

STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION

FROM: Robert E, Talon, LLS *Ret*
Land Titles
Bureau of Right of Way

DATE: June 1, 2016

SUBJECT: Report of Survey
Cheshire RR Crossing

AT: Department of Transportation
Bureau of Right-of-Way

TO: Victoria Shaheen, Commissioner

The Right-of-Way Bureau was requested to prepare a plan to document the physical locations of rail crossings on the Cheshire Branch Railroad near the Westmoreland and Walpole town lines.

The intent of the plan was to show the location of physical evidence of roads and traveled ways in relationship to the rail corridor. Additional evidence relating to boundary lines was also located for the purpose of overlaying existing record survey plans. The use of the record survey plans and deeds was only to show the graphic representation of boundary lines of the abutting parcels and their relationship to the rail corridor.

Initial title research of the rail corridor and abutters was conducted on March 18, 21 and 22, 2016 at the Cheshire County Registry of Deeds in preparation of the field survey work. Title and plan research was conducted by a Right-of-Way Title Abstractor and a NH Licensed Land Surveyor. A NHDOT Survey Crew conducted the survey detail work on March 23 and 24, 2016 utilizing the plans and records provided from the Licensed Land Surveyor. Title records and research continued through March 23 culminating on March 28, 2016.

The Cheshire Railroad was laid out by the State Railroad Commissioners as a public way and damages were assessed by the Road Commissioners for Cheshire County. The layout was filed with the Secretary of States Office on December 30, 1845.

The Layout across land of Amos Wood, now land of George R. Graves Revocable Trust, provided a grade crossing at approximate station 2387+75.

The Layout also provided for a cattle underpass and a grade crossing to the farm of Nelson Wilber, now lands of Graves Trucking Inc., Patricia Rodrigues and John Corduff and Louis Nimke. A deed from Nelson Wilber to the Cheshire Railroad, recorded in book 158, page 575, further confirms the crossing rights as constructed by the Railroad near station 2379+00.

Both of the grade crossings and the cattle underpass are shown on the Right-of-Way and Track Map, Fitchburg RR Co., Valuation Map 39/46.

The Nelson Wilbur Farm was located on both sides of the railroad. Arthur Christian was the successor in title to the Nelson Wilber farm. Arthur Christian sold the property now of Graves Trucking Inc. to Alfred Chickering and granted a right-of-way across other pasture land to the New Keene Road, recorded in book 510, page 86. This right-of-way was also reserved in the deed of Arthur Christian to Rodger and Eleanor Adams, predecessors in title to Patricia Rodrigues and John Corduff, recorded in book 765, page 363. This right-of-way runs from the northerly end of Graves Trucking Inc. property over the railroad grade crossing to land of Rodrigues and Corduff, thence across said land to Old Route 12.

The crossing at station 2387+75 for George R. Graves Revocable Trust was released in exchange for a crossing at station 2382+00. Graves Trucking Inc. was also granted a temporary use agreement in this location. This relocation utilizes a portion of the original Monadnock Trunkline Road, referred to on the plan as 1927 Road.

In 1927 a portion of Monadnock Trunkline was realigned and the bypassed portion of road was discontinued in the Town of Walpole. The Westmoreland portion was not discontinued and is still part of the Old Route 12 Right-of-Way and directly abuts the rail corridor. The existing traveled way leading from Route 12 to the rail crossing at station 2382+00 is within the public Right-of-Way of Old Route 12 and the 1927 Road.

George and Freda Graves obtained an easement by quitclaim deed from Thelma R. Galen, predecessor in title to Patricia Rodrigues and John Corduff, recorded book 1283, page 2. The easement granted was to be 150 feet southerly of the town line and of sufficient width.

The descriptive location of this easement is dependent upon the location of the town line. The town line as shown on recorded survey plans would place the location considerably closer to the Rodrigues/Corduff home than its current physical location today. The distance from the town line as shown on the Railroad Valuation Map appears to agree with the physical location of the existing traveled way. It is my opinion that the physical location of the traveled way would hold over the descriptive location based on the common law theory of practical location, recognition and acquiescence.

In conclusion, the Railroad Layout provided two rail crossings in the area of the town line, both of which are still viable crossings. The rights to the northern crossing belonging to George Graves Revocable Trust with a special use agreement to Graves Trucking Inc. The southern crossing belonging to Graves Trucking Inc. along with a right-of-way over land of Patricia Rodrigues and John Corduff to Old Route 12.

cc:

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