

## Belmont tells some lakeside homeowners that their roads are private & plowing & maintenance will end

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BELMONT — About 25 residents of a portion of Jefferson Road and Lakeside Drive have been notified that the town must stop all public maintenance of their roadways, including snow plowing, because they are private.

The roadways access a portion of the southern shore of lower Lake Winnisquam and are accessed off Union Road.

The letter states that New Hampshire state law RSA 231:59 prohibits the expenditure of public funds on private roads because of liability exposure and consistency of land use regulations.

"It's a misconception that these roads are public," said Selectman's Chair Ron Cormier to Michael Allan who came to the July 29 selectman's meeting for an explanation of the letter.

Allan told the board he is not a resident but was there on behalf of his disabled sister who is.

"We strenuously object to this," Allan said. He noted that the residents of "Jefferson Loop," or the portion of the road that lies to the northwest of the railroad tracks, collectively pay \$250,000 annually to the town but get no services.

He asked the town to extend what he called the "emergency clause" to that section of the road.

The "emergency clause" to which Allan referred is one that confers a certain status on a road in order for a town to access certain public facilities that are accessible only through a particular road, explained Planning Technician Rick Ball yesterday.

Because of two town-owned pump stations, Wakeman Road and Bayview Drive will now be considered for emergency status and a public hearing will be held on the matter at 5 p.m. on August 19.

Allan also said that descendents of people who have lived in those houses for generations still live there and he thinks at least two families were there before 1948.

Ball said the New Hampshire Law says a road must have been prescriptively used or used without the permission of the landowner for 20 years prior to 1968 to be consider public. Prescriptive uses rarely if ever appear on deeds and is often difficult to determine.

It is one of four ways to create a public road, with the other three being that the town builds it on its own, builds it as part of a municipal plan, or if a deed holder dedicates the road to the town and the designation is accepted.

In the last case, a road that is built privately and dedicated to a town has to be up to standard code and the town must accept it formally as a public road.

Ball's research shows the easterly part of Jefferson Road as a public roadway, stemming from a vote at the 1936 annual Town Meeting. In 1937, the Hansons of Worcester County in Massachusetts granted the town of Belmont a quitclaim deed for \$1 that gave it a 20-foot easement through their farm for a path that was already used to access the railroad tracks.

He said the western portion of Jefferson Road is "not as clear-cut" and he has never found any written record as to when and if this section became a public road.

"One can surmise that the reason for the Town Meeting vote to construct a town road from Union Road to the railroad crossing at Town Meeting in 1936 was because of the subdivision plan that created the Howland Campsite lots and the appurtenant roadway in 1935," he wrote.

Ball said that while recording a plan and conveying lots in accordance with the plan constitutes an intent to dedicate the street to public use, to be a public road, there must be an acceptance by the municipality and the acceptance had to be effective within 20 years of the offer.

He said his research of many of the deeds for public sewer and water in the western portion of Jefferson Road from 1978 to 1981 had the designation "private" in them. Minutes from 1935 to 1957 show selectmen knew the road was built and used but no formal acceptance was made, said Ball.

Selectmen approved the name "Jefferson Road" in 1961 and in 1973 selectmen told Road Agent Harold Reed to "plow Jefferson Road... if these people live there year round," wrote Ball in his report.

In a 2009 letter to residents about large rocks in front of their driveways, Public Works Director Jim Fortin asked them not to put the rocks there because it impedes plowing. He also told them about the ongoing road assessment — the results of which may reveal their road is private, telling them if that is the case, the town will not be able to continue plowing it.

The town asks that anyone with information to the contrary should contact the Land Use Planning office.

CAPTION ( Jefferson loop private) A map obtained from the town of Belmont shows the portion of Jefferson Road and Lakeside Drive that the town believes is private and will not likely be plowed or maintained in the future. There is a public hearing about Bayview Drive and Wakeman Road on August 19 at 5 p.m. for people to discuss declaring them emergency roads so officials can access the town's two sewer pumps.