

OLD BAGDAD ROAD – CLASS 5 ROAD

Administrative Determination

WHEREAS, the question arises whether a section of road called Old Bagdad Road is a Town-maintained Class 5 road or a Class 6 road;

WHEREAS, this issue is brought forward now in response to a proposed subdivision of a parcel of land [Lot 42 on map below] situated at the intersection of Bagdad Road and Old Bagdad Road and the need for clarity about treatment of that lot and others situated on the road; and

WHEREAS, the section of Old Bagdad Road in question extends from the intersection with Bagdad Road running easterly to a dead end at the Route 4 right of way [See map at the bottom]; and

WHEREAS, it is the Town's understanding that this section of road continued further in an easterly direction until the construction of Route 4 at which time this road was terminated at the Route 4 right of way and Bagdad Road was then extended across Route 4 in a new location; and

WHEREAS, some time after this section of road was terminated it is likely that the Town of Durham stopped maintaining the road and then in recent years the Town started maintaining the road, including plowing the road, once again, over at least the last five years or so; and

WHEREAS, a Class V road becomes a Class VI road in one of two ways: a) by a vote of the Town Council to discontinue the road subject to gates and bars; or b) by the failure to maintain the road in suitable condition for travel for at least five years; and the Town has no record of such a vote by the Town Council and there is no evidence that the road became unsuitable for travel for any five year period; so it is likely that the road never actually became a Class VI road; and

WHEREAS, there are presently two houses located on the road which have relied upon Town maintenance at least in recent years and with the proposed subdivision there will be one more house situated on the road and taking access from the road;

WHEREAS, the Town staff including the Town Administrator, Public Works Director, Town Engineer, and Town Planner deliberated the appropriate designation for the road in consultation with the Town Attorney, and the Town Planner spoke with Michael Lynch, the former Public Works Director whose recollection is consistent with the information herein, and the Town Planner contacted District 6 of

the New Hampshire Department of Transportation which does not appear to have any records relevant to the determination of class status; and

WHEREAS, it appears that the road never became Class VI road but a formal determination by the Town Administrator is necessary for clarity.

NOW, THEREFORE BE IT DETERMINED that the Town Administrator of the Town of Durham has formally determined that the section of Old Bagdad Road starting at the intersection of Bagdad Road and extending easterly to the Route 4 right of way is a Town-maintained Class 5 Road.



Todd Selig
Administrator



date

