

Where do roads come from? And why does it matter?

It is not uncommon in New Hampshire, to find old roads running through the forests of New Hampshire. How do you identify an ancient road? And how do you know whether it is open for public use?

Most New Hampshire towns were laid out by 17th and 19th century proprietors in ranges of 100 acre lots, 40 acres lots, and so forth. These appear as grids on old maps, but obviously these range lots were created without regard to the terrain. In theory, roads were to be created between the range lines. But reality intervened, and most roads were built to accommodate travel, avoiding steep grades, swamps and water bodies. Most roads were "laid out" by the town selectmen and records of layout often exist in historical town documents. Most were created as easements or rights of way over private land. Thus the landowner held title to the land, subject to a public right of way. (As a general rule, when a road is discontinued by the Town, abutting landowners own to the center of the road, without the burden of a public easement.) In some cases, the road actually follows a range line. Whether the road is owned by the town in fee, or as a right of way, varies from one town to another. In recent times, Town planning boards have required that a new road in a subdivision be deeded to the Town in fee.

It was most common to lay out a road 3 rods, about 50 feet wide, although some were 2 rods, or about 33 feet. Parallel stone walls 50 feet apart provide a clue to the existence of a road. Other clues include foundations and burial grounds along a road. It is easy to be fooled by well-worn logging trails or parallel walls closer than 2-3 rods which may have been cattle or sheep runs.

When should you be concerned about the existence or status of a road?

First, if you are considering purchasing undeveloped property, you want to be certain that you have legal access to it. There ARE land locked parcels in New Hampshire. Then you want to know whether the access is a town maintained road. If the access is a private road, who is responsible, if anyone, for maintaining it? Is the private road really just a paper street in an old subdivision that was never built out? What is Town policy on such "paper streets"? If the access is a Class VI, non-maintained public road, will you be able to obtain a permit to build on the property?

Alternatively, a landowner should explore any possible right of way, public or private, across a property. If there are signs of

a road through a parcel, parallel stone walls or other evidence of an old road such as burial grounds or foundations, further exploration is warranted. Effort spent to research these questions can forestall later surprises.