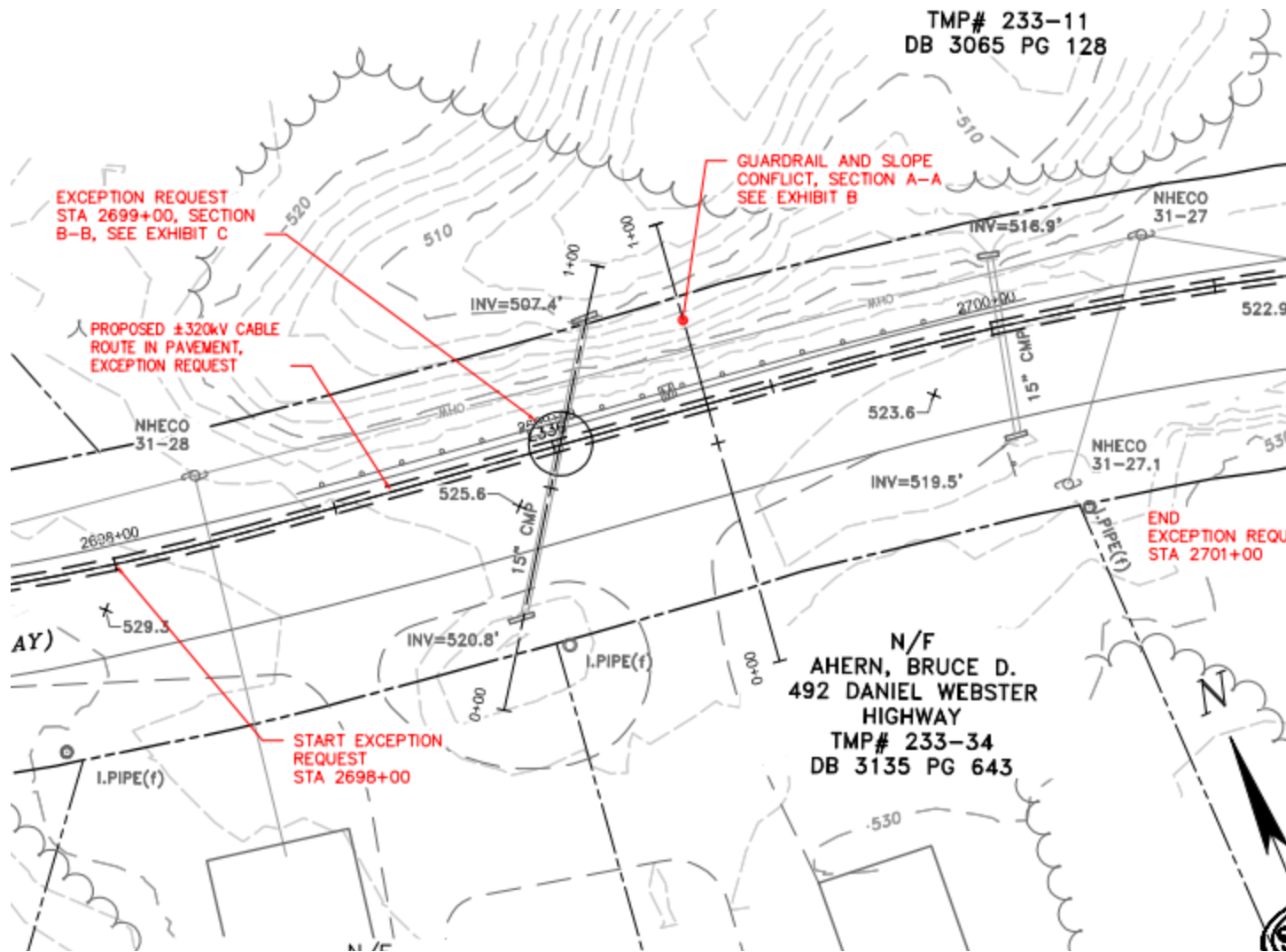


From: Kris pastoriza [<mailto:krispastoriza@gmail.com>]
Sent: Tuesday, November 14, 2017 5:34 PM
To: Monroe, Pamela
Subject: Fwd: Exception Requests approved without a survey

Dear Pam, please post as a comment

----- Forwarded message -----

From: **Kris pastoriza** <krispastoriza@gmail.com>
Date: Fri, Nov 10, 2017 at 9:11 AM
Subject: Exception Requests approved without a survey
To: "Esterberg, Melodie" <Melodie.Esterberg@dot.nh.gov>, victoria.sheehan@dot.nh.gov
Cc: Bob Baker <Abobbaker@aol.com>, "Bradley J. and Daryl D. Thompson" <bjtddt@gmail.com>, Bruce Ahern <bruceahern@roadrunner.com>, "Schibanoff, Susan" <susan.schibanoff@unh.edu>, Campbell McLaren <gpcmlaren@gmail.com>, "C. Christine Fillmore (cfillmore@townandcitylaw.com)" <cfillmore@townandcitylaw.com>, "Aslin, Christopher" <Christopher.Aslin@doj.nh.gov>, Sandra Merrigan <smerrigan@primmer.com>, Eric Meth <ericlmeth@yahoo.com>, Margaret Connors <connorsmargo@gmail.com>, Nancy Martland <nancy.martland@gmail.com>, Nancy West <nancywestnews@gmail.com>, Carl Lakes <carllakes54@gmail.com>, Mike Ahern <mikeahern172@gmail.com>, John Petrofsky <jpetrofsky@googlemail.com>, John Randlett <jrandlett43@gmail.com>, Eric and Barbara Meyer <bnmeyer7@gmail.com>, Jeanne Menard <Jeanne@paradeproperties.net>, Dick Hage <dhage@plymouth.edu>, Lara Saffo <lsaffo@co.grafton.nh.us>, Rick Samson <highergrounds3@gmail.com>, Will Abbott <wabbott@forestsociety.org>, William Bolton <bolton6@roadrunner.com>, "Beaulieu, Philip" <Philip.Beaulieu@dot.nh.gov>, "Smith, Gregory" <Gregory.Smith@dot.nh.gov>, Cheryl Jensen <cheryljensen448@gmail.com>, Bob Thibault <bobtselectboard@gmail.com>, Edward Cutler <nedselectboard@gmail.com>, "Mei, Zak" <zakmei.e@gmail.com>



Dear Melodie and Commissioner Sheehan,

above is a screen shot from Exception Request #1, Revision 2. This was approved, along with ER #2, Rev. 2, by DOT on May 31st. Exception Request #3 remains rejected, Exception Request #4, Rev. was approved July 7th, 2017.

These four Exception Requests all show an incorrect ROW. DOT approved them in the absence of any survey by Northern Pass. Given DOT's August 2017 rejection of Northern Pass's survey **all Exception Request approvals need to be rescinded**, and reassessed if DOT approves a full, legal survey of the route containing all information including abutter notification of the survey and 60 days to disagree with the results.

The 3 rod section of Route 3 goes from the Bridgewater-Plymouth line to approx. Station 2608.50, according to information submitted by Bruce Ahern to Commissioner Sheehan on August 10, 2017.

The importance of notifying abutters of claimed ROWs is clearly shown by Bruce Ahern's notification to Northern Pass of the incorrect ROW shown in the Permit Plans for his property.

The failure of the Applicant to incorporate ROW information submitted to them calls into question their interest in producing a full and legal survey..This information was available to the Applicant in Mr. Ahern's pre-filed testimony submitted to the SEC on November 14, 2016, yet was not reflected in Northern Pass's Permit Packages submitted to DOT 12/8/2016 or in the Exception Requests #1-4 submitted to DOT in mid-May 2017. How many other abutters possess information on the ROW?

The surveyors on the road did not solicit any information from those who spoke with them, that I have heard about. Some were overtly hostile, some claimed to working for DOT though they were working for NPT. Some refused to say who they were working for. The last teams appear to have been directed to be polite and open about who their client was.

DOT's own meeting minutes state the necessity for a survey for permitting and Exception Request decisions (12/2/16, 3/17/17), yet DOT has made permitting decisions without a survey. Is this legal?

https://www.nhsec.nh.gov/projects/2015-06/testimony/2015-06_2016-11-14_pretest_bruce_ahern.pdf

Kris

From: mark.doperalski@eversource.com
Sent: Friday, February 3, 2017 10:44 AM
To: Boisvert, Richard A (Richard.Boisvert@dcr.nh.gov)
Subject: Fw: historic documentation of easement widths in Easton and Franconia

FYI

Mark Doperalski, M.A., RPA
Cultural Resources Specialist

EVERSOURCE

13 Legends Drive
Hooksett, NH 03106
603.479.1088 (cell)
603.634.2147 (office)
mark.doperalski@eversource.com

----- Forwarded by Mark Doperalski/NUS on 02/03/2017 10:43 AM -----

From: Marvin P. Bellis/NUS
To: Jerry P. Fortier/NUS@NU, "Johnson, Samuel" <sjohnson@burnsmcd.com>, "Rochon, Ovid" <orochon@burnsmcd.com>, Mark Doperalski/NUS@NU, Brian J. Bosse/NUS@NU, jtinus@burnsmcd.com,
Date: 02/03/2017 10:19 AM
Subject: Fw: historic documentation of easement widths in Easton and Franconia

FYI - Better perspective on the road width issue.

Marvin Paul Bellis
Senior Counsel
Legal Department
Eversource Energy
107 Selden Street
Berlin, Connecticut 06037
Direct Line: 860.665.5685
Facsimile: 860.665.5504
Email: marvin.bellis@eversource.com

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----- Forwarded by Marvin P. Bellis/NUS on 02/03/2017 10:16 AM -----

From: Mark Hodgdon <mark@hodgdonlegal.com>
To: Marvin P. Bellis/NUS@NU,
Date: 02/03/2017 09:55 AM
Subject: RE: historic documentation of easement widths in Easton and Franconia

"EXTERNAL EMAIL SENDER: Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password."

Where to start? Jon Perron actually plotted the entire four rod layout and identified and "closed" the missing sections along Rt.

116. In other words, the areas where the 1800s 4 rod layout applies, are identifiable. I strongly suspect that extensive portions of the road she identifies are known 4 rod layout sections.

Given that, the mere presence of walls, fences and even buildings is not relevant in the areas of known layout. They at best provide “some” evidence of width in areas where prescriptive layouts apply. But, they are NOT definitive, only *some* evidence which needs to be considered with vast amounts of other pieces of information. Keep in mind, NHDOT policy considers 10-15 feet beyond the shoulder to be a minimum width on prescriptive roads for snow removal, drainage and brush cutting needs. (I have a copy of that memo).

Since the early 1800s NH law has recognized the difference between encroachments and encumbrances. The highways of our state are riddled with encroachments, which by definition is anything that intrudes into the “width” of the right of way but does not impact the highway use itself. Encumbrances, on the other hand, impact both the width of the right of way and impede the use or maintenance of the highway in some fashion. Consequently, the mere fact that walls, fences, over hangs or even buildings encroach within the right of way is meaningless. It happens all the time. Indeed, the earliest case I am aware of was an encroachment of an underground cellar into the right of way. I will try to locate that case and send it to you.

Keep in mind, in most instances the actual width is irrelevant since we are within the confines of the disturbed areas anyways. Even on prescriptive portions, the disturbed areas are indisputably within the public easement.

From: Mark Hodgdon <mark@hodgdonlegal.com>
Sent: Friday, September 12, 2014 2:59 PM
To: Karen Schlitzer <karen.schlitzer@doj.nh.gov>
Subject: Utility Use of Highways
Attach: Utility Use of Highways.pdf

Karen,

Thank you for attending the meeting yesterday. I am sure you have lots of information to digest.

As promised, I am providing some citations and analysis on whether power transmission lines may properly be located within easement highways. Please understand that the attached is not intended to be exhaustive. There are many more cases supporting the analysis and general principles discussed. I believe you will find the 1957 Opinion of Justices most directly of interest. In the event, however, the State disagrees, I would appreciate you letting me know. The object, of course, is to be open and correct.

Mark P. Hodgdon

Law Office of Mark P. Hodgdon, PLLC

18 N. Main St., Suite 307

Concord, NH 03301

603 715-5951

mark@hodgdonlegal.com

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- Utility Use of Highways.pdf