

Town of Marlboro, Vermont  
DECISION AND ORDER OF THE SELECT BOARD  
TO MOVE APPROXIMATELY 3,168 FEET OF ADAMS BROOK ROAD  
APPROXIMATELY 100 YARDS TO THE NORTHEAST  
December 27, 2012

At 2:00 PM on November 8, 2012, the Select Board held a site inspection, and at 4:00 PM convened a hearing at the Marlboro Town Office for the purpose of taking testimony on whether the public good, necessity and convenience of the inhabitants of Marlboro require the Town to move approximately 3,168 feet of Adams Brook Road approximately 100 yards to the northeast where it will run on property currently owned by Anthony R. Berner and Carol B. Berner. The proposed road comprises approximately 3.64 acres of land.

In consideration of the conveyance of this property to the Town by the Berners, the Town would discontinue the currently existing section of Adams Brook Road to be replaced by the proposed new road, and ownership of the right of way of the existing road would revert to the Berners. A slightly different decision was made and will be stated later in this document.

When the Select Board and residents met on site at Adams Brook Road to inspect the road, the sky was overcast, it was cold and the ground was damp because of a light snow that had fallen earlier in the day. The inspection lasted approximately 45 minutes. Select board members Craig Hammond, Andrea Livermore, and Pieter van Loon were present. Also present were Anthony and Carol Berner who live along the road, David Elliott, Road Foreman; and Marcia Hamilton, Select Board Assistant. Jerry and Leanne Powers who live on the road met the group at 2:00 PM and offered support of the project but did not join the inspection or the hearing. Neither residents on the road, Robert and Marjorie Locke nor John and Nancy Partridge, joined the inspection or hearing.

Adams Brook Road, Town Highway 10, a Class 3 highway, begins at the intersection with Augur Hole Road, Town Highway 1, a Class 2 highway, and proceeds in a northwesterly direction for a distance of approximately 3.460 miles and intersects with Stratton Hill Road, Town Highway 11, a Class 3 highway. The subject of this action begins on Adams Brook Road approximately 678 feet from its intersection with Augur Hole Road

The select board initiated the action. The construction of the relocated road was carried out under the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP). The first HMGP application was denied by FEMA. The Town felt there was reason to pursue a solution to the dangerous conditions on the road caused by the steep grade in some places. At the Annual Town Meeting on March 3, 2009, the voters approved Article 8, as follows: To see if the voters of the Town of Marlboro will authorize the Town to spend up to \$90,000, \$20,000 of which will be allocated in 2009, and the balance of which will be spread over the next three years, to relocate 3,168 feet of Adams Brook Road.

Adams Brook Road was first surveyed May 16, 1807 and the Minutes of the Survey were received by the Town Clerk for record October 20, 1807. (Town Records Volume 1, Page 276). The road generally follows the course of Adams Brook located in the north central area of town.

On Thursday, September 27, 2012, at the select board's regular meeting, David Elliott reported that Adams Brook Road is ready for the acceptance/discontinuance process before the mitigation grant period lapses. The board set the date for the site visit and hearing at this meeting. David Elliott satisfied the waiver requirement in the Town Highway Ordinance by writing a letter to the select board stating all inspections were performed and completed prior to the October 15 deadline. The Town's Highway Ordinance, Section 2.07 advises inspection and acceptance of roads *before* October 15 of any year.

The select board gave more than thirty days' notice, by certified mail, to persons residing on Adams Brook Road, namely, Anthony and Carol Berner, Robert and Marjorie Locke, Gerald and Leanne Powers, John and Nancy Partridge; gave notice to David Elliott, Road Foreman, and the Marlboro Planning Commission; posted copies of the notice inside and outside of the Town Clerk's office and on the Town website; and caused a notice to be published in the *Brattleboro Reformer*, on Thursday, October 25, 2012 which, as required, is not less than ten days before the time set for the hearing on November 8, 2012.

Present at the hearing were the select board members, and Anthony and Carol Berner, David Elliott and Marcia Hamilton.

David Elliott reported he inspected the road during its construction to assure adherence to standards. He recommended the Town consider retaining 860 feet of the existing northerly section of road in question and convert it to a lane to maintain the culverts for water control. The Berners were in agreement with this proposal.

Anthony Berner stated Augur Hole Road is a main northern route out of Town in the event of an emergency. Adams Brook Road has produced runoff onto Augur Hole Road in the past and the improvements will lessen the situation. David Elliott reported that at one time debris came off Adams Brook Road onto Augur Hole Road and emergency vehicles had to use Adams Brook Road to bypass the washout.

David Elliott stated that during construction of the new section, the highway department looked at life/safety issues of everyone who drives the road as well as the road crew members. With the improvements of Adams Brook Road, the grade went from 19% - 21% to 11% -14%. The section of road in question will be less expensive to maintain during winter months and safer for all traffic.

Based on the evidence presented at the hearing, the Board makes the following findings and Decision:

1. Voters at Town Meeting March 3, 2009, authorized the Town to spend funds to improve the road whether FEMA funds would be approved or not;
2. A FEMA Hazard Mitigation grant has been obtained to perform the improvements of Adams Brook Road. An initial application had been denied;

3. The Town Highway Department assessed life/safety issues of everyone who drive the road as well as the road crew members. With the improvements of Adams Brook Road, the grade went from 19% - 21% to 11% -14%. The road is much safer now.
4. Augur Hole Road is a main northern route out of town in the event of an emergency. In the past there was risk of runoff from Adams Brook Road blocking Augur Hole Road. With the new construction and movement of the road approximately 100 yards to the northeast this risk has been greatly reduced.
5. The public good, necessity and convenience of the inhabitants of the Town of Marlboro require that the following action be taken.
6. It is the Decision of the select board

To Accept approximately 3,168 feet of Adams Brook Road moved approximately 100 yards to the northeast. The location of the new road is described as follows: Beginning at latitude N 42° 54' 15.0" , longitude W 72° 43' 43.6", just to the north of the intersection of Adams Brook Road and Augur Hole Road, running to latitude N 42° 54' 48.0", longitude W 72° 23" 55.1", at which location the new road again intersects the existing road.

To Discontinue 2,308 feet of original Adams Brook Road starting from the beginning point noted in the previous paragraph.

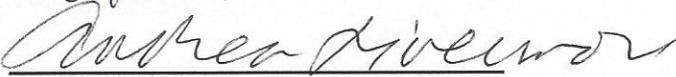
To keep the 860 feet of Class 3 road at the northern end beyond the section to be discontinued, and rename it Adams Brook Lane.

Any person interested in this Decision to Accept the new portion and Discontinue 2,308 feet of the old portion of Adams Brook Road may appeal this decision to the Superior Court of Windham County in writing within 30 days of the decision.

Dated: December 27, 2012 at Marlboro, Vermont.

TOWN OF MARLBORO SELECT BOARD

  
\_\_\_\_\_  
Craig Hammond, Chair

  
\_\_\_\_\_  
Andrea Livermore

  
\_\_\_\_\_  
Pieter van Loon

Town of Marlboro, Select Board  
HEARING ON MOVING A PORTION OF ADAMS BROOK ROAD  
Thursday, November 8, 2012

**ATTENDANCE:**

Present were select board members Craig Hammond, chair, Andrea Livermore and Pieter van Loon. Also present were Carol Berner and Anthony Berner, landowners along Adams Brook Road; David Elliott, Road Foreman; and Marcia Hamilton, Select Board Assistant.

**CALL TO ORDER:**

Craig Hammond called the Hearing to order at 4:05 PM. All present took the oath verbally administered by Craig Hammond, and signed the written oath. He read the Notice of Road Site Inspection and Hearing. The first two paragraphs are as follows:

NOTICE IS HEREBY GIVEN that the Select Board of the Town of Marlboro, pursuant to Title 19, VSA Chapter 7, proposes to move approximately 3,168 feet of Adams Brook Road approximately 100 yards to the northeast where it will run on property currently owned by Anthony R. Berner and Carol B. Berner. The proposed road comprises approximately 3.64 acres of land. The relocation construction was carried out under the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP).

In consideration of the conveyance of this property to the Town by the Berners, the Town will discontinue the currently existing section of Adams Brook Road to be replaced by the proposed new road, and ownership of the right of way of the existing road will revert to the Berners.

**BACKGROUND:**

The site inspection took place at 2:00 PM. Craig Hammond stated only testimony presented at the Hearing would be considered in the Decision. Present on site at the start of the walk but not participants of the walk were Jerry and Leanne Powers, residents on Adams Brook Road.

**HEARING:**

David Elliott stated he went back after the road inspection and wheeled the distance of the portion of the road to be retained by the town and determined it to be a distance of 860. He suggests the town would want to keep this portion of the old road and covers all of the culverts the town would want to keep in order to maintain water control. The road was built to town highway standards as adopted in its Highway Ordinance.

David also reminded the select board that the application for HMGP funds was denied at first. At the Annual Town Meeting on March 3, 2009, the voters approved Article 8, as follows: To see if the voters of the Town of Marlboro will authorize the Town to spend up to \$90,000, \$20,000 of which will be allocated in 2009, and the balance of which will be spread over the next three years, to relocate 3,168 feet of Adams Brook Road.

Anthony Berner stated the Augur Hole Road is a main northern route out of town in the event of an emergency. Adams Brook Road has produced runoff onto Augur Hole Road in the past and the improvements will lessen the situation. David Elliott stated that debris came off Adams Brook Road onto Augur Hole Road and emergency vehicles had to use Adams Brook Road to bypass the washout.

David Elliott stated that the highway department looked at life/safety issues of everyone who drives the road as well as the road crew members. With the improvements of Adams Brook Road, the grade went from 19% - 21% to 11% -14%. The road is much safer now.

After deliberation, the Board voted unanimously in the affirmative as follows:

To move and Accept approximately 3,168 feet of Adams Brook Road approximately 100 yards to the NE. The location of the new road is described as follows: Beginning at latitude N 42° 54' 15.0", longitude W 72° 43' 43.6", just to the north of the intersection of Adams Brook Road and Augur Hole Road, running to latitude N 42° 54' 48.0", longitude W 72° 23' 55.1", at which location the new road again intersects the existing road. (van Loon/Livermore)

To Discontinue 2,308 feet of original Adams Brook Road starting from the point noted in the previous vote. (van Loon/Livermore)

To keep the 860 feet of Class 3 road at the north end beyond the section to be discontinued, and rename it Adams Brook Lane. (Hammond/van Loon)

**ADJOURN:**

There being no further testimony, the hearing ended at 4:23 PM. The Board will deliberate and render a Decision within 60 days.

Respectfully Submitted,  
Marcia L. Hamilton, Select Board Assistant