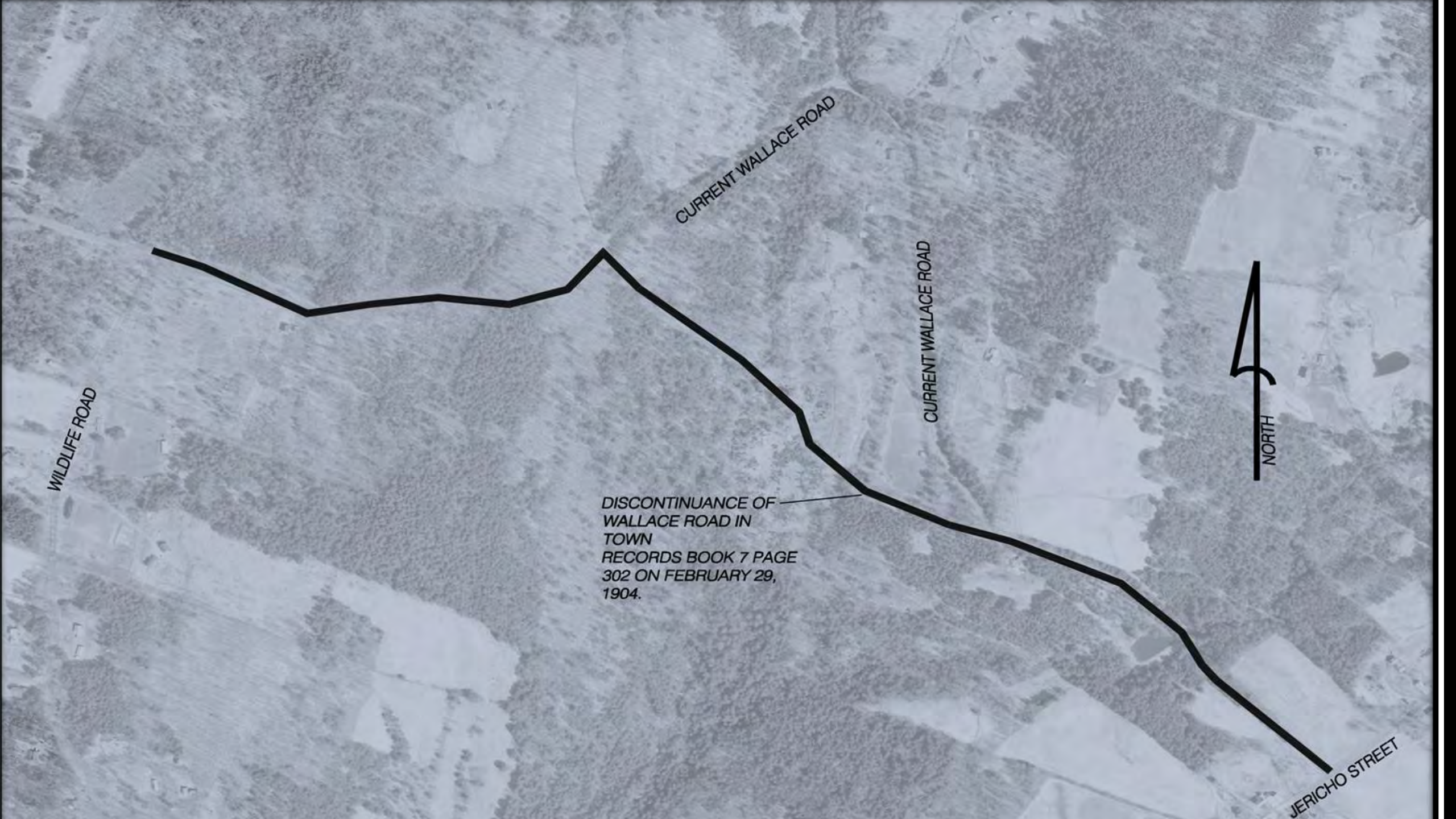
# DOTON MAP 1856

*Opilkin*

*R. Wells*

ES Hazen

AKA/  
CHARLES WALLACE



CURRENT WALLACE ROAD

CURRENT WALLACE ROAD

WILDLIFE ROAD

DISCONTINUANCE OF  
WALLACE ROAD IN  
TOWN  
RECORDS BOOK 7 PAGE  
302 ON FEBRUARY 29,  
1904.

NORTH

JERICO STREET

BYRON HATHORN

WALLACE RD

Top Parcel # 36

ROBERT HAEHNEL

SUGARTOP ROAD

JERICO STREET

MERTON NOTT



SYMBOLS

- L.D. LEDGE OUTCROP
- B.S. BOTTOM OF SLOPE
- T.S. TOP OF SLOPE
- W.F. WIRE FENCE
- S.W. STONE WALL
- T.P. TELEPHONE & POWER POLE
- S.C. STORM CULVERTS
- G.R. GRAVEL ROAD
- P.R. PAVED ROAD
- IR. IRON PIPE



REVISED APRIL 19, 1973 LOTS 5A & 5B  
REVISED FEB. 7, 1972 LOTS 4 & 5

HARTFORD VERMONT ASSOCIATES  
JERICO ROAD, HARTFORD, VT.  
SCALE: 1" = 200' DATE MARCH 23, 1973  
PROJ. NO. 62571A

K.A. LECLAIR ASSOC., INC. CIVIL ENGINEERS  
HANOVER, N.H.

COMMON AREAS

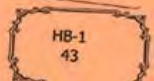
- COMMON EASEMENT AREA USE: UTILITY LINES
- COMMON EASEMENT AREA USE: PASSING AND RE-PASSING ON FOOT OR BY HORSEBACK
- COMMON EASEMENT AREA USE: UTILITY LINES
- P.O.V. FOR POSSIBLE FUTURE ROAD BY PARCEL OWNERS

TRUE NORTH BY SOLAR OBSERVATION  
DECLINATION 15° WEST

NOTE: TO THE EXTENT THE AREA OF THE RIGHTS OF WAY SHOWN AS JERICO ROAD, SUGARTOP ROAD, AND OLD TOWN ROAD ARE NOT NOW OR HERE-AFTER ROADS OF THE TOWN OF HARTFORD THEY SHALL BE COMMON EASEMENT AREAS TO BE USED FOR ALL PURPOSES FOR WHICH TOWN OF HARTFORD ROADS ARE USED.

Scan Reference #

70219730323HB-1-43HartfordVTA Assoc



OWNER OF RECORD  
HARTFORD VERMONT ASSOCIATES  
PROPERTY LOCATION  
TOWN - HARTFORD  
COUNTY - WINDSOR  
STATE - VERMONT  
DATE OF COMPILATION  
JUNE 1971  
SURVEYOR  
KENNETH A. LECLAIR ASSOC., INC.  
STATE OF VERMONT NO 104  
REGISTERED ENGINEER NO. 2391  
SIGNATURE

RECORD DEED  
WALTER & JEAN COUTERMARSH  
TO NORTHLAND OF VERMONT, INC.  
GENERAL PARTNER OF HARTFORD  
VERMONT ASSOCIATES  
VOL. 65 PAGE 342 6/25/1971

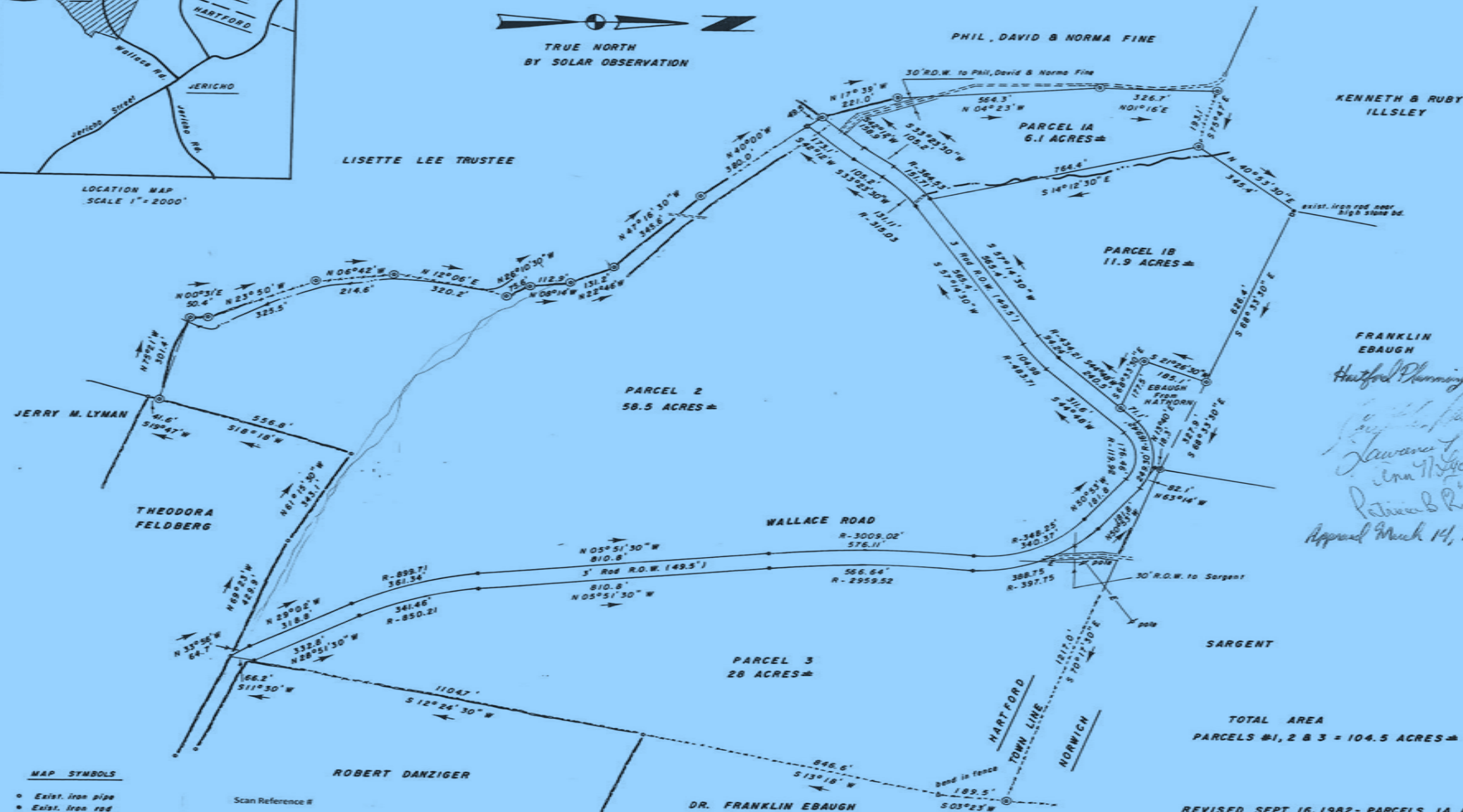
pg. 42  
Received 4/24/73  
at 11:50 am



LOCATION MAP  
SCALE 1" = 2000'



LISETTE LEE TRUSTEE



FRANKLIN  
EBAUGH  
*Hartford Planning Commission*  
*James J. Chase*  
*Ann W. Good*  
*Patricia B. Ridenbair*  
Approved March 14, 1983

MAP SYMBOLS

- Exist. iron pipe
- Exist. iron rod
- ⊙ Set iron rod
- Stone wall
- Wire fence

Scan Reference #  
76219811119HB-4-47HathornByron

0 200 400 600 800 1000



I HEREBY CERTIFY THAT I HAVE MADE A SURVEY OF  
THE TRACT SHOWN HEREON AND THAT THIS PLAT IS MADE  
IN ACCORDANCE WITH THE FIELD NOTES OF SAID SURVEY.

*K.A. Leclair*

TOTAL AREA  
PARCELS #1, 2 & 3 = 104.5 ACRES ±

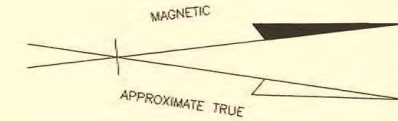
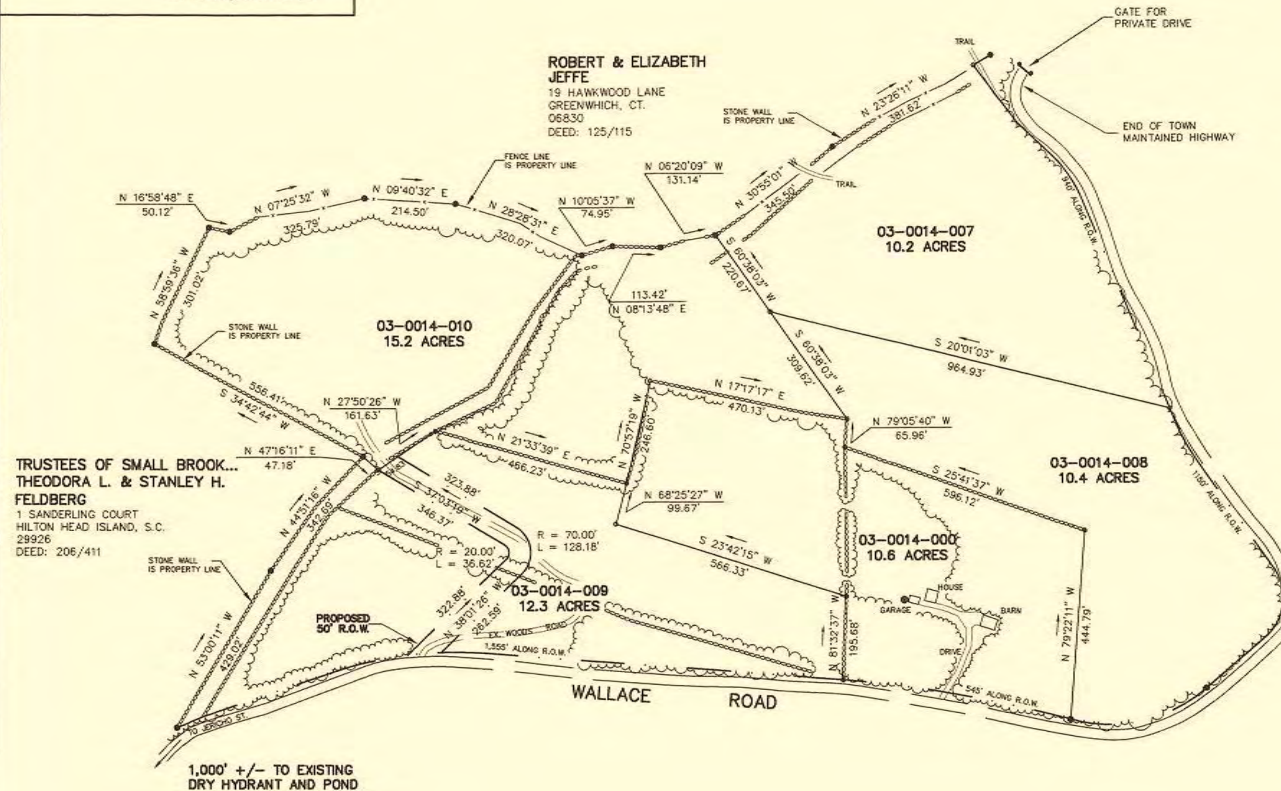
REVISED SEPT. 16, 1982 - PARCELS 1A & 1B

BYRON HATHORN  
WALLACE ROAD HARTFORD, VT.  
Scale 1" = 200' Date NOV. 19, 1981  
Proj. No 1261181  
K.A. LECLAIR ASSOC., Inc. Civil Engineers  
HANOVER, N.H.

Rec'd March 29, 1983 at 9:15 A.M.

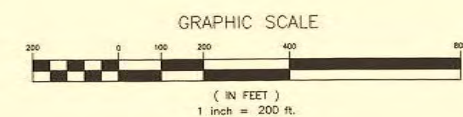
THIS PLAT IS APPROVED SUBJECT TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION FOR THIS SUBDIVISION, A COPY OF WHICH IS ON FILE IN THE TOWN CLERK'S OFFICE.

APPROVAL NO. 173 HARTFORD PLANNING COMMISSION  
 DATE: 8-13-97 BY: [Signature] CHAIRPERSON/VICECHAIRPERSON



BEARINGS ARE REFERENCED TO MAG. NORTH 1997

**OWNER OF RECORD**  
**BYRON C. HATHORN SR. TRUST**  
 42 WALLACE RD.  
 WHITE RIVER JCT., VT.  
 05001  
 DEED: 64/542



**TRUSTEES OF SMALL BROOK**  
**THEODORA L. & STANLEY H. FELDBERG**  
 1 SANDERLING COURT  
 HILTON HEAD ISLAND, S.C.  
 29926  
 DEED: 206/411

**ROBERT & ELIZABETH JEFFE**  
 19 HAWKWOOD LANE  
 GREENWICH, CT.  
 06830  
 DEED: 125/115

**PLAN(S) OF REFERENCE**  
 "LAND SURVEYED FOR HATHORN"  
 DATED SEPT. 23, 1991, DWG. #91-998  
 PREPARED BY FARNSWORTH SURVEYS  
 "BYRON HATHORN"  
 DATED NOV. 19, 1981, PROJ. NO. 126118  
 PREPARED BY K.A. LECLAIR ASSOC., INC.

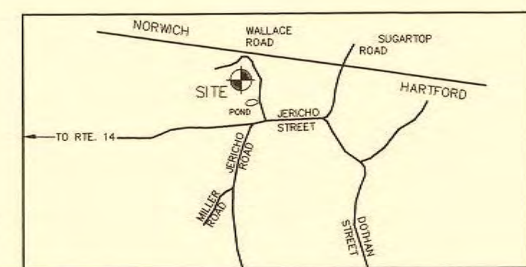
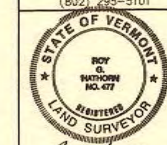
SYMBOL LEGEND	
●	IRON PIN OR PIPE FOUND
⊗	5/8" CAPPED REBAR SET
⊙	DRILLED WELL
○	5/8" CAPPED REBAR TO BE SET

Scan Reference #  
 336B19970617HathornByron

I HEREBY CERTIFY THAT AN OFFSET EDM SURVEY HAS BEEN CONDUCTED WITH THE USE OF A SOKKIA SET48 TOTAL STATION THEODOLITE. FURTHERMORE, IT IS MY OPINION THAT THIS PLAN IS TRUE AND ACCURATE ACCORDING TO THE FIELDNOTES OF SAID SURVEY, EXISTING FIELD MONUMENTATION, DEEDS OF RECORD, PLANS OF REFERENCE, AND TO THE BEST OF MY KNOWLEDGE AND ABILITY.

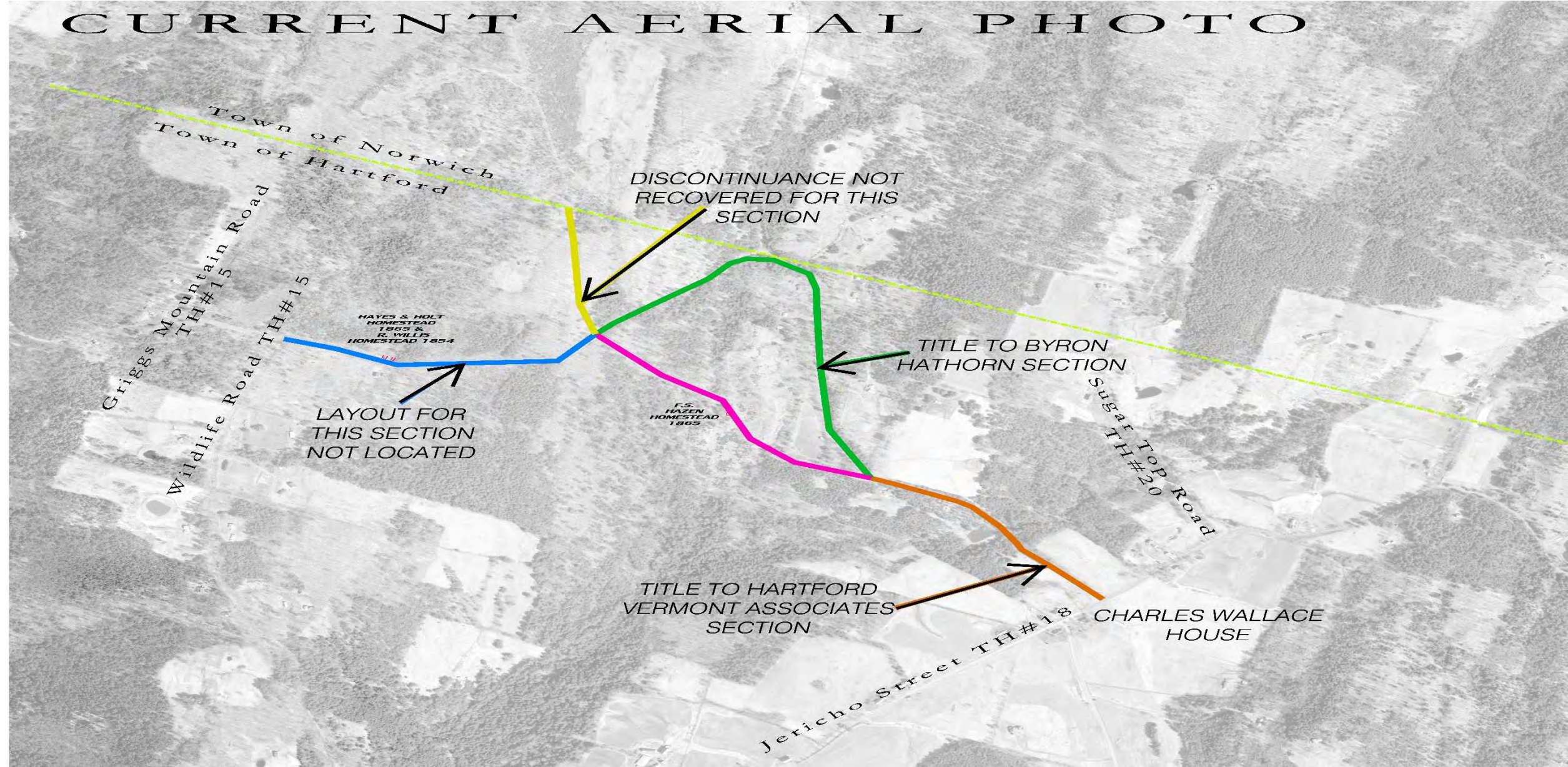
REVISED 7/30/97 J.E.N.  
 REVISED 7/26/97 J.E.N.  
 REVISED 7/9/97 J.E.N.  
 REVISED 7/1/97 J.E.N.

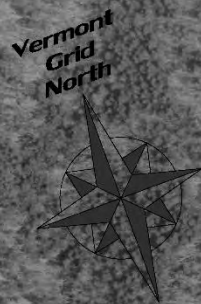
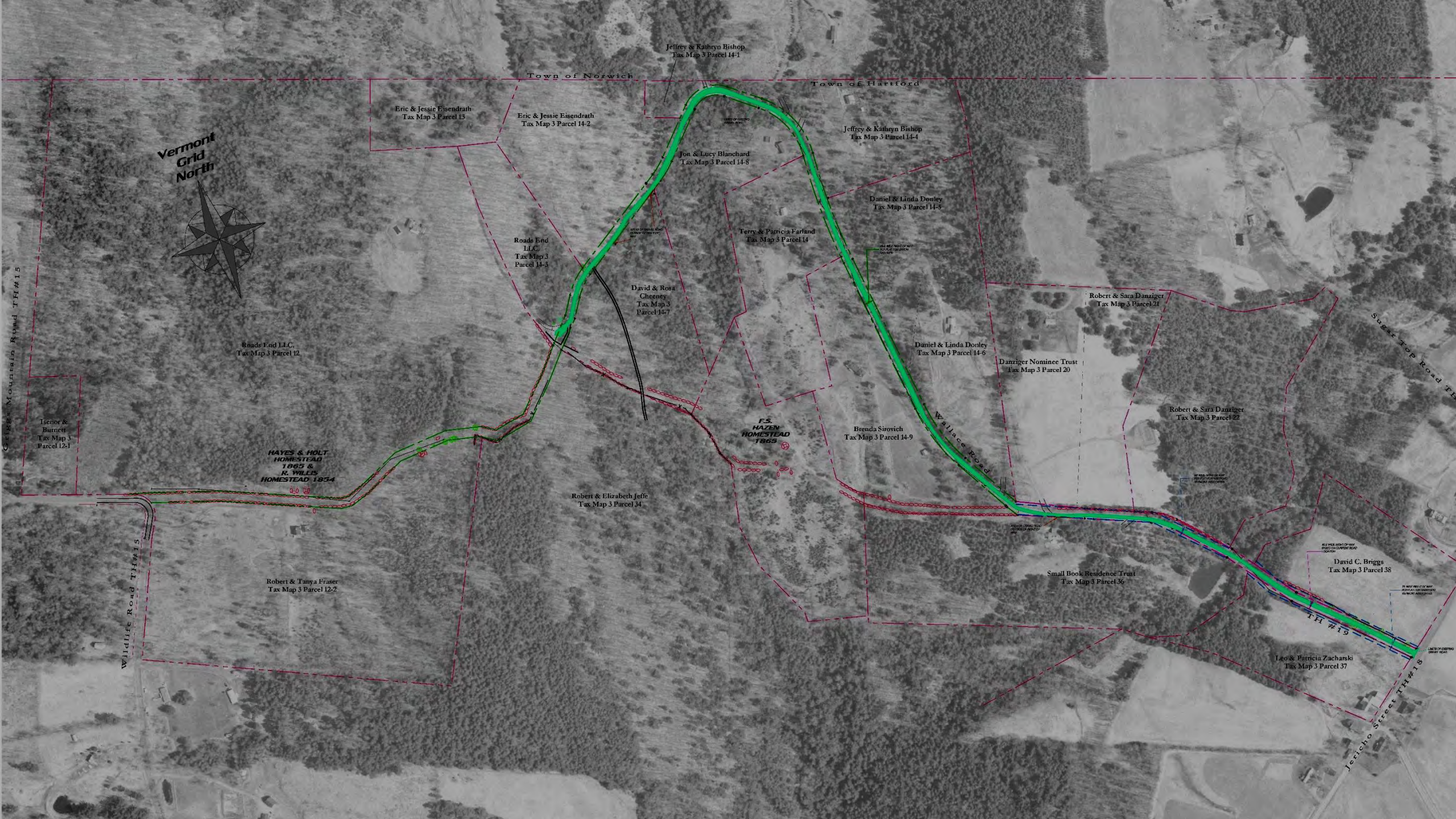
**HATHORN SURVEYS'**  
**ROY G. HATHORN R.L.S.**  
 P.O. BOX 533  
 WILDER, VERMONT 05088  
 (802) 295-5101



SUBDIVISION  
 FOR  
**BYRON C. HATHORN**  
 WALLACE RD  
 HARTFORD, VERMONT  
 DATED: 6/17/97 PREPARED BY: J.E. NALETTE  
 PLAN SCALE: ONE INCH = TWO HUNDRED FEET  
 PROJ. NO. 112297 HATHORN SURVEYS'

# Conclusions:





Town of Norwich

Town of Hartford

Eric & Jessie Eisendrath  
Tax Map 3 Parcel 13

Eric & Jessie Eisendrath  
Tax Map 3 Parcel 14-2

Jeffrey & Kathryn Bishop  
Tax Map 3 Parcel 14-1

Jeffrey & Kathryn Bishop  
Tax Map 3 Parcel 14-4

Jon & Lucy Blanchard  
Tax Map 3 Parcel 14-8

Daniel & Linda Donley  
Tax Map 3 Parcel 14-5

Roads End LLC  
Tax Map 3 Parcel 14-3

Terry & Patricia Farland  
Tax Map 3 Parcel 14

David & Rosa  
Cheeney  
Tax Map 3 Parcel 14-7

Roads End LLC  
Tax Map 3 Parcel 12

Daniel & Linda Donley  
Tax Map 3 Parcel 14-6

Danziger Nominee Trust  
Tax Map 3 Parcel 20

Robert & Sara Danziger  
Tax Map 3 Parcel 21

Robert & Sara Danziger  
Tax Map 3 Parcel 22

F.S.  
HAZEN  
HOMESTEAD  
1869

Brenda Sirovich  
Tax Map 3 Parcel 14-9

Robert & Elizabeth Jaffe  
Tax Map 3 Parcel 34

HAYES & HOLT  
HOMESTEAD  
1865 &  
R. WELLS  
HOMESTEAD 1854

Small Book Residence Trust  
Tax Map 3 Parcel 36

David C. Briggs  
Tax Map 3 Parcel 38

Leo & Patricia Zacharski  
Tax Map 3 Parcel 37

Robert & Tanya Fraser  
Tax Map 3 Parcel 12-2

Grass Mountain Road TH#15

Sugar Top Road TH#15

Wildlife Road TH#15

Jedicho Street TH#18

# Current Status:

- Fee Simple Title rights



# Dedication & Acceptance

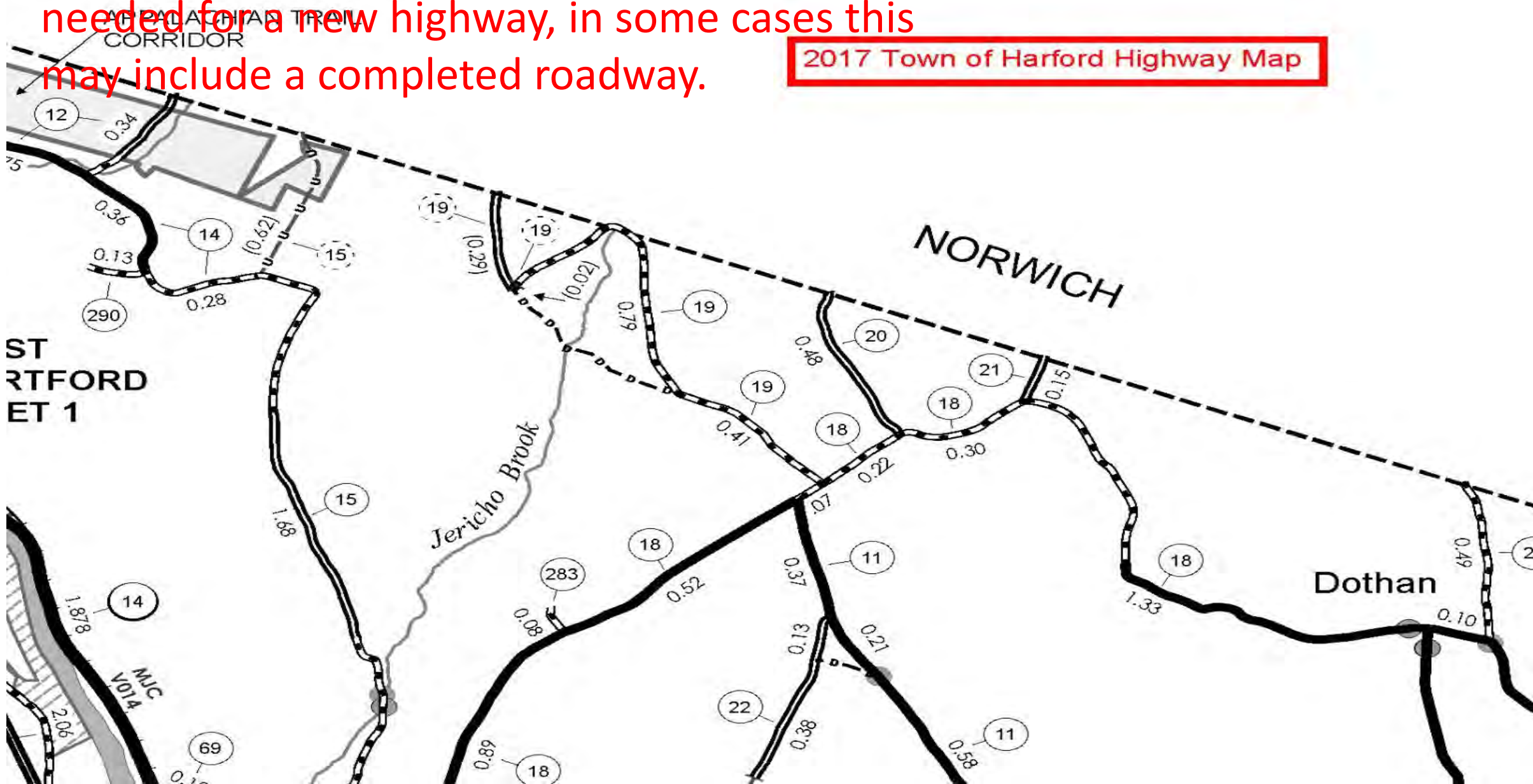
## Public Easements

- ▶ 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

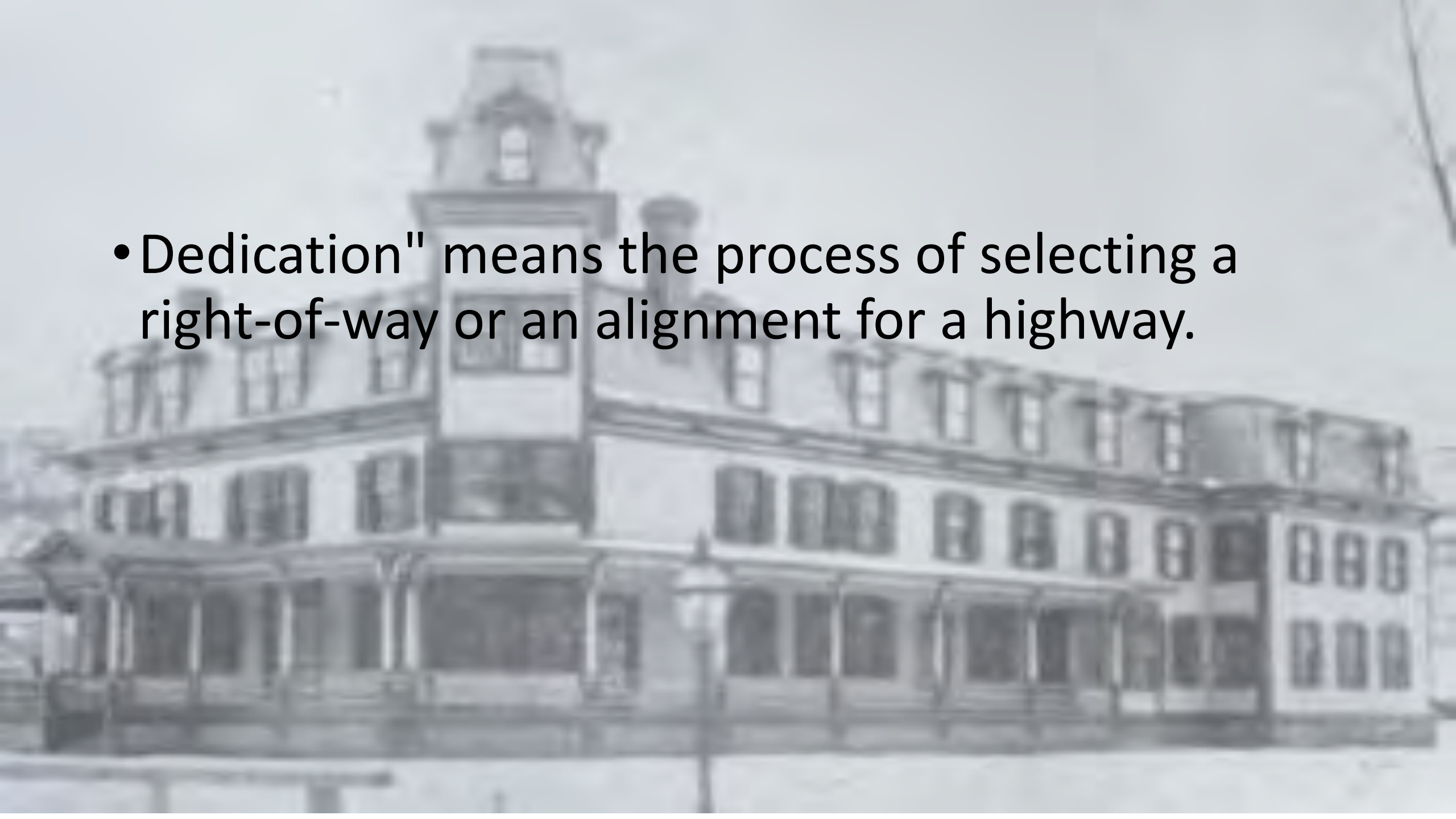
VSA Title 19 §701 (1 & 5):

"Acceptance" means receipt of the right-of-way needed for a new highway, in some cases this may include a completed roadway.

2017 Town of Harford Highway Map



- Dedication" means the process of selecting a right-of-way or an alignment for a highway.





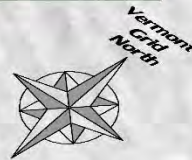
- The Town of Hartford did notify the abutting land owners though registered mail that the survey was being performed.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		A. Signature <b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:  Reggie Redbird 123 State St Normal IL 61761		B. Received by ( <i>Printed Name</i> )	C. Date of Delivery
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? ( <i>Extra Fee</i> ) <input type="checkbox"/> Yes	
2. Article Number ( <i>Transfer from service label</i> )		# from certified mail slip	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540



Location Map



ROADS END LLC  
Book 496 Page 686  
Recorded December 27, 2013  
Tax Map 3 Parcel 12

ROADS END LLC  
Book 496 Page 686  
Recorded December 27, 2013  
Tax Map 3 Parcel 14-3

### Survey Notes

- a. "Byron Hathorn, Wallace Road", prepared by K.A. Lecter Associate Inc., last revised September 16, 1982 and filed in the Town of Hartford Land Records.
- b. "Subdivision for Byron G. Hathorn, Wallace Road", prepared by Hathorn Surveys, last revised July 30, 1987 and filed in slide 336 of the Town of Hartford Land Records.
- c. "Property of Lauren Pilestin", prepared by New England Forestry Foundation, dated May 24, 1977 and filed in slide 693 of the Town of Hartford Land Records.
- d. "Subdivision Plan for Robert Danciger, Gregg & Catherine Fairbrothers", prepared by K.A. Lecter Associate Inc., last revised August 21, 1986 and filed in slide 800 of the Town of Hartford Land Records.
- e. "Subdivision for Steven Saxe", prepared by Hathorn Surveys, dated September 2, 1980 and filed in slide 800 of the Town of Hartford Land Records.
- f. "Phyl David Pope, Wallace Road", prepared by K.A. Lecter Associate Inc., last revised September 14, 1982 and filed in slide 788 of the Town of Hartford Land Records.
- g. "Acquisition of Lot 03-074-001 to Lot 03-074-006, Owned by Daniel & Linda Donley", prepared by Hathorn Surveys, dated January 1, 2002 and filed in slide 4508 of the Town of Hartford Land Records.
- h. "Subdivision for Property of Daniel & Linda Donley", prepared by Hathorn Surveys, last revised October 22, 1999 and filed in slide 366A of the Town of Hartford Land Records.
- i. "Subdivision for Property of Roger & Beverly Pown", prepared by Hathorn Surveys, dated October 28, 1981 and filed in slide 714 of the Town of Hartford Land Records.
- j. "Subdivision for Property of Roger & Beverly Pown", prepared by Hathorn Surveys, last revised November 17, 1986 and filed in slide 800 of the Town of Hartford Land Records.
- k. "Subdivision of Byron G. Hathorn, Wallace Road", prepared by Hathorn Surveys, last revised June 18, 1981 and filed in slide 750 of the Town of Hartford Land Records.
- l. "Hartford Vermont Associates, Jericho Road", prepared by K.A. Lecter Associate Inc., last revised May 10, 1973 and filed in slide 703 of the Town of Hartford Land Records.
- m. "Hartford Vermont Associates, Jericho Road", prepared by K.A. Lecter Associate Inc., last revised February 7, 1972 and filed in slide 702 of the Town of Hartford Land Records.
- n. Beers Atlas, Hartford Vermont, dated 1880.
- o. Hixon Oron map, Hartford, Vermont, dated 1855.
- p. "Jericho Rural Historic District, Historic Tour #5".
- q. "History of Hartford, Vermont, July 4, 1761 - April 4, 1860" by William Howard Tucker.
2. Bearings are based on Vermont Grid computed from GPS observations made on October 31, 2014 from a Leica GS15 GPS Unit with Orbus correction from the National Geodetic Survey.
3. Survey methods employed (total station) and the resulting error of closure/precision ratio, meet or exceed minimum precision requirements for Rural Surveys as outlined in "Standards for the Practice of Land Surveying", adopted by the Vermont Board of Land Surveyors, effective 01/07/2013.
4. There may be additional easements, restrictions, and/or reservations not shown hereon that may or may not be found in the Town of Hartford Land Records.
5. This survey depicts the property lines of the Town of Hartford Vermont, Wallace Road, based on the Town of Hartford Land Records as of December 10, 2014.
6. This plat is for the depiction of boundaries based upon V.S.A. Title 26 Chapter 45 § 2502 (3) a-c and (4) a-e. Any information identified graphically or noted on this plat which is outside the scope and expertise of a Vermont Licensed Land Surveyor, as outlined in the statutes herein referenced to, is not warranted to be correct and is not covered by the certification contained hereon.
7. Where conflicts between physical evidence and written evidence are substantial, deed and/or documents should be executed to eliminate any color of title or conflict.
8. The Right of Way for Wallace Road is 3 Rods (49.5') wide based upon existing monuments and map references located in the Land Records of the Town of Hartford, Vermont.
10. Limitation and circumstances created by state and local permits for the parcel delineated hereon are not covered by the Land Surveyors Certification.
11. Easement Rights along Wallace Road between stations 0+25 to 22+00 for Utilities are granted to members of the Twin Meadow Farm as established in Book 67 page 482 and in Book 66 Page 1 of the Hartford Land Records.
12. Access Rights along Wallace Road between stations 0+25 to 22+00 for ingress and egress are granted to members of the Twin Meadow Farm Association as established in Book 67 page 482 and in Book 66 Page 1 of the Hartford Land Records. See Map Reference 11.

Survey was completed  
and plats drafted.

Robert & Elizabeth Jeffe  
Book 125 Page 115  
Recorded February 13, 1987  
Tax Map 3 Parcel 34

David & Rosa Cheney  
Book 448 Page 581  
Recorded January 25, 2010  
Tax Map 3 Parcel 14-7

- Legend
- Property Line
  - Stone/Boulder walls
  - Abutting Property Line
  - Easement Line
  - Matted Property Line
  - Iron Pin, Rebar or Pipe (found)
  - Set Rebar w/ 4" N.T.L. Cap
  - Calculated Point
  - Utility Pole
  - Set Concrete Monument

Graphic Scale

1 inch = 50 ft.

Town of Hartford Received for Record  
A.D. \_\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ minutes \_\_\_\_\_ M and \_\_\_\_\_  
recorded in \_\_\_\_\_  
attest: \_\_\_\_\_  
Town Clerk

\* Approved for recording in the Town of Hartford by decision of the Hartford Development Review Board on \_\_\_\_\_ with permit number \_\_\_\_\_ and signed this \_\_\_\_\_  
Development Review Board Chair

DRAFT COPY

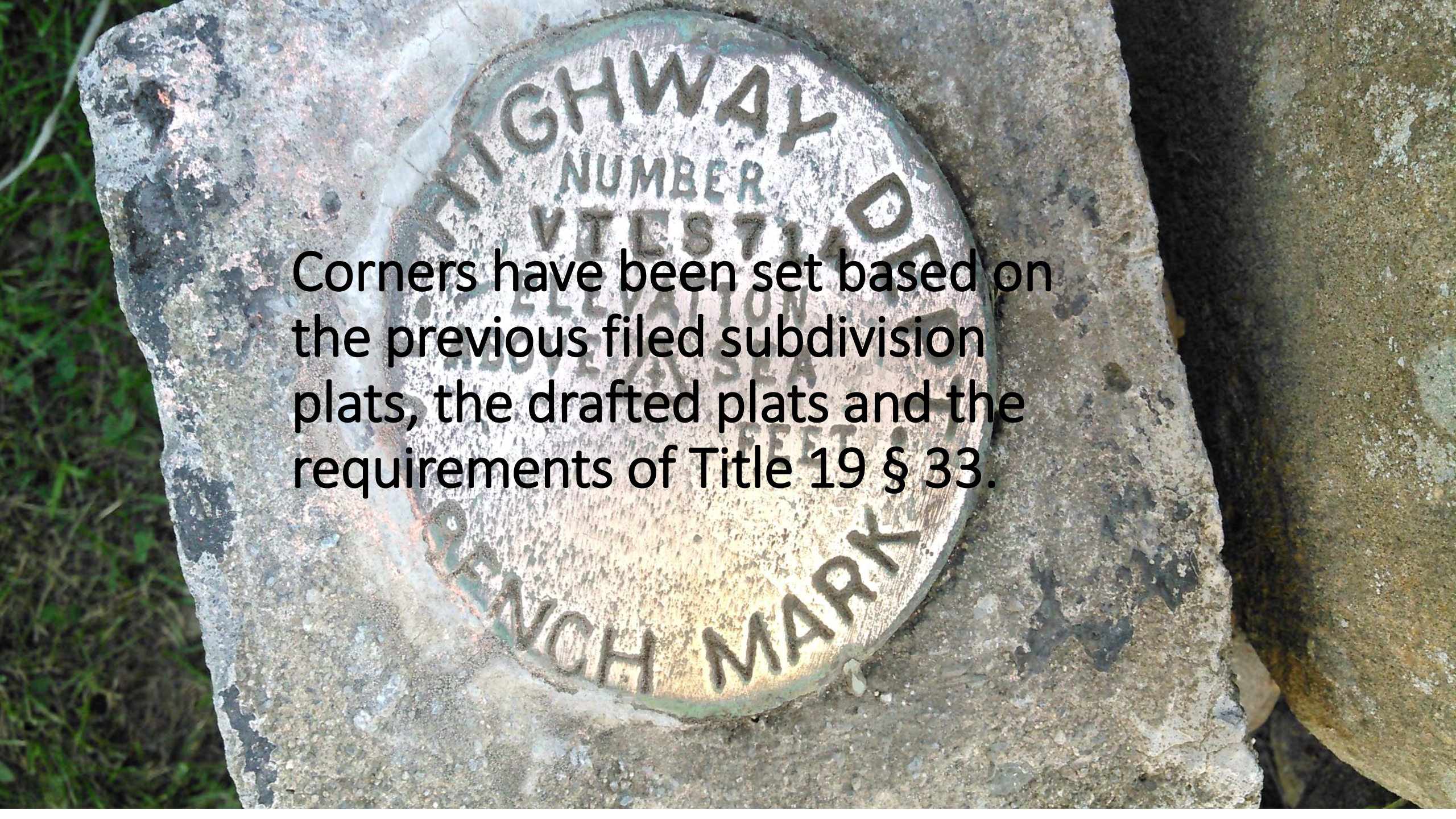
## Right of Way Plat Wallace Road in Hartford, Vermont

Scale: 1"=50' Date: Nov. 23, 2014 Project number 4296451.1 Drawing Number 92  
Drafted by: Joseph R. Flynn Checked by: Ronald F. Gauthier Sheet 8 of 8

**DuBois & King**  
engineering  
planning  
management  
surveying  
6 Glen View Drive, So. Burlington Vermont 05403  
Joseph R. Flynn, L.S. 714

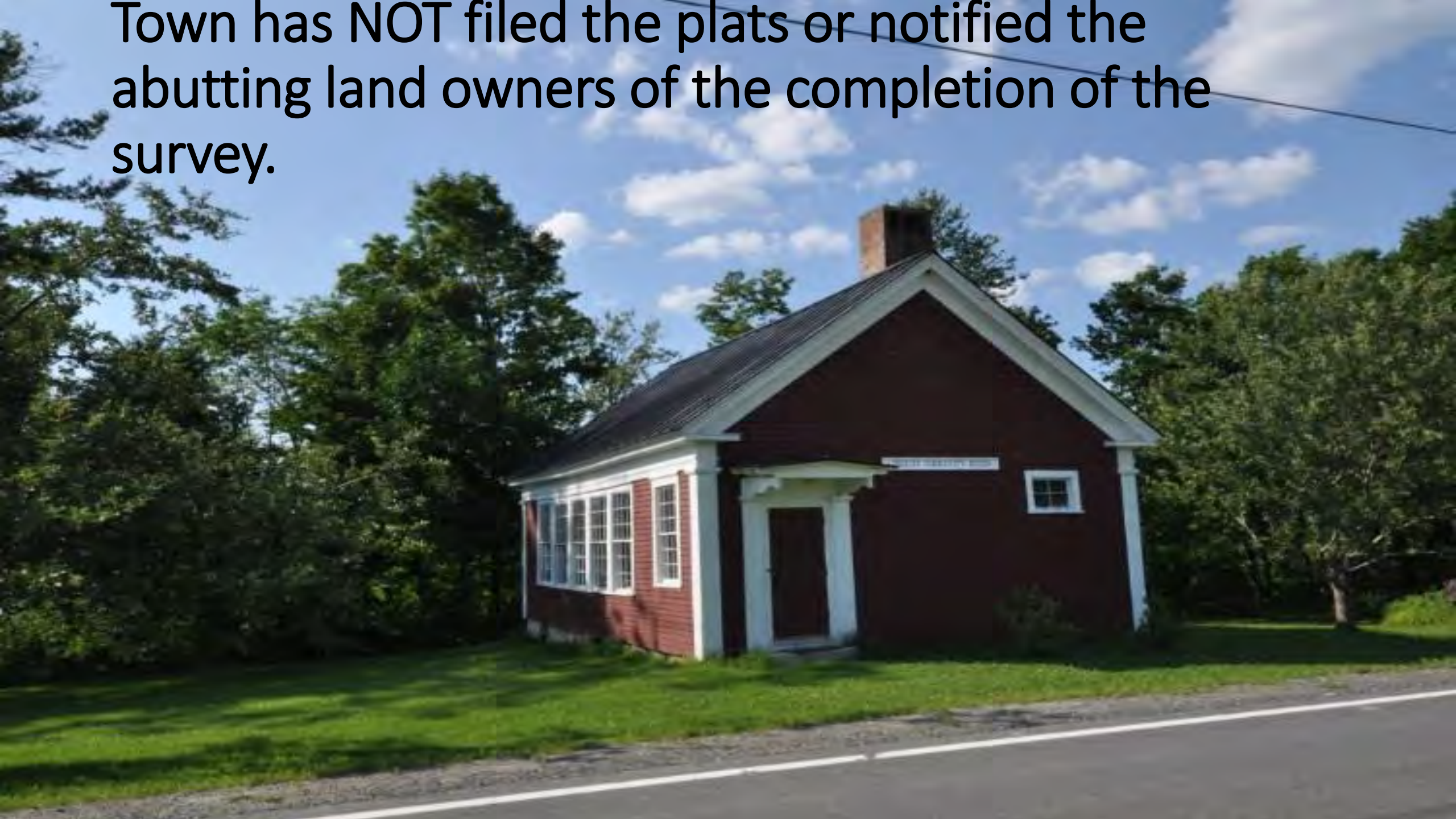
**Certification**  
This plat is for the identification of boundary lines of Wallace Road. Other information is shown for both illustrative purposes and to offer assistance in the conclusions reached by this survey. Only the boundary lines of Wallace Road are certified to, all others are not warranted to be correct and are subject to revisions.  
I hereby certify that the information shown hereon is correct to the best of my knowledge and belief and is based upon a collaboration of pertinent deeds, plats, parcel, and other recorded evidence. This plat was prepared in accordance with and complies with Vermont Statute Title 27, § 1403, (through (e)).

Joseph R. Flynn, L.S. 714 Dated



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!



**VERMONT SOCIETY**  
*of* **LAND SURVEYORS**