

1997 FEB 10 AM 11:17

**Groton Trails Committee**  
**Minutes of Meeting**  
**July 8, 1998**

**Location:** Legion Hall Meeting Room

**In attendance:**

Robert Catlin, Bruce Clements, Paul Funch, Wendy Good, Stephen Legge, Richard Lodge, Edward McNierney, Brad Paul, Stephen Prendergast (Absent: William Boston, Stacey Chilcoat, Douglas Furciniti, John Head, Evan Owen, David Riggert)

1. Ed McNierney called the meeting to order at 7:40 p.m.
2. Ed began the meeting with a discussion of the Jenkins Road situation.
  - a) Attached is a memorandum that Ed sent to the Board of Selectmen. It provides the information that is currently known about claims to the land known as Jenkins Road.
  - b) The issue was discussed at the July 6, 1998 Selectmen's meeting, which Ed attended, and the major outcome was that the Selectmen asked Town Counsel to investigate the issue further. The Groton Herald reported on the issue in their July 10, 1998 edition.
  - c) The Committee supported Ed's actions on behalf of the Committee and Steve Legge proposed that a resolution be made to express the Committee's desire for speedy action by Town Counsel. The attached resolution was passed by unanimous vote of the Groton Trails Committee.
3. The Committee was informed of the offer made by the Old North Bridge Hunt to provide lumber to the Greenway Committee for the construction of a bridge near Partridgeberry Woods. In return, the Hunt would like to be able to use the land one or two weekdays during the year for their riding events.
  - a) The Committee supported their use of the land and the proposed bridge, and the following resolution was proposed: "The Groton Trails Committee supports the bridge project proposed across a stream inlet in the proximity of Partridgeberry Woods by the Greenway Committee to further the recreational use of the area."
  - b) Wendy Good moved to vote on the resolution. Brad Paul seconded the motion. The resolution was approved unanimously.
4. The Groton Trails Committee approved Ed's recommendation that a letter be written to the Groton Town Forest Committee (Milton Starr, Chair; Harlan Fitch, and Steve Collette), inviting them to one of our meetings.
5. Subcommittee reports
  - a) Publicity and Education
    - i) Paul Funch and Brad Paul reported on planning for a 10 mile Trail (foot) Race in the Groton Town Forest on Saturday, October 17, 1998 to raise money for Town Forest signage and to promote greater awareness of the trails in Groton.
    - ii) To attract more local interest and participation, it was suggested that a shorter race be added. A roughly 3 mile race will be planned as well.

# Memo

**To:** Groton Board of Selectmen  
**From:** Ed McNierney, Groton Trails Committee  
**cc:** Groton Trails Committee  
**Date:** 07/08/98  
**Re:** Public Access at Al Friedrich's land along Jenkins Road

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Several groups in town asked the Trails Committee to investigate the status of public access along Jenkins Road as it passes between Al Friedrich's land and the Nashua River. Mr. Friedrich has posted "No Trespassing" signs along the road at both end of his property, and has blocked the trail with several large piles of brush. As part of the Trails Committee's charter is to investigate the status of old town roads and trails, we agreed to look into the matter.

Dave Riggert and I walked the trail starting at the Fairgrounds site on a recent Saturday morning. The obstructions mentioned to us were quite obvious, and anyone passing along would certainly believe they were trespassing on private property. Dave and I climbed over the brush piles, passed along the rear of Mr. Friedrich's land, and examined the obstruction on the northern end as well. We then returned across the blocked section and, seeing Mr. Friedrich in his driveway, approached him and introduced ourselves.

Mr. Friedrich was polite but extremely firm in his belief that all the land between his house and the river was his private property; he has also built a boat dock on the river at this site. He made reference to discussions with Marion Stoddart and Jean Kitchen, and recommended we talk to them. He talked about a number of difficulties he has had with trespassers at his home. Dave and I pointed out to Mr. Friedrich that the Trails Committee is committed to protecting the rights of private landowners, but is also committed to protecting the rights of the public to lands and rights of way owned by the public. We agreed to investigate the matter further.

We pointed out to Mr. Friedrich that the deed to his land clearly states that it runs along the easterly side of Jenkins Road. Mr. Friedrich did not dispute that point in our conversation, but stated that the former Jenkins Road now lies under the Nashua River. His right to all the land up to the river is based on his claim that the river has moved to the east and submerged the Jenkins Road right of way.

In investigating the matter we came across several documents that point to earlier disputes about this property. The Greenway Committee addressed the matter of the legal status of Jenkins Road, and with assistance from Attorney Robert Collins learned that Jenkins Road was discontinued at Town Meeting in April 1885. It appears that the matter was dropped at that point, although it is entirely possible that the groups involved did not understand the legal definition of "discontinued" in this context. As you know, discontinuance of a road by the Town eliminates the Town's obligation to maintain it, but does not by itself eliminate the public's right of way along that road.

It appears that earlier investigations into this matter did not include a discussion of Assessor's parcel I-37. Mr. Friedrich owns parcels I-37A and I-37B, each a little more than 5 acres. However, parcel I-37 is a narrow strip of land that lies *between* Jenkins Road and the Nashua River, and that parcel is owned by the Town of Groton. There is no detailed description of this parcel in the Assessors Office, but a sketch map done in 1948 estimates the southern end of this parcel to be about 25 feet wide. It is clear that even if the public has given up all rights to passage over Jenkins Road, public access along the westerly edge of the road would be permitted over the Town's land. If the Nashua River has *not* moved Mr. Friedrich's boat dock lies on this parcel of land.

Since we know that the Town owns the land between Jenkins Road and the Nashua River, and we believe that the public's right of way across Jenkins Road still exists, we need to determine whether Mr. Friedrich's claim that the

Nashua River has moved east is plausible. Based on the 1948 map, this would require the river to move approximately 25 feet east over the last 50 years.

I don't think either Dave Riggert or I are technically qualified to comment on the movement of rivers, but I think we can add several observations. The way along which we were walking was quite clearly an old road. There was no indication that we moved off the old road bed, as we would have done if the road went under the river. The entire path seemed to be along a road bed of the same nature and quality throughout. In addition, from descriptions in various deeds and in the Assessors' Office, Mr. Friedrich's land has been surveyed several times in the past – most recently in 1972 and in 1994. In the most recent deed, dated February 17<sup>th</sup>, 1994, the parcels owned by Mr. Friedrich are described as running "by the Northeasterly side of Jenkins Road" and one bound is described as "Beginning at a stone bound on the Northeasterly side of Jenkins Road". There is no reference to the Nashua River or to the river bank in any of his deeds, and I expect that if the stone bound at Jenkins Road were underwater the survey crew would have mentioned that fact. Some trees growing along the steep river bank are large and curve upward right at their base, as if they had been growing on a steep bank all their lives. Finally, I have been told but have not confirmed that Mr. Friedrich used his frontage on Jenkins Road when he obtained a building permit for his home in the 1970's.

Collectively these facts, together with the fact that the river bank is quite high in this area, seem to indicate that the river probably hasn't moved very much in the last 50 years, and certainly not much since 1994.

This portion of footpath provides an extremely important link between the Fitch's Bridge area and the Fairgrounds and Partridgeberry Woods areas. It provides connections for skiers, walkers, equestrians, and others, and provides access to the Nashua River. I strongly recommend that the Selectmen clear up the issues involved in this parcel; if the public's rights exist, they should not be blocked by Mr. Friedrich, and if Mr. Friedrich is correct he should have the assistance of the Town in protecting his land against trespassing. Both parties interests are best served by a prompt resolution of this matter.

At a minimum, I would recommend a survey be done of the Town's parcel I-37 and a positive legal statement made as to the public's right of passage over Jenkins Road. Parcel I-37 will either positively grant access across public land, or it will be found to lie under the river. If the Trails Committee can be of further assistance in this matter, please let me know.

Sincerely,

Ed McNierney, Chairman