

Pine Gap Rd Hearing

Monday, October 30, 2017

5:30 pm Town Office

Present: Doon Hinderyckx, James Bowen, Tom Schnabel

Guests: Larry Straus, Joe Cahill, Linda & Rod Leehy, Susan Morse, Kinley Tener, Dan Gendron, Tim Bowen, Ken & Janice Yelland, Eric & Ginny Bowman, Bruce Flewelling, Rebecca Klein, Terry Severy, David Tinling, Jim Brown, Bill & Keefer Irwin, Brad McKirryher, Spencer Homick, Chuck & Keiko Sakaue-Rowan, Toni Deslaurier, Mason Wade, Harland McKirryher, Bill Matthews, Dan McKinley, Dean Mendell, John Coulter, Smokey Bowen, Chris Mattrick, Anthony Venturini, Marty Maher, Kristen Casella, Rob Gardner, Walt Wells

Chairman Doon Hinderyckx called the hearing to order at 5:31pm. He asked that anyone wishing to give testimony should sign in. Doon read the petition as received:

“We, the undersigned registered voters and/or landowners of the Town of Rochester, Vermont, hereby petition the Rochester Selectboard pursuant to the procedure required by 19 V.S.A. Section 708, and following, concerning the laying out, altering, reclassifying or discontinuing highways, to discontinue Town Highway 29 (Pine Gap Road) in the Bingo region of the Green Mountain National Forest, from its intersection with the northeastern most corner of lands of Brad and Judy McKirryher to the northeastern most corner of lands of Mason Wade, as shown on the attached map. This Petition is signed by at least five percent of the voters of Rochester, as required by 19 V.S.A. section 708 (a).”

Doon pointed out on the map where the proposed discontinuance is. Before testimony was taken, a group oath was given to all so it would not have to be repeated for each person speaking. Doon reminded all that this is to identify facts, even though a lot of feelings are involved. The hearing started with the petitioners, and there will be a two minute time limit. Harland asked about the legality of setting a time limit on public comments, and the board responded that it is their prerogative to do so. Toni Deslaurier, Attorney, noted that she has a presentation that would take closer to 10 minutes as well as some testimony from others who could not make it tonight. Doon felt that in fairness to everyone here, it should be kept as close to the limit as possible, and would accept Toni's written presentation as testimony. At this point, a break in the hearing took place due to cars from ITI employees being blocked in. Hearing reconvened at 5:21pm. Toni reminded all of the statutory process which requires this hearing be warned, site inspection, and 60 days to make the decision. Tonight is evidence and testimony only. Parameters for making the decision are found in Title 19, statute 710. Parameters for reasonable need/necessity are defined in title 19, section 501(1). Pine Gap Road has been a road for many years, since 1854 even though some discussion was held in 1939, but no action to discontinue took place. Mr. Mahar and Ms. Casella bought their property, and while Pine Gap Rd does not abut the property, it goes close. USFS has granted a 185 foot spur from their property line to 62 and 62A, however have not granted a permit for winter snowmobile access. Even if Pine Gap Rd has snowmobile access, it only goes about $\frac{3}{4}$ of the way and then would have to hike in over 62 and 62A.

She noted that the owners have access to their property by skiing, walking etc as people do now. She submitted a research paper on Climate Change in Vermont to the board for review.

Harland McKirryher: Why does the access has to be motorized? He asked for this information several meetings ago and was supposed to have this information. He has lived there for 40 years, have done fine without snowmobiles/atv's and wants to see it stay that way.

Rebecca Klein: How can a group gather to devalue this piece of property? Taxes will be lost if the road is discontinued and values decline. How do we ask a family to hike or ski up with weekend groceries and whatever else they need to enjoy their property? The USFS owns 40% of the town, and we get about \$33,000 in lieu of taxes, and Rochester can't afford to lose any more tax money. She also noted that she has heard that the road goes 5 feet from Mason's window, but she believes it's more like 35 feet.

Keefer Irwin: read a statement she has passed to the Selectboard regarding her history of and love for the area. There has been very positive feedback to the petition from locals and out of towners. This concerns the National Forest and those who recreate there. The GMNF has denied the winter access on their road. She snowshoes past 62A and down Pine Gap Rd for the mini-loop, and it is .6 miles from FS 62 to the parking lot. Mr. Mahar knew when he purchased it that it was a 3 season camp. She read an excerpt that she wrote in 1996, and stated that she will fight any threat to those areas.

Bruce Flewelling: If this petition is granted, it affects only ½ of Pine Gap Road to the center line. The eastern side of the road will still be public. He feels that this hearing should be voided, since statues not followed for discontinuance of a road between two towns. Title 19 spells out the process, and Hancock was never notified of this discontinuance. Bruce also noted that the Hancock portion of this road was not discontinued. It is still on the maps as of 2015. He advised the Selectboard to read the statute.

Rod Leehy: Is the board allowed to have more than 60 days to make the decision? How will it be rendered? Is it a written decision or in the paper? Will there be background as to how the decision is made? Doon explained that all information gathered tonight will come into play.

Dean Mendell: Has owned a ski business for 40 years. He rents skis and snowshoes to people and sends them to Bingo. He feels that Bingo basin is a quiet loop, one of other few quiet places that is also a loop. He doesn't want to hear the sound of snowmobiles in Bingo Basin. He allows VAST to cross his property in Stockbridge, and also utilizes vast trails. He is for a quiet zone in Bingo.

Ginny Bowman: Ginny explained that she skis every day in the winter in the National Forest. The places she skis are quiet, and she noticed in Texas Falls that she smells the snowmobiles long after they pass by, which is why she now skis in Bingo or on West Hill. She sees wildlife and sign of wildlife in Bingo because it is so quiet. It is a quiet thinking place for exercise and mental health breaks which are important to all.

Tim Bowen: He is president of VAST and feels it is blown out of proportion as far as creating VAST trails. There is no access, and never will be. All he wants to do it get to his camp. When Tim's father was building the camp, they used Pine Gap Rd because the USFS roads were not there yet. He feels it should be for everyone.

Bill Irwin: Bill explained that 21 years ago, they moved from Warren for similar issues. He offered the idea that the road be designated as a trail which is one step below the class 4 designation. Many

communities are doing this, and he proposes this as a semi solution. Many people are concerned about the history of our roads, and the trail designation would protect the history as well as the recreational uses in peace and solitude. He stated that the new trail designation should be the same as the National Forest designation, restricting the use of snowmobiles and ATV's.

Smokey Bowen: Class 4 is open to general public whether walking, biking, horseback riding, and snowmobile.

Jim Brown: Jim stated he has lived here for over 40 years, and things are changing with recreation which brings a lot more people in for snowmobiling. Because there are plenty of areas that are accessible to snowmobiles, this area should be left as it is traditionally used by people, and new people should use it that way as well.

Eric Bowman: Eric noted he prefers to see snowmobile use only as designated trails, not in the National Forest.

Larry Straus: He noted that the legal trail designation would not accomplish all the goals that Bill Irwin would like to see. There would still be a full public right of way for full public use. It could be a consideration for the board if they decide not to discontinue in order to clarify the responsibility of maintenance. Bill read that the town can determine specific use of the road by setting a policy.

Dan Gendron: Dan noted that the state mandates water control on Class 4 roads. If we throw up a small section at the bottom, it will be harder to maintain. This is not about putting snowmobiles on a Class 4 road, it is whether Pine Gap Road is a Class 4 road or is it not.

Ken Yelland: Ken noted that if he was absolutely certain that this would only be used for snowmobile traffic a couple times to bring supplies to the camp, it wouldn't be a problem but once they are there, you can't share the same trail with skiing, cross country skiing, etc.

Dan McKinley: Dan noted that he recreates in Bingo as well. He is not concerned about Bingo becoming a snowmobile mecca, there is just no place to go. He envisions this couple going 6/10ths of a mile on snowmobile to their camp, which could take 3-4 minutes and he is willing to give them their access to their piece of heaven. Any new trails would be subject to public hearings and comments.

Chris Mattrick: Chris noted as well that he has heard the chatter that if one snowmobile goes out there, it will become a snowmobile destination. There is nowhere to go, and the USFS will not create one if they don't connect to something. It does not meet the USFS criteria for snowmobile trails. He wanted to clarify this so people could focus on the matter at hand.

Dan McKinley responded with a statement to Marty and Kristen: Any abuse of the trail, or traveling off the trail would be reported to the USFS. There is a lot of local love for the area, and the Mahars would be spoken to regarding any abuses.

Keefer Irwin: Keefer asked how parking would be accommodated at the area. On weekends with normal use traffic can line up along the road.

Marty Mahar: Marty explained that they went through an entire process before buying the property. They did a lot of research and knew they had three options for access. One is the special use permit which is required by law for summer access. Also they tried to get a special use for snowmobiles which

was met with a lot of resistance. Class 3 road would need to be plowed to USFS 62 which was also met with a lot of resistance. That left Pine Gap Road, which they knew would be a problem for Mason, but at the end of the day, that is the legal way to do it. It is not really relevant whether there will be snowmobile use, but conserving their access that they have today which is PG Rd, whether it be snowmobile or jeep as taxpayers of the town.

Brad McKirryher: Brad stated that he is a taxpayer and has been here for 50 years. When the snow comes, you have to walk in or ski/snowshoe in. Everybody in the basin knows this and goes by these rules. He doesn't understand why Marty has to have special permission to use snowmobile. It has always been that way and you get things done before the snow comes. If you want to go in in the winter-ski or snowshoe in. All the other camps know the rules, and that is the way it should stay. It's a beautiful quiet place.

Rod Leehy: Rod asked what would happen in a brown winter. What if there is no snow til February.

Marty responded that if it is a class 4 road, he could possibly drive a jeep up there.

Susan Morse: Susan noted that this is the first time she has heard the road could be travelled by jeep, so this concerns her. She is sad to hear that money is the motivation and existing properties there would be devalued as well.

Tim Bowen: Tim noted that everything used to build the camp was brought up that road by jeep.

Bill Irwin: Bill asked if the road is in shape for snowmobile use. Terry Severy stated that probably yes, a snowmobile could make it up.

Doon reminded everyone that this hearing is about discontinuing Pine Gap Rd. Any work to be done on the road would keep the priority in being eliminating erosion possibilities.

Marty Mahar: Marty noted that they have not proposed any improvements, and this discussion is about whether Pine Gap is a road or not.

Harland McKirryher: He stated that as far as throwing the road up, it will stay exactly as it has been for the last 50-60 years-completely unmaintained. Snowmobile use will create erosion. He noted that he heard the property was appraised at \$80,000, and that Marty paid \$120,000. What is to stop him from turning it over to VAST for \$50,000 profit and giving them a route to get established and 45 acres to play on?

Jeannette Bair: Jeannette noted that she is not a Rochester resident, but thought that if a road is thrown up, it becomes part of private property which could then be closed to people for private use. Also, does this include the section with the bridge, which it does not.

Kinley Tenner: Kinley stated that he is a newcomer to Rochester of about 8 years or so. They recreate in Bingo, and feels that the petitions are not being very good neighbors to new residents in town. Most of us would not hear anything other than once in a while. He welcomes the new neighbors and also noted that there is a \$400,000 bridge there-is that affected by this? He voted to leave it as is.

Eric Bowman: Eric asked if the town is responsible for maintenance if the road is not discontinued, and Doon responded only erosion control is mandatory.

Bud Venturini: Bud noted that he has been a resident for a couple years, and if the road is a Class 4 road, it may be shortsighted to throw it up since it can't be undone. Regardless of the use, it shouldn't be discontinued. He noted his desire to have Rt 100 thrown up so he could have peace and quiet as well....

Harland McKirryher noted that his understanding is that the Class 4 road can only be designated for snowmobiles, which is not the case. The Selectboard can make a designation to not allow them, State law allows it.

Mason Wade: Mason thanked everyone for coming and noted that this is unique situation with the National Forest being involved and public interest. Town Policy states on page 46-47 of the Town Plan that class 4 roads should be used for outdoor recreation and scenic corridors for hikers and bicyclists. Marty and Kristen studied and researched this, and on their mortgage with First National Bank of Orwell noted their address as 1300 Thresher Hill Rd, which is another name for FR 62. So they understood their access. 5, 10, 15 feet from his kitchen window-incredible. He noted that he has been walking in, totally supportive of recreation and stated that they are young-walk in! He ended that maybe they should make him an offer so he can get out of here.

Doon closed the hearing at 6:35 pm. There will be a response within 60 days and he thanked everyone for attending.

Respectfully submitted,

Joanne McDonnell