

TOWN OF BRAINTREE  
SELECTBOARD  
Decision on the Discontinuance of South Road

In re: South Road, Braintree

The Braintree Selectboard held a site visit and a hearing, after proper notice to all affected, July 21 to consider whether to discontinue South Road. The hearing was continued and was reconvened on August 4, and August 18, 2015, when it was closed. Present were Selectboard members Tim Caulfield (Chair), David Atkinson, Linda Doane, Loren Bent, Paul Kendall, and Richard Bowen (not a Selectboard member at the time of the site visit). Also present were Holly Jarvis, Assistant to the Selectboard; Jeff Masterson, Road Foreman; and residents Nancy Boucher, Roland Boucher, Hillman Maxham, Deb Owen, Amy Noyes, Nelson Noyes, Roy Young, Annette Young, Steven Stone, Brian Jones, Mark White, Mrs. Grimes, Kristin Haupt and Julia Haupt.

Based on the evidence presented at the hearing, the Board made the following:

Findings of Fact

1. South Road is a Class 3 town highway, and its right-of-way runs through parts of the three houses along the road.
2. South Road starts on North Road, 0.06 of a mile from the intersection of North Road and Route 12A. From that point, it travels south across the lands of Noyes', then it turns west and intersects with Route 12A, as shown by survey markers.
3. There is no reason to keep the South Road for highway maintenance reasons. It is difficult to plow and in places impossible to maintain.
4. Two of the three homes along the public right-of-way have access directly to Route 12A, without the need for South Road. The Stones will create a private right-of-way of their own to connect to North Road.

Based on the Findings of Fact, the Board makes the following:

Conclusions of Law

- A. State law authorizes the discontinuance of a town highway, after due notice to all those with landed interests in the highway, provided the Selectboard finds that the public good, necessity, and convenience of the inhabitants justifies it. 19 V.S.A. § 710.
- B. South Road serves no public interest or purpose.
- C. The road serves no private purpose either, as the residents in the area either already have access to public highways through private driveways or, in the Stones' case, will be able to create a private right-of-way without the need for a public highway.
- D. No compensation is due for this discontinuance. *Perrin v. Town of Berlin*, 138 Vt. 306 (1980).

E. Vermont Statute 19 V.S.A. 775 clearly defines how any land currently covered by the Town road right of way is subsequently redistributed to the abutting land owners.

Based on these findings and conclusions, the Selectboard makes the following:

Decision

The Selectboard discontinues South Road in its entirety.

Appeal Rights

Any interested person may appeal this decision in writing within 30 days of its date to the Orange Unit of the Civil Division of the Vermont Superior Court pursuant to V.R.C.P. 74 or 75. Failure to appeal may prevent these persons from raising issues about the now former South Road in the future.

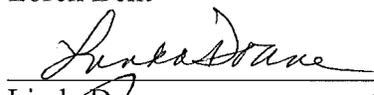
Dated this 6<sup>th</sup> day of October, 2015, at Braintree, Vermont.

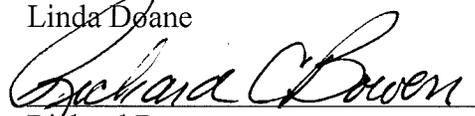
BRAINTREE SELECTBOARD

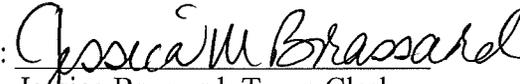
  
Tim Caulfield, Chair

  
Paul Kendall

  
Loren Bent

  
Linda Doane

  
Richard Bowen

Attest:   
Jessica Brassard, Town Clerk