

Sidewalks for the purposes of this study shall mean:

A designated walkway for pedestrians to travel from a point of origin to a point of destination within the study area by means of:

- (a) A hard surfaced way alongside a roadway separated vertically (i.e. raised curb) or horizontally (i.e. a 5'+/- buffer panel) from the roadway;

Or

- (b) A pathway suitable for pedestrian travel and capable of being maintained in the majority of local weather conditions.

Finally, there comes the matter of the width of these “sidewalks”. Many people envision them as narrow as three feet in width while others think in terms of five feet. These standards are considered inadequate by most people who study the issue of “walkability”.

From the Safe Routes to Schools manual (which suggests a 5’ to 6” width) we read that “Walking can be a social activity; facilities are needed to accommodate social walking. The six-foot width allows for two people to walk comfortably side by side and provides sufficient space for pedestrians crossing in the opposite direction.” The ASHTO Green Book (Association of State Highway and Traffic Officials) suggests that the minimum width for a sidewalk along a arterial or major street should be 6’ to 8’. While alongside “...parks, schools, and other major pedestrian generators...” it should be 8’ to 10’ in width. The Town Planner would recommend the wider 8’ width. We have settled upon the narrower 6’ width. We recommend that ...

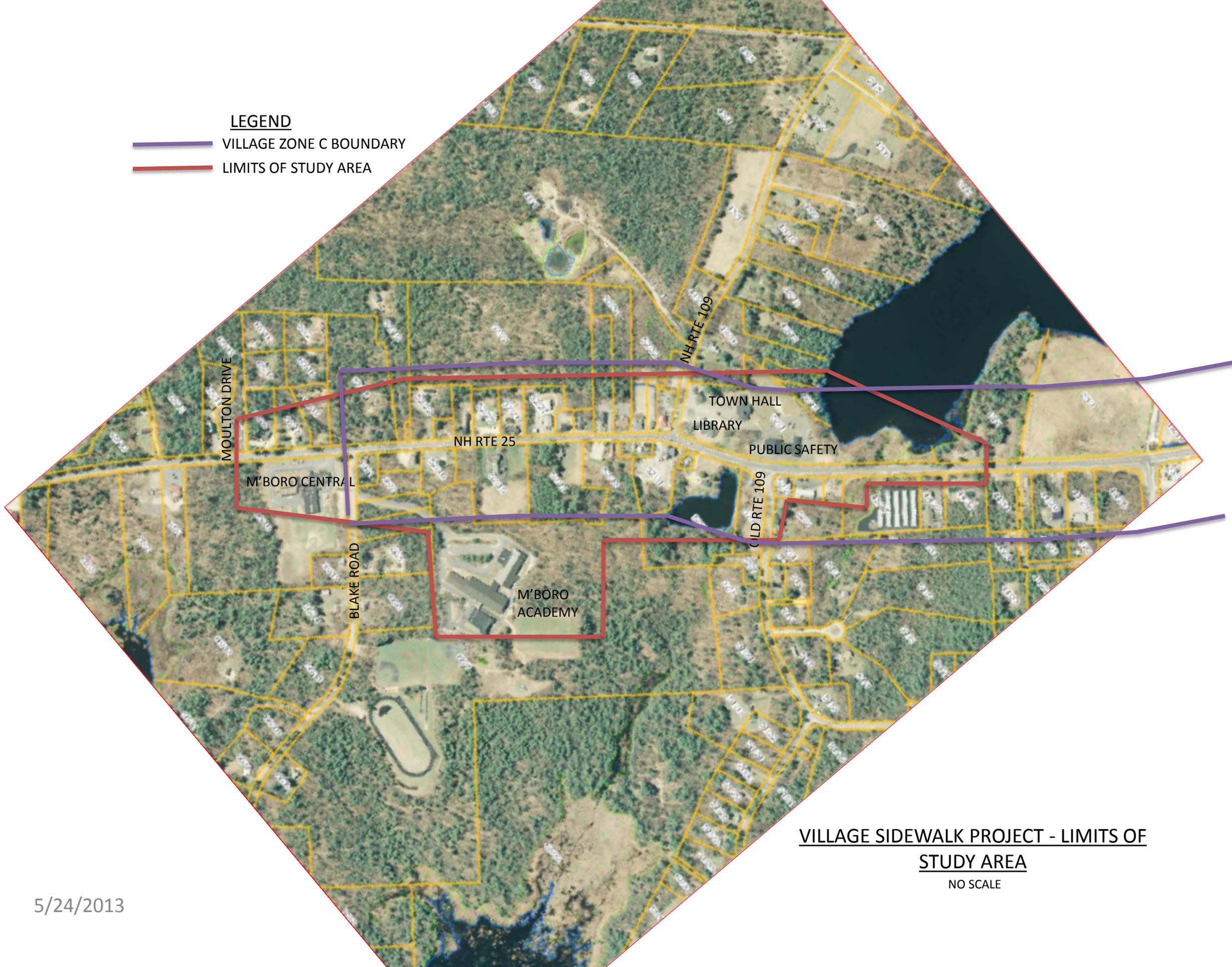
Sidewalk widths for the purposes of this study shall be a minimum of 6’. This is – as ASHTO recommends – intended to be the “...clear or unobstructed width.” “When that is not possible, sidewalk furnishings and other obstructions should be located consistently so that there is a clear travel zone for pedestrians with vision impairments and a wider sidewalk should be provided to accommodate this line of obstructions.”

The proposed study area is shown on the attached map. You find overlaid upon the proposed study area the Village District as it is established in the zonign ordinance.

We seek your approval of the recommendations in this memorandum as the guidance for the Task Order we shall next bring you from the Town Engineer.

LEGEND

-  VILLAGE ZONE C BOUNDARY
-  LIMITS OF STUDY AREA



VILLAGE SIDEWALK PROJECT - LIMITS OF STUDY AREA

NO SCALE

5/24/2013



MEMORANDUM

To: C. Terenzini, Moultonborough

From: R. Korber, KVPartners

Date: June 7, 2013

**Re: Task 1 Report
Village Sidewalk Study**

-
1. Enclosed are the following deliverables for the subject project:
 - a. One titled roll plan, at a scale acceptable to the Town, showing the study area boundaries and Village Zoning District, suitable for public presentations and the development of working concepts.
 - b. One 11" x 17" base map of the study area suitable for report reproduction as well as a 24" x 36" presentation board of the same.
 - c. One 24" x 36" presentation board of the "givens" from the Town's guiding principles from the text supplied by the Town.
 2. The deliverables have been revised as per our (C. Terenzini; B. Woodruff; R. Korber) meeting on May 23, 2013. Revisions were made to the base plan submitted by CAI Technologies to the Town. Revisions include:
 - a. Added names of the destination points specified by Town.
 - b. Added limits of Study Area.
 - c. Added limits of Village District zoning area.
 - d. Revised title block.
 3. In addition, KVPartners revised the base plan to enhance the quality of the presentation boards. Revisions include:
 - a. Adjusted line types, shading and colors.
 - b. Revised legend.
 - c. Revised viewport.
 - d. Added north arrow and scale.



MEMORANDUM

To: C. Terenzini, Moultonborough

From: R. Korber, KVPartners

Date: July 5, 2013

**Re: Task 2 Report
Village Sidewalk Study**

Meeting Minutes: The following are notes from the Orientation Meeting held at Town Hall on June 11, 2013 for the subject project. The notes are summarized by individual attendee and represent the key talking and discussion points.

1. Attendees: Carter Terenzini (Moultonborough); Bruce Woodruff (Moultonborough); Scott Kinmond (Moultonborough); David Bengston (Moultonborough); Len Wetherbee (Moultonborough); Mark Morrill (NHDOT); Mike Izard (LRPC); Joanne Coppinger (Petitioner); Kim Prause (Petitioner); Roger Hawk (Hawk Planning); Doug Greiner (g2+1); Ray Korber (KVPartners)
2. Purpose: To discuss and share available information and background on the Village sidewalk project.
3. C. Terenzini reviewed the project history, objectives and process. In summary, in accordance with Town Meeting, Town staff are to develop a plan for a sidewalk network in the Village area for presentation at the 2014 Town Meeting.
4. B. Woodruff:
 - a. Reviewed the base map including map development, limits of study area, basis of information and mapping features. The purpose was to familiarize participants with the base map as it will serve as the primary tool to develop the sidewalk network and communicate same to the larger community.
 - b. Reviewed the Town's Master Plan regarding objectives for developing sidewalks and pathways in Moultonborough. These documents represent the strategic goals previously established for sidewalks in the Town.
5. Joanne Coppinger and Kim Prause shared their viewpoints as petitioners regarding the development of a sidewalk network in the Village area. The petition was driven by safety concerns for children walking (cycling is not a primary concern) the Route 25 corridor between the Moultonborough elementary, middle and high school and the Town Library and Recreation Department buildings (Town complex). In addition, the petitioners believe there is a missed opportunity for developing the downtown area as a destination for Town residents and visitors who travel the Route 25 corridor; making the Village area more pedestrian friendly could achieve that.

6. S. Kinmond identified safety concerns between the schools and the Town complex as the critical issue. He supports a more pedestrian friendly area so long as the rural character can be maintained in the Village. He also stated that the north side of Route 25 is probably the preferred location for sidewalk based on how local residents (youth, employees of the local business) travel through the corridor.
7. M. Izard shared some background on the Route 25 Corridor Study, the Safe Roads To School Plan and the Regional Bikeway/Pedestrian Plan. Regarding the Route 25 Corridor Study, while the key findings cited intersections as the most problematic issue facing Moultonborough, the Study did address pedestrian issues in a cursory manner. In summary the recommendation was to leave pathway development to the respective communities. He believes the priority should be safe travel through the Village area between the schools and the Town complex.
8. R. Hawk shared the results of the design charrette completed in July 2012. In summary, key recommendations cited were:
 - a. The sidewalk network should be considered in the larger context of land use in the Village area. To ensure a vibrant downtown requires more business activity and medium density housing. He shared the recommendation and build-out scenarios as presented in the charrette.
 - b. There is a need to establish gateways at either end of the study area to identify to the traveling public that they are entering the Village area.
 - c. There is a need to slow traffic down to create safe crossings of Route 25. Possible solution is to reduce travel lanes to 10 (preferred) or 11 feet wide to slow traffic through the Village area. This will require support from the NHDOT.
 - d. Agrees that the sidewalks need to be done first but recommended they be completed with measures to reduce speed. He discussed several traffic calming measures (median islands, bump outs, landscape features, parallel parking, etc.).
 - e. Recommended extending sidewalks on both sides of the road. Consideration should also be given to extending a pathway or sidewalk from the Academy to the Bank of New Hampshire or Taylor property.
 - f. There is a need to develop a driveway management plan with sidewalk development.
 - g. The construction of the sidewalk network could be completed in phases.
9. L. Wetherbee stated that the level of enforcement in the Village area is at its “saturation point” and that additional enforcement to increase the safety of the traveling public will have marginal benefit and is not advisable. He stated that crosswalks can be dangerous (users think of it as a “force field of protection”) and that the sidewalk plan needs to come with measures to reduce the speed of vehicles traveling through the Village area. Also if sidewalks are to be located in more remote areas, provisions should be made to gain access by ATV for emergency response.
10. M. Morrill provided background on what the NHDOT review process will be for work proposed within the NHDOT right-of-way. He also shared some key considerations for the development of the sidewalk plan including: drainage; location of access drives; places for parking that are accessible; vegetation control; utilities; and winter maintenance. In general he liked the concepts that were developed from the design charrette of July 2012. He could support an 11 foot travel lane so long as

winter maintenance issues are address. B Woodruff also referenced buses as requiring 11 feet as they are 10.5 feet wide mirror to mirror. M. Morrill suggested contacted the Town of Meredith (John Edgar; Mike Faller) regarding their experience with a temporary median and stamped pavement and the Town of Holderness regarding the sidewalk installed in the NHDOT right-of-way.

11. D. Bengsten stated that his primary concern is narrowing the corridor as this could be an issue for Fire Department response. In addition, he cited access to the sidewalk for emergency response as a critical element in the sidewalk development plan.
12. R. Korber sought clarifications on the key points raised by the participants and developed the following as a first pass on criteria/objectives/priorities that might be helpful in defining the project approach going forward:
 - a. Keep kids safe.
 - b. Be practical and cost effective.
 - c. Develop a program that can get Town Meeting support.
 - d. Maintain the rural character of the Village area.
 - e. Ensure emergency response is adequate.
 - f. Phase the program; set priorities for the build-out.
 - g. Consider regional connectivity, but only where it is practical to do so.

Site Visit: B. Woodruff, R. Hawk, D. Greiner and R. Korber attended the site walk to assess the feasibility of alternative routes and to discuss existing site constraints, challenges and opportunities for a sidewalk network within the Village study area.

Plan Revisions: A revised roll plan of the Village Sidewalk study area showing physical features (steep slopes, structures, utilities) not previously shown on the base map that are considerations in the design of the sidewalk network. The physical features are annotated based on field reconnaissance completed by KVPartners and g2+1 personnel on June 11, 2013 (with Roger Hawk and Bruce Woodruff) and June 18, 2013.

1. Based on the field reconnaissance completed to date, the observed formal and informal walking patterns are along both sides of the Route 25 corridor and along pathways created in cross country areas between the Moultonborough Academy and the Bank of New Hampshire property (refer to base plan).
2. Based on the data compiled to date, and assuming the observed formal and informal walking patterns meet Town requirements, it is recommended that the Town complete field survey when the sidewalk alignments are more clearly defined. It is our opinion that the information provided on the base plan is sufficient for developing concepts of preferred alignments and sidewalk types and for phasing the construction of the sidewalk network within the observed formal and informal walking patterns.



MEMORANDUM

To: C. Terenzini, Moultonborough

From: R. Korber, KVPartners

Date: August 14, 2013

**Re: Task 3 Report
Village Sidewalk Study**

The following are notes from the Design Charrette held at the Public Safety Building on August 7, 2013 for the subject project. The notes are summarized by individual attendee and represent the key talking and discussion points.

1. Attendees: See attached sign-in sheet.
2. Purpose: To obtain information from attendees regarding preferences for sidewalk alignments.
3. C. Terenzini:
 - a. Reviewed the project history, objectives and process. In summary, in accordance with Town Meeting, Town staff are to develop a plan for a sidewalk network in the Village area for presentation at the 2014 Town Meeting. Key items of work completed to date: selection of study area; establishment of criteria and definitions (“givens”); data collection and review; and development of base plans.
 - b. Reviewed comments on the village sidewalk project received to date.
4. B. Woodruff:
 - a. Reviewed preliminary results of survey completed to date by Town staff for the Planning Board consideration on village sidewalks. Survey is scheduled to close August 26th.
 - b. Reviewed the Town's Master Plan regarding objectives for developing sidewalks and pathways in Moultonborough. These documents represent the strategic goals previously established for sidewalks in the Town.
5. R. Korber and D. Greiner (g2+1) facilitated the comment period. The following summarizes comments articulated by attendees. Refer to the attached Exhibit 1 for location of proposed sidewalk/pathway alignment and crosswalk location routes identified by the attendees.
 - a. Keep children safe. Connect the schools to the Town Library and Recreation Department buildings. Children from the Central School use the Route 25 corridor almost exclusively. Children from the Academy use the trail from the school through the Bank of NH property. Children cross Route 25 everywhere and anywhere. Put sidewalks where the children are and are likely to migrate to and have a defined crossing. Suggested crosswalk locations included: Route

25 drive into Central School; Blake Rd intersection; Bank of NH property; Murphy's Store; Route 109 intersection.

- b. Address business owner concerns. Major concerns cited: maintain parking in front of Arties; maintain sign at Country Store; ensure access and deliveries to Lacewood Group.
- c. Alignments to consider: within the Route 25 corridor (both sides); north and south corridor through existing wooded areas behind lots that front Route 25; and informal walking paths that currently exist from the Academy through the Bank of NH property.
- d. The Village is disjointed and there is a need to make the "downtown area" more pedestrian friendly and "walkable" between businesses. This is seen as a positive for bringing customers to the "downtown area".
- e. Complete sidewalks in such a way so as not to constrain future development of the Village area.
- f. Provide connection to the Public Safety Building.
- g. Ensure roadway is wide enough so as not to interfere with emergency response.
- h. Be practical and cost effective.
- i. Develop a program that can get Town Meeting support.
- j. Phase the construction; set priorities for a multi-year build-out.
- k. A suggestion was made to survey business owners regarding the sidewalk alignments.
- l. There was concern expressed regarding how the sidewalk project ties into the Planning Board efforts with respect to the Town Master Plan and Village Charrette completed in July 2012. Coordination with the Planning Board is seen as important to the process. The study also needs to be completed in accordance with Town Meeting instructions.

Village Sidewalk Workshop

08/07/13

Paul Pustinen

Linda Penttinen

~~Joanne Trumborn~~

Nancy Wright

Jean Beaulieu

~~Jan York~~

STEVEN MASQUINE

Jim Leiterman

ROSS WAKEFIELD

Jen Correia

Bob Goffredo

Jo Taylor

Jon Hadden

Jerry Coffey

Cindy Stanton

Kim Prause

Andy Coppinger

Joanne Coppinger

MICHEL PRAUSE

JOHN LUDER

Cindy Dixon

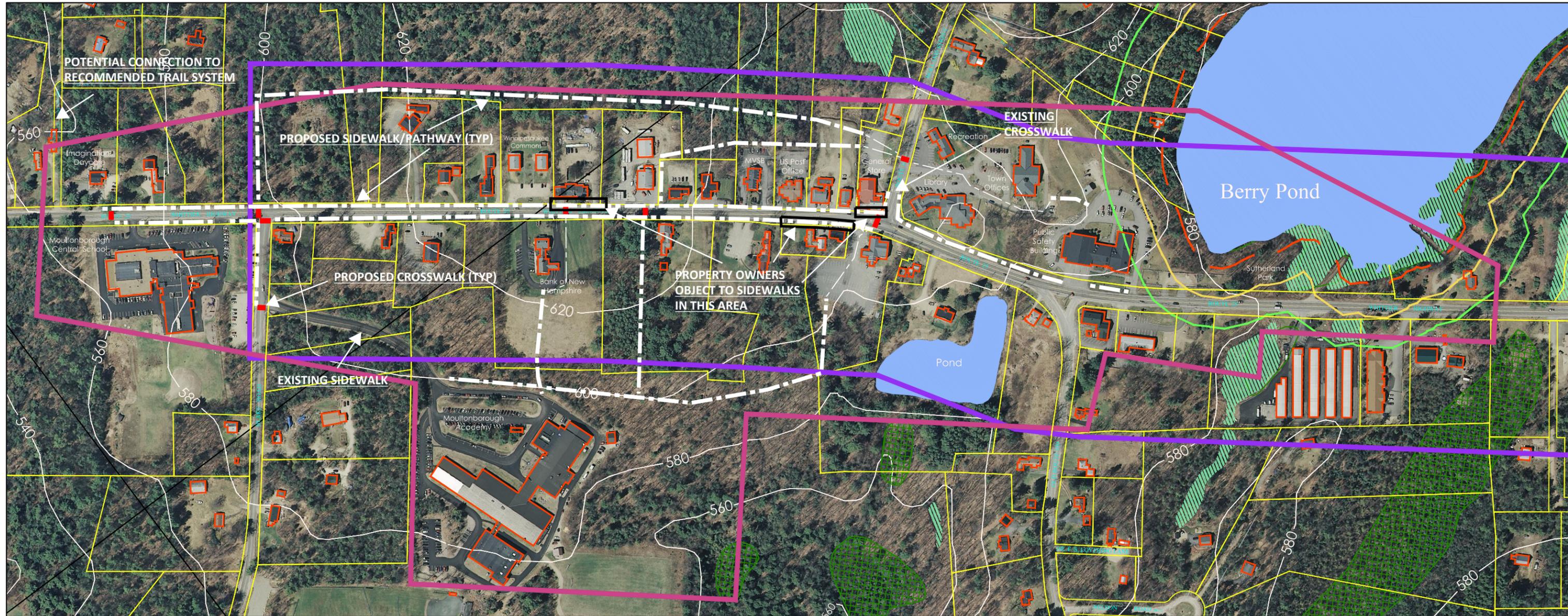
Joanne R Cummings

Tom Howard

Douglas Greiner (gz+1)

Ray Kober (KV Partners)

EXHIBIT 1
SIDEWALK/PATHWAY - PROPOSED ROUTES



Scale: 1" = 320'

- Legend**
- Contours
 - Parcel Lines
 - ▭ Buildings
 - Drainage Structures
 - Drainage Pipes
 - ▨ Wetlands
 - ▨ Village Zone C Boundary
 - ▨ Limits of Study Area
 - Comprehensive Shoreland Protection Area**
 - 50' Waterfront Buffer/Primary Building Setback
 - 150' Natural Woodland Buffer
 - 250' Protected Shoreland
 - NWI Wetlands**
 - ▨ Lacustrine
 - ▨ Palustrine
 - ▨ Riverine

Village Sidewalk Study

Moultonborough New Hampshire
 2013

NOTES

THIS MAP IS BASED ON THE TOWN OF MOULTONBOROUGH, NH PROPERTY MAPS PREPARED IN 2009 BY CARTOGRAPHIC ASSOCIATES, INC. IT IS INTENDED FOR REFERENCE AND PLANNING PURPOSES ONLY.

PROPERTY LINES CURRENT TO APRIL 1, 2012

Prepared by:
KVPartners
 CONSULTING ENGINEERS

g2+1 LLC
 Landscape Architecture Site Planning Graphics
 70 New Road Salisbury New Hampshire 05588
 pvt 603.448.6434 www.g2plus.com



MEMORANDUM

To: C. Terenzini, Moultonborough
From: R. Korber, KVPartners
Date: September 17, 2013
Re: Task 5 Report
Village Sidewalk Study

The following are notes from the Public Meeting held at the Public Safety Building on September 4, 2013 for the subject project. The notes are summarized by individual attendee and represent the key talking and discussion points.

1. Attendees: See attached sign-in sheet.
2. Purpose: To obtain information from attendees regarding preferences for sidewalk alignments.
3. C. Terenzini:
 - a. Reviewed the project history, objectives and process. In summary, in accordance with Town Meeting, Town staff are to develop a plan for a sidewalk network in the Village area for presentation at the 2014 Town Meeting. Key items of work completed to date: selection of study area; establishment of criteria and definitions (“givens”); data collection and review; and development of base plans.
 - b. Reviewed the results from a survey taken of area businesses.
 - c. Reviewed the stated purpose of the meeting which is to finalize a concept from all the alignments proposed at the August 14, 2013 Design Charrette.
4. T. Howard:
 - a. Reviewed the current status of proposals to buildout the Village Area. This is in reference to the July 2012 Design Charrette completed by the Town. In summary, the July 2012 work will be taken into consideration as the Town revised its Master Plan. That effort is expected to take years to complete and is well beyond the timeline proposed for the Village Sidewalk Study.
5. R. Korber (KVPartners) and D. Greiner (g2+1) facilitated the comment period. In summary, the purpose was to drive the discussion to define consensus around a sidewalk network concept for further development. The following summarizes the results of those discussions. Refer to the attached plan for the revised locations of proposed sidewalk/pathway alignments and crosswalks identified by the attendees.

- a. Eliminate cross country routes to the north and the south (beyond the Moultonborough Academy) of Route 25.
- b. Make the cross country routes across the Bank of New Hampshire property and the Taylor property alternates of one another.
- c. Eliminate the sidewalk on Blake Road.
- d. Eliminate the connections between the Town Offices and Public Safety Buildings. This includes the connector between the rear of the respective buildings and the sidewalk alignment along Route 25 in front of the Town Library. This was one of the comments from the previous meeting (refer to Technical Memorandum #4).
- e. Make the route that runs behind the Grange, Meredith Village Savings Bank, Post Office and Old Country Store as an alternative to the route that runs in front of these businesses.
- f. There was discussion on crosswalk locations in the Route 25 corridor. Consensus could not be reached. KVPartners advised that the Town approach NHDOT to get their input as they will need to approve any locations proposed by the Town. This may assist in finalizing the development of final concept.
- g. It was agreed to keep the remaining sidewalk alignments as proposed with the intent of selecting a single route between the Central School and Town Complex.
- h. There was discussion regarding the previously stated goals and objectives (refer to Technical Memorandum #4). It was agreed that life cycle cost considerations and maintaining the character of the Village area be added to the list of goals and objectives.

7/4/13 SIDEWALK MTG
SIGN-IN SHEET

TOM HOWARD

PETER JENSEN

JEAN BEADLE

Joanne R. Cummings

CA HOER

Marylin Wright

Pasha Marlowe

Gindy Stanton

Ken Hill

Janice O'Sonnel

Suzie Ballantyne

Alan Ballantyne

Charbeth MORIN

Shannon Fairchild

Tom Randell

Cherie Mackay

Jennifer Covert

Joanne Copping

Andy Copping

Kia Prusse

Jeremiah T Bean

Cheryl Bean

Sophy Boyden

Justin

PAUL PENTONIERI

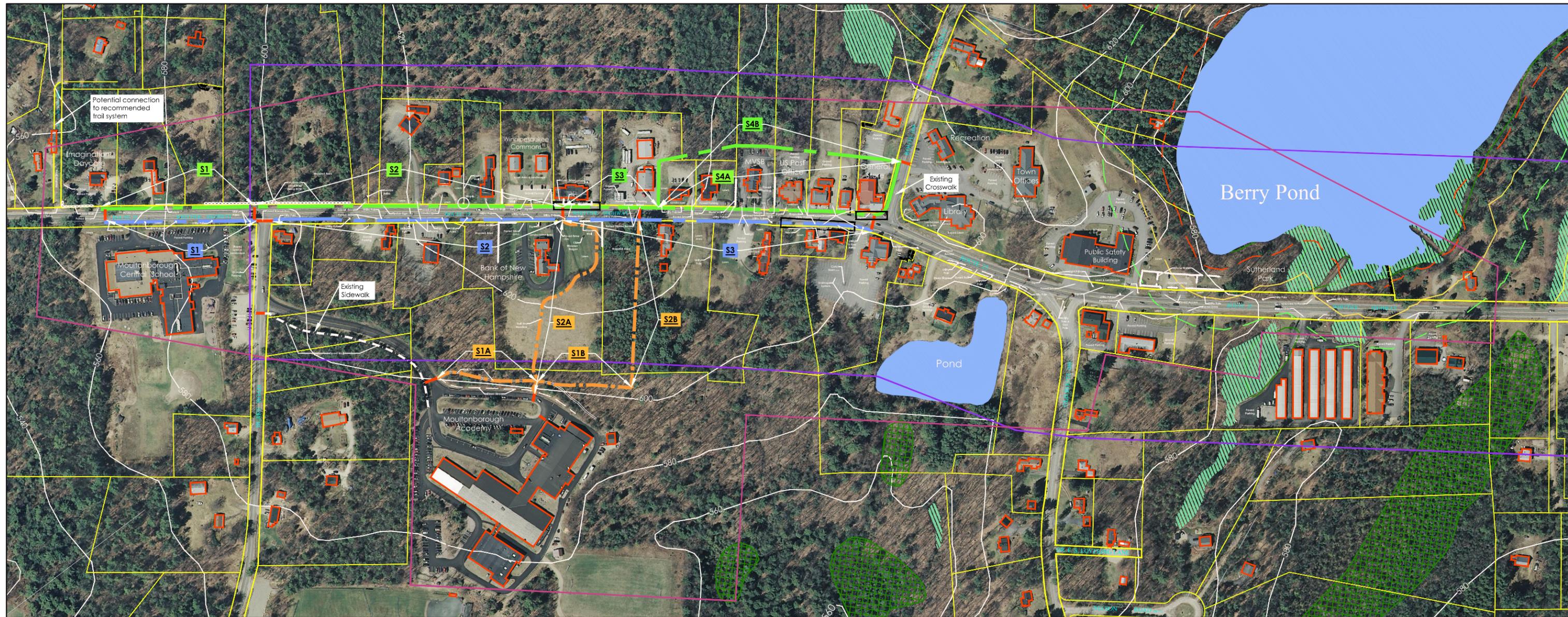
Linda Pentonieri

Marie A. Pearson

Tammy Reynolds

Sarah Reed

FIGURE 1: ALTERNATIVE SIDEWALK ALIGNMENTS



Legend

- Contours
- Parcel Lines
- Buildings
- Drainage Structures
- Drainage Pipes
- Wetlands
- Village Zone C Boundary
- Limits of Study Area

Comprehensive Shoreland Protection Area

- 50' Waterfront Buffer/Primary Building Setback
- 150' Natural Woodland Buffer
- 250' Protected Shoreland

NWI Wetlands

- Locustrine
- Palustrine
- Riverine

Proposed Sidewalk Routes

- Route 1
- Route 2
- Route 3
- Route/Segment Designations (S1-S4)
- Crosswalks
- Property owners object to sidewalks in these areas

Scale: 1" = 150'

Proposed Sidewalk Routes & Crosswalks

Moultonborough, New Hampshire
2012-2013

Revisions:

Plan Labels	7-5-13
Conceptual Walk Layout	8-22-13
Conceptual Walk Layout REV	8-30-13
Conceptual Walk Layout REV 2	9-5-13
Conceptual Walk Layout REV 3	9-12-13
Conceptual Walk Layout REV 4	9-17-13
Conceptual Walk Layout REV 5	9-24-13
Conceptual Walk Layout REV 6	10-2-13

NOTES

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PROPERTY LINES CURRENT TO APRIL 1, 2012

Prepared by:
KV Partners
CONSULTING ENGINEERS

g2⁴¹ LLC
Landscape Architecture Site Planning Graphics
70 New Road, Safford, New Hampshire 03248
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MEMORANDUM

To: C. Terenzini, Moultonborough

From: R. Korber, KVPartners

Date: October 16, 2013

**Re: Task 6 Report
Village Sidewalk Study**

The following are notes from the Public Meeting held at the Public Safety Building on October 2, 2013 for the subject project. The notes are summarized and represent the key talking and discussion points.

1. Attendees: See attached sign-in sheet.
2. Purpose: To present recommendations for a sidewalk network.
3. C. Terenzini reviewed the project history, objectives and process. In summary, in accordance with Town Meeting, Town staff are to develop a plan for a sidewalk network in the Village area for presentation at the 2014 Town Meeting. Key items of work completed to date: selection of study area; establishment of criteria and definitions (“givens”); data collection and review; development of base plans; and development of alternative alignments as per the previous meeting.
4. R. Korber (KVPartners) made a presentation on the recommended sidewalk network. Key points included:
 - a. Reviewed the results of previous meetings that culminated in a set of alternative sidewalk alignments that meeting participants thought feasible for further consideration. These alignments are shown in Figure 1. Sidewalk types are shown in Figure 4.
 - b. Discussed recommendations for a proposed sidewalk network within the study area defined by the Town. The recommendations were based on input received from the public participation process and KVPartner’s understanding of the consensus opinion expressed by the community at large, coordination and input received from NHDOT and standard engineering practice. It was stressed that the recommendations are conceptual and should be used for planning purposes only. A more detail assessment must be completed to fully understand project requirements and impacts. In summary, the recommendations are as follows:
 - KVPartners recommends that the Town take a long term view when considering a sidewalk network. To that end KVPartners recommends that the Town plan for a buildout of sidewalks on both sides (eastbound and westbound) of NH Route 25 from the Central School to the Town Complex (Library, Recreation Department, Town Hall) located at the intersection with NH Route 109. Refer to Figure 2 for sidewalk alignments for the full buildout scenario.

- KVPartners recommends that the Town phase the buildout of the sidewalk network over time. Completing the sidewalk in phases addresses the cost concerns raised during the public participation process and gives the Town an opportunity to achieve objectives and observe the suitability and functionality of a first phase before committing to a more comprehensive network. As a first phase, KVPartners recommends that the Town consider constructing sidewalks on the north side and south side of NH Route 25 as shown on Figure 3.
- c. Draft cost estimates were presented for the recommended sidewalk networks.
5. C. Terenzini made a presentation on the operation and maintenance costs. In summary, costs will include:
- \$110,000 – \$130,000 capital equipment expense (sidewalk plow).
 - \$10,000 annual set aside for equipment replacement.
 - \$4,000 per mile for annual maintenance.
6. There was much discussion on alternative alignments and the need for sidewalks. The following is a summary of comments:
- Rather than constructing sidewalks, it was suggested that the Town purchase a bus or contract with a bus company to transport children from the schools to the Recreation Department Building and the Town Library.
 - Children are not the only people walking in the Route 25 corridor. One person cited that as many as 50 to 75 pedestrians walk along Route 25 in front of her office on a daily basis.
 - There was discussion regarding whether or not local business owners affected by the sidewalk construction are supportive of the project. C. Terenzini relayed the results of the Town's survey taken several weeks ago where the majority of respondents were generally in favor of the project. A representative from the Meredith Village Savings Bank in attendance expressed support for the project.
 - There is discussion regarding the impact of a sidewalk to the Old Country Store and the sign located outside the store. It was expressed that impacts to property owners would have to be vetted and discussed directly with the property owners to ensure their concerns are addressed.
 - There was discussion regarding placement of the sidewalk in front of the Lacewood Group building and the potential impacts for access to the building by delivery vehicles. Again it was expressed that impacts to property owners would have to be vetted and discussed directly with the property owners to ensure their concerns are addressed.
 - There was discussion on the type of crosswalk that would be employed. No decision has been made on the type of crosswalk or the final locations. That can be addressed in more detail during final design development.
 - There was discussion on how many people would actually use the sidewalks once constructed. A suggestion was made to complete a survey to confirm the use of the sidewalks prior to project implementation.

- There was discussion on the cost of sidewalk maintenance. It was stated that in accordance with state law, the Town would be responsible for the construction and maintenance of the sidewalk even if it is located in the NHDOT right-of-way.
- There was discussion on the rationale of locating the sidewalk in front of the Old Country Store and Meredith Village Savings Bank as opposed to the rear of those businesses. R. Korber reviewed some of the rationale for locating the sidewalk in front of the businesses including: use of public right-of-way versus need to acquire property from eight separate owners; better access and availability to potential users; better access for emergency response personnel; more secure (i.e. visible) location; need for footbridge for the cross country route; cross country route requires clearing of wooded areas.
- There was discussion on the use of porous pavement as a surface treatment in lieu of reconstructing the closed drainage. In general porous pavement is more expensive than traditional pavement surfaces and its use as an alternative to the existing drainage system would not be applicable. Surface type can be reviewed during final design development.
- There was discussion on next steps for implementation of a sidewalk project. In summary, the current process is to submit a report at the 2014 Town Meeting which will be accepted or rejected. Beyond that no further action is required or contemplated. Further action could come by citizen petition or issuance of warrant article to continue the project.

FIGURE 1: ALTERNATIVE SIDEWALK ALIGNMENTS



Legend

- Contours
- Parcel Lines
- Buildings
- Drainage Structures
- Drainage Pipes
- Wetlands
- Village Zone C Boundary
- Limits of Study Area

Comprehensive Shoreland Protection Area

- 50' Waterfront Buffer/Primary Building Setback
- 150' Natural Woodland Buffer
- 250' Protected Shoreland

NWI Wetlands

- Locustrine
- Palustrine
- Riverine

Proposed Sidewalk Routes

- Route 1
- Route 2
- Route 3
- Route/Segment Designations
- Crosswalks
- Property owners object to sidewalks in these areas

Scale: 1" = 150'

Proposed Sidewalk Routes & Crosswalks

Moultonborough, New Hampshire
2012-2013

Revisions:

Plan Labels	7-5-13
Conceptual Walk Layout	8-22-13
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PROPERTY LINES CURRENT TO APRIL 1, 2012

Prepared by:

KV Partners
CONSULTING ENGINEERS

g2⁴¹ LLC
Landscape Architecture Site Planning Graphics

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FIGURE 2: SIDEWALK NETWORK BUILDOUT



Legend

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Comprehensive Shoreland Protection Area

- 50' Waterfront Buffer/Primary Building Setback
- 150' Natural Woodland Buffer
- 250' Protected Shoreland

NWI Wetlands

- Locustrine
- Palustrine
- Riverine

Proposed Sidewalk Routes

- Route 1
- Route 2
- Route 3
- Route/Segment Designations (S1, S1A, S1-CS, S2, S2A, S3, S4A)
- Crosswalks
- Property owners object to sidewalks in these areas

Scale: 1" = 150'

Proposed Sidewalk Routes & Crosswalks

Moultonborough, New Hampshire
2012-2013

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FIGURE 3: SIDEWALK NETWORK PHASE 1



Scale: 1" = 150'

Legend

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- Limits of Study Area

Comprehensive Shoreland Protection Area

- 50' Waterfront Buffer/Primary Building Setback
- 150' Natural Woodland Buffer
- 250' Protected Shoreland

NWI Wetlands

- Locustrine
- Palustrine
- Riverine

Proposed Sidewalk Routes

- Route 1
- Route 2
- Route 3
- Route/Segment Designations
- Crosswalks
- Property owners object to sidewalks in these areas

Proposed Sidewalk Routes & Crosswalks

Moultonborough, New Hampshire
2012-2013

Revisions:

Plan Labels	7-5-13
Conceptual Walk Layout	8-22-13
Conceptual Walk Layout REV 1	8-30-13
Conceptual Walk Layout REV 2	9-5-13
Conceptual Walk Layout REV 3	9-12-13
Conceptual Walk Layout REV 4	9-17-13
Conceptual Walk Layout REV 5	9-24-13
Conceptual Walk Layout REV 6	10-5-13

NOTES

THIS MAP IS BASED ON THE TOWN OF MOULTONBOROUGH, NH PROPERTY MAPS PREPARED IN 2009 BY CARTOGRAPHIC ASSOCIATES, INC. IT IS INTENDED FOR REFERENCE AND PLANNING PURPOSES ONLY.

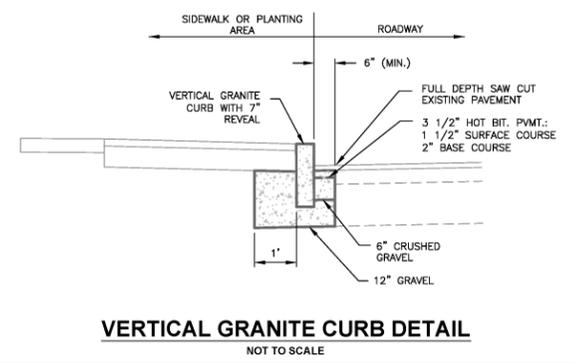
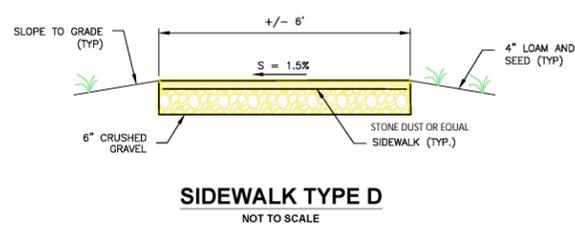
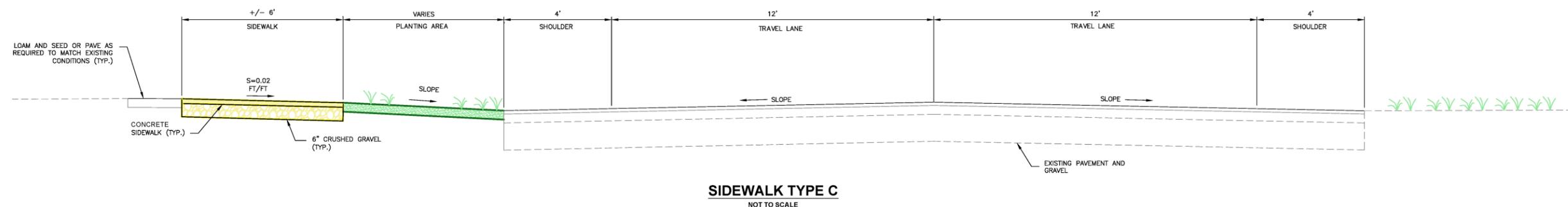
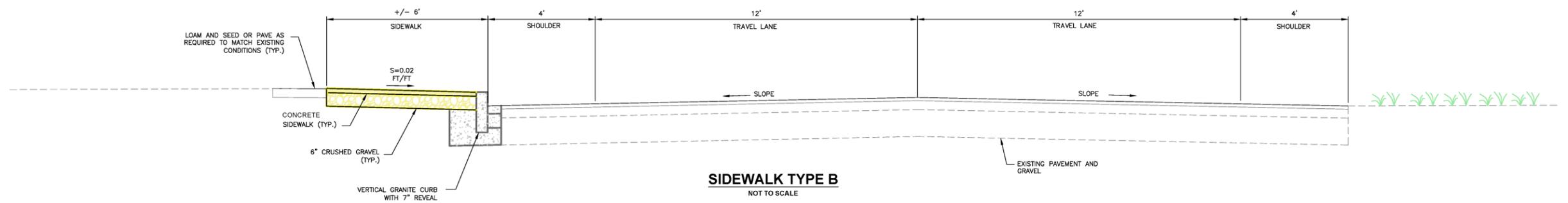
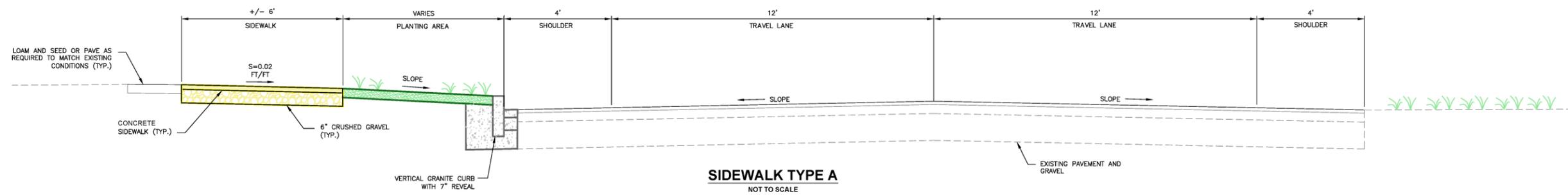
PROPERTY LINES CURRENT TO APRIL 1, 2012

Prepared by:

KV Partners
CONSULTING ENGINEERS

g2⁴¹ LLC
Landscape Architecture Site Planning Graphics

70 New Road, Salisbury New Hampshire 03248
pff 603 648 4454 www.g241.com



REVISIONS			
NUMBER	DATE	BY	DESCRIPTION

KV Partners
CONSULTING ENGINEERS

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PO BOX 432
NEW BOSTON, NH 03070
TEL: (603) 413-6550

www.kvpllc.com

DATE:	08/30/13
SCALE:	AS NOTED
DESIGNED BY:	RHK
DRAWN BY:	NMT
CHECKED BY:	RHK
APPROVED BY:	RHK

VILLAGE SIDEWALK STUDY
MOULTONBOROUGH, NEW HAMPSHIRE

TYPICAL SIDEWALK DETAILS

FIGURE
4

SHEET 1 OF 1

Slewalk 10/02

Name

Mailing Address

Jim Zelek	PO Box 766
LINDA ZELEK	Moultonboro
Jean Beadle	P.O. Box 582, Meredith (Lucas)
Peter Jensen	↓
Al Hoch	PO Box 132
Austin & Paula Morris	PO Box 154
Jottayden Old Country Store	PO Box 261
Jonathan Hayden	
Andy Coppinger	25 Hauser Estates Rd.
Kim Krause	Ill Wee Rd.
Alan Ballard	PO Box 17, Carter Harbor
Judy Ballard	same as above
Perry Morrison	PO Box 1003 Carter Harbor
Larry Cottle	961 Whittier Highway
Sandy Cottle	961 Whittier Highway
Bonnie Donahue	55 Sundorf St
Brian Wilks	41 LUCERNE ST
GP HEINRICH	GREENES BASIN
M. Mouse	Box 0 Moultonboro
Anonymous	Moultonboro
Linda Pinterieri	PO Box Moultonboro
Brenda Calandra	20 True Rd. LOT 100 Meredith, NH 03253



Office of Assessor
 Town of Moultonborough
 6 Holland Street - PO Box 139
 Moultonborough, NH 03254
 (603) 476-2347 * Fax (603) 476-5835
 e-mail: gkarp@moultonboroughnh.gov

MEMORANDUM

TO: Carter Terenzini

FROM: Gary Karp, Assessor

RE: Sidewalk Easement costs

DATE: September 25, 2013

Carter,

The estimated cost for easements of the following routes and segments has been developed based on 2013 Moultonborough land assessment factors used to develop the estimated market value of the area necessary to develop either a 6' sidewalk or a 20' sidewalk as determined in the copy of the Village Sidewalk Study that I received.

It does not include market values developed from appraisals and is based on an estimated area of each property that may be necessary for the sidewalk since no survey and engineering has been completed for the study.

The cost is based on the assumption that the easement cost is 50% of the estimated market value of the area.

Route #	Segment #	\$/SF
1	1	\$1.16
1	2	\$0.89
1	3	\$1.42
1	4	\$1.52
1	4A	\$1.83
2	1	N/A School
2	2	\$1.18
2	3	\$1.01
3		\$1.22
3A		\$0.52

MAP	LOT	ADDRESS #	STREET NAME	OWNER NAME	LENGTH	WIDTH	SQ FT	ESTIMATED VALUE	ROUTE	Cost/SF @100%	Cost/SF @50%
66	17	903	Whittier	Kids R US	50	6	300	729.3	R1S1		
66	18	913	Whittier	Juhasz	233.03	6	1398.18	3089.98	R1S1		
66	19	915	Whittier	Lacey	126.88	6	761.28	1852.13	R1S1		
52	18	929	Whittier	Kraft	90	6	540	1312.74	R1S1		
							2999.46	6984.15		\$2.33	\$1.16
52	18	929	Whittier	Kraft	352	6	2112	5134.27	R1S2		
52	19	937	Whittier	Randall	49	6	294	382.2	R1S2		
52	20	949	Whittier	Henley Holding	148.47	6	890.82	2165.58	R1S2		
52	23	951	Whittier	Historical Society	137.4	6	824.4	3545.74	R1S2		
52	24	953	Whittier	Town of Moultonborough	128.05	6	768.3	799.03	R1S2		
52	25	959	Whittier	Vercauteren	177	6	1062	1104.48	R1S2		
52	26	961	Whittier	Cotter	157	6	942	979.68	R1S2		
							3596.7	6428.93		\$1.79	\$0.89
52	27	967-969	Whittier	Erris 2 LLC	197.2	6	1183.2	2876.36	R1S3		
52	28	973	Whittier	Town of Moultonborough	128.25	6	769.5	2956.42	R1S3		
52	29	977	Whittier	Cross Realty	130	6	780	3354.78	R1S3		
52	30	991	Whittier	MVSB	128	6	768	1867.01	R1S3		
52	31	995	Whittier	ZJBV Prop	113.8	6	682.8	1659.89	R1S3		
52	32	1003	Whittier	Porter	98.5	6	591	1436.72	R1S3		
52	33	1009	Whittier	Porter	67	6	402	1489.81	R1S3		
52	34	1011	Whittier	Moultonboro Country Store	87.63	6	525.78	1662.52	R1S3		
							5702.28	17303.51		\$3.03	\$1.52
52	34	1011	Whittier	Moultonboro Country Store	160	6	960	3035.52	R1S4		
							7590.06	23491.36		\$3.10	\$1.55
52	34	1011	Whittier	Moultonboro Country Store	122	20	2440	7715.28	R1S4A		
52	33	1009	Whittier	Porter	60	20	1200	4447.2	R1S4A		
52	32	1003	Whittier	Porter	102	20	2040	4959.24	R1S4A		
52	31	995	Whittier	ZJBV Prop	116	20	2320	5639.92	R1S4A		
52	30	991	Whittier	MVSB	125	20	2500	6077.5	R1S4A		
52	29	977	Whittier	Cross Realty	130	20	2600	11182.6	R1S4A		
52	29	977	Whittier	Cross Realty	163	10	1630	7010.63	R1S4A		
52	28	973	Whittier	Town of Moultonborough	163	10	1630	6262.46	R1S4A		
							16360	53294.83		\$3.26	\$1.63
				Moultonborough School					R2S1		
66	1	3	Blake	Meredith	146.38	6	878.28	1536.99	R2S2		
65	17	950	Whittier	Person	299.2	6	1795.2	4516.72	R2S2		
52	16	954	Whittier	Landwold holdings	185.69	6	1114.14	2708.47	R2S2		
52	15	960	Whittier	Bank of NH	501	6	3006	7307.59	R2S2		
							6793.62	16069.77		\$2.37	\$1.18
52	14	970	Whittier	Taylor	373.72	6	2242.32	2332.01	R2S3		
52	13	984	Whittier	Huggins hospital	236.6	6	1419.6	3451.05	R2S3		
52	12	1008	Whittier	Arties	170.3	6	1021.8	3626.83	R2S3		

Address	City	State	Zip	Lat	Long	Area	Value	Assessed Value	Assessed Rate	Market Value
52 11 Whittier	Methodist Church	VT	70 6	420	928.2	R2S3	10338.09	\$2.03	\$1.01	
52 15 960 Whittier	Bank of NH	VT	500 20	10000	24310	R3		\$2.43	\$1.22	
52 14 970 Whittier	Taylor	VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 18 528 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 19 529 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 20 530 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 21 531 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 22 532 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 23 533 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 24 534 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 25 535 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 26 536 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 27 537 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 28 538 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 29 539 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 30 540 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 31 541 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 32 542 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 33 543 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 34 544 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 35 545 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 36 546 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 37 547 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 38 548 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 39 549 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 40 550 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 41 551 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 42 552 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 43 553 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 44 554 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 45 555 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 46 556 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 47 557 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 48 558 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 49 559 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	
52 50 560 Whittier		VT	516 20	10320	10732.8	R3A		\$1.04	\$0.52	

Received by DRC JUN 11 2009

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

In Case No. 2009-0012, William Charles Tinker v. Commissioner, NH Department of Transportation & a., the court on June 10, 2009, issued the following order:

Having considered the briefs of the parties and the *amicus curiae*, and the appellate record, we conclude that oral argument is unnecessary for the disposition of this appeal. See *Sup. Ct. R.* 18(1). Defendant Town of Tilton (town) appeals an order of the superior court, following our remand in Case Nos. 2007-0618 and 2007-0772 (*Tinker I*), granting a motion of the plaintiff, William Charles Tinker, to remove the case from the trial docket and for a final order. The town argues that the trial court erred by concluding that it is required under the Americans with Disabilities Act (ADA), see 42 U.S.C. §§ 12101 *et seq.* (2000), to remove snow, ice and debris from the sidewalk at issue, and by failing to assess the reasonableness of the town's snow removal program. Finding no error, we affirm.

At the outset, we note the limited nature of the trial court's ruling. The trial court did not, as the town contends, "promulgat[e] a rule that all post-1992 sidewalks must be kept clear of snow, ice and debris at all times." Rather, the plaintiff's motion, which the trial court granted for the reasons offered by the plaintiff in support of it, requested only a declaration "that the town of Tilton must maintain the subject sidewalk to keep it clear of snow, ice and debris." (Emphasis added.) Thus, we construe the trial court's order as declaring only that the town has an obligation under the ADA to keep the sidewalk that is at issue in the present dispute clear of snow, ice and debris.

Likewise, we note the limited nature of the issues that are properly before us. First, we observe that the plaintiff, in his motion and reply memorandum, asserted that the town waived its argument in *Tinker I* that the high cost of plowing the sidewalk poses an unreasonable burden for purposes of 28 C.F.R. § 35.150(a)(3) (2008). Inasmuch as the trial court granted the motion for the reasons offered by the plaintiff in support of it, and because the town does not challenge the plaintiff's assertion that it waived the unreasonable burden argument, we conclude that the town has waived any argument that the cost of removing snow, ice and debris from the sidewalk poses an undue financial burden. Cf. *Koor Communication v. City of Lebanon*, 148 N.H. 618, 624 (2002) (where trial court provides alternative grounds for its ruling, and appealing party challenges one, but not all, of the grounds on appeal, we uphold the trial court's decision without addressing the merits of the parties' arguments).

Second, the town “agree[s] that the sidewalk at issue is a ‘facility’ for ADA purposes,” and characterizes its position as being “that while 28 C.F.R. § 35.133, which governs maintenance, requires that the sidewalk be kept in good repair, it is silent as to snow removal requirements.” Because the town agrees that 28 C.F.R. § 35.133 imposes maintenance obligations upon it relative to the sidewalk at issue in this case, it necessarily concedes that the sidewalk constitutes a “featur[e] of [a] facilit[y] . . . that [is] required to be readily accessible to and usable by persons with disabilities by the [ADA],” 28 C.F.R. § 35.133(a) (2008), and disputes only that the scope of its obligations under this regulation includes snow removal.

With these limitations in mind, we address the arguments raised by the town in its brief. The town first argues that because its closure of the sidewalk impacts all citizens equally, the policy is nondiscriminatory and does not violate the ADA. This argument is foreclosed by our decision in Tinker I.

In Tinker I, the trial court granted the town’s motion to dismiss on mootness grounds, reasoning that because the town’s decision to close the sidewalk impacted individuals with disabilities and without disabilities alike, the plaintiff was not “isolated” for purposes of the ADA, and that the federal regulations implementing the ADA did not preclude the seasonal closure of the sidewalk. While we agreed with the town that it was premature to consider whether seasonal closure of the sidewalk constituted a *per se* violation of the ADA, we concluded that the trial court had erred by presuming that seasonal closure of the sidewalk complied with the ADA. Necessarily, the trial court’s error included its reasoning that the closure did not have a disparate impact upon disabled persons. Accordingly, the town cannot now maintain that its “seasonal closure of the sidewalk affects all persons equally, and thus is reasonable and not discriminatory.” See Merrimack Valley Wood Prods. v. Near, 152 N.H. 192, 201-02 (2005) (questions decided by this court on appeal are binding in later stages of the litigation).

We next address the town’s argument that the trial court erred by concluding that the town’s “maintenance” obligations under 28 C.F.R. § 35.133 include the removal of snow. For the reasons stated in our final order in Tinker I, we defer to the interpretations of the United States Department of Justice (DOJ) and the Federal Highway Administration (FHWA) relative to the scope of the town’s maintenance obligations under 28 C.F.R. § 35.133.

The FHWA, as we noted in Tinker I, has expressly construed a public entity’s maintenance obligations to include “insur[ing] that the day-to-day operations keep the path of travel on pedestrian facilities open and usable for persons with disabilities, throughout the year.” Clarification of FHWA’s Oversight Role in Accessibility (Sept. 12, 2006) (available at http://www.fhwa.dot.gov/civilrights/ada_memo_clarificationa.htm). This duty,

according to the FHWA, “includes snow and debris removal, maintenance of pedestrian traffic in work zones and correction of other disruptions.” *Id.* The FHWA has more recently confirmed its interpretation of 28 C.F.R. § 35.133 that a public agency’s maintenance obligation “includes reasonable snow removal efforts.” Snow removal on Sidewalks Constructed with Federal Funding (Aug. 27, 2008) (available at <http://www.fhwa.dot.gov/preservation/082708.cfm>).

We reject the town’s contention that these memoranda do not apply to it because they refer specifically to “public agencies,” and not “public entities.” Neither the ADA, nor the regulations implementing it, differentiate the maintenance obligations of a “public agency” from a “public entity.” Rather, both define a “public entity” to include any state or local government, as well as any “department, agency, special purpose district, or other instrumentality of a State or States or local government.” 42 U.S.C. § 12131(1) (2000); 28 C.F.R. § 35.104 (2008). Moreover, in its September 12, 2006 memorandum, the FHWA expressly states that by using the term “public agencies,” it means to refer to “all Federal, State, and local governmental agencies . . . that build and maintain highways and roadways, whether or not they use federal funds on a particular project.” Clarification of FHWA’s Oversight Role in Accessibility, *supra*. As the plaintiff contends, this necessarily would include any highway department to which the town has delegated its maintenance obligations relative to the sidewalk.

Nor do we agree with the town that the September 12, 2006 memorandum, because it does not expressly cite 28 C.F.R. § 35.133, was not intended to construe a public entity’s obligations under that regulation. Rather, the September 12, 2006 memorandum is expressly cited by the FHWA for the proposition that maintenance under 28 C.F.R. § 35.133 “includes reasonable snow removal efforts” from walkways. Questions and Answers About ADA/Section 504 (modified May 26, 2009) (available at http://www.fhwa.dot.gov/civilrights/ada_qa.htm) (answer to question 31).

The town identifies no interpretations of 28 C.F.R. § 35.133 by the DOJ that are inconsistent with the interpretation of it by the FHWA. To the contrary, the town includes in its appendix an opinion letter from the DOJ, concluding that to the extent a sidewalk is “required by the ADA to be accessible and [is] within the control of [a] city,” the city is required to maintain the accessibility of the sidewalk, and that an obstruction of the sidewalk by snow may become a violation of the ADA if it “persist[s] beyond a reasonable period of time.” We note that it does not appear that this document was submitted to the trial court for its consideration relative to the plaintiff’s motion for a final order or the town’s motion for reconsideration. See Sup. Ct. R. 13 (defining the record). Even if it had been submitted, however, it supports the interpretation of 28 C.F.R. § 35.133 by the FHWA.

We conclude that, to the extent a sidewalk is deemed part of a “facility” that is “required to be readily accessible to and usable by persons with disabilities” under the ADA, the maintenance obligations of the public entity having control over the sidewalk include the reasonable removal of snow, ice or debris rendering the sidewalk inaccessible. Because, as noted above, the town concedes that 28 C.F.R. § 35.133 applies to the sidewalk at issue, the trial court did not err by concluding that the town’s maintenance obligations relative to it include the removal of snow, ice and debris.

Finally, we address the town’s argument that the trial court erred by failing to assess the reasonableness of its snow removal program. While the FHWA has construed a public entity’s maintenance obligations to include only “reasonable snow removal efforts,” and has indicated that “local agencies may have policies that reasonably limit removal of snow from their own roadways and adjoining pedestrian facilities,” it is undisputed that the town removes no snow or ice from the subject sidewalk, no matter how inaccessible the sidewalk is rendered. The refusal to remove any snow is not a reasonable limit upon the removal of snow, but is an abdication by the town of its obligation altogether.

Affirmed.

Broderick, C.J., and Dalianis, Duggan and Hicks, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

Clerk, Belknap County Superior Court 05-E-0146
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Honorable Robert J. Lynn
James R. Fox, Esquire
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Marcia McCormack, Supreme Court
Michelle Caraway, Supreme Court
File

120 N.H. 788 (1980)

ANITA H. RUTKAUSKAS

v.

DONALD D. HODGINS.

No. 80-092.

Supreme Court of New Hampshire.

December 3, 1980.

789 *789 *Howard J. Nedved*, of Nashua, by brief and orally, for the plaintiff.

Wiggin & Nourie, of Manchester (*Gordon A. Rehnborg, Jr.*, orally), for the defendant.

PER CURIAM.

The principal issue in this case is whether the owner of a building which redirects precipitation, thereby causing an accumulation of snow and ice on a public sidewalk immediately adjacent to the building, is strictly liable to a tenant who is injured by falling on the snow-covered sidewalk. We hold that there is no such liability.

The defendant is the owner of an apartment building located at the corner of Temple and Commercial Streets in Nashua. The plaintiff was a tenant in said building. On February 11, 1976, the plaintiff left the building through a common doorway which led directly onto the public sidewalk on Temple Street. After taking a step or two on the sidewalk, she slipped and fell, injuring herself. She contends that an accumulation of ice and snow on the public sidewalk caused her fall. In her writ against the defendant, she alleged that the defendant negligently had failed to reasonably maintain the public sidewalk by permitting snow and ice to remain thereon.

790 The defendant moved for summary judgment under RSA 491:8-a (Supp. 1979) supported by the affidavits of himself and the manager of the building, which stated that the place where the plaintiff fell was on the public sidewalk, that neither he nor his employees had done any maintenance work on the sidewalk and that his building has a flat roof with no overhang and no drains on Temple Street which could cause any artificial accumulation of ice or snow on the sidewalk. The plaintiff filed an affidavit stating that the defendant's structure had directed at least some of the *790 accumulated snow and ice there and that one could not step from the door without coming upon the accumulation of snow and ice because there was no distance between the building and the sidewalk.

The plaintiff then filed an amended declaration alleging that the defendant's building acted as a snowfence which caused snow and rain to fall on the sidewalk after hitting the building, thereby causing an artificial accumulation. The defendant filed a motion to dismiss, which the Trial Court (*Contas, J.*) granted. The plaintiff appealed.

[1] It is well established that the owner of property adjoining a public sidewalk has no responsibility for maintaining the sidewalk. *Gossler v. Miller*, 107 N.H. 303, 304-05, 221 A.2d 249, 250-51 (1966); *State v. Jackman*, 69 N.H. 318, 328-29, 41 A. 347, 347 (1898); Annot., 18 A.L.R.3d 428, 432 (1968). Consequently, the defendant breached no duty owed to the plaintiff simply because he did not clear ice and snow from the sidewalk in question.

[2] A landowner has a duty to use reasonable care to prevent artificial conditions on his land from being unreasonably dangerous to users of an abutting sidewalk. *Lane v. Groetz*, 108 N.H. 173, 176, 230 A.2d 741, 744 (1967); *Morin v. Manchester Housing Authority*, 105 N.H. 138, 139, 195 A.2d 243, 244 (1963). Thus, a landlord may be liable when the negligent construction, design or maintenance of his building causes the icy condition on a public sidewalk. *Abell v. Company*, 95 N.H. 439, 440, 65 A.2d 870, 871 (1949); *Worthen v. Abbott*, 90 N.H. 164, 165, 5 A.2d 715, 716 (1939); Annot., 18 A.L.R.3d 428, 432 (1968). Absent such negligent construction, design or maintenance causing an artificial

accumulation of ice or snow, however, a landlord has no obligation with respect to the condition of the public sidewalk. This rule has not been modified in any way by Sargent v. Ross, 113 N.H. 388, 308 A.2d 528 (1973), which is limited to on-the-premises conditions. See *id.* at 399, 308 A.2d at 535; Lane v. Groetz, *supra* at 175-76, 230 A.2d at 744.

791 [3] Although whether there was an artificial accumulation of ice or snow in this case is a question of fact, there is no evidence that any negligent construction, design or maintenance of the building caused the accumulation. The mere existence of a building cannot give rise to liability on the part of the owner, even though the building may redirect precipitation and thereby cause an unnatural accumulation of snow or ice on the public sidewalk. See Mutzel v. *791 Northwestern Bell Tel. Co., 247 Iowa 14, 18, 72 N.W.2d 487, 489 (1955); Harrison v. Poli-New England Theatres, Inc., 304 Mass. 123, 125, 23 N.E.2d 99, 100 (1939); Gossler v. Miller, *supra* at 305, 221 A.2d at 251.

The plaintiff's allegations, therefore, state no cause of action, and the defendant was entitled to summary judgment as a matter of law. See Johns-Manville Sales Corp. v. Barton, 118 N.H. 195, 197, 385 A.2d 118, 119 (1978).

Appeal dismissed.

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107 N.H. 303 (1966)

MILDRED GOSSLER

v.

MAURICE I. MILLER.

No. 5448.

Supreme Court of New Hampshire.

Argued April 5, 1966.

Decided July 15, 1966.

King, Nixon & Christy (Mr. David L. Nixon orally), for the plaintiff.

Devine, Millimet, McDonough, Stahl & Branch (Mr. Joseph M. McDonough, III orally), for the defendant.

WHEELER, J.

This is an action in case to recover damages for personal injuries alleged to have been caused when the plaintiff fell due to a defect in the sidewalk adjacent to and within 3 to 4 feet of the entrance of defendant's business premises. It is a companion case to *Gossler v. Manchester*, 107 N. H. 310, involving the same plaintiffs and based upon the same facts.

The parties agreed to the following facts: " On or about October 15, 1959, at approximately 12:15 P.M., the plaintiff was walking in a generally southerly direction on a cement type public sidewalk on the west side of Chestnut Street, in Manchester, New *304 Hampshire. At a point on said sidewalk which is adjacent to, and within three to four feet of the entrance way of business premises located on the westerly side of Chestnut Street, which were then owned by the defendant, the plaintiff allegedly fell to the ground and sustained personal injuries due to an alleged defect in said sidewalk. Plaintiff does not claim that any affirmative act of the defendant or his agents caused the defect complained of but does allege that the defendant, prior to the date of plaintiff's injury, had actual notice of the sidewalk defect and had been requested to repair it, but had failed to take any action as a result of said notice and request. The defendant was the owner and in control of the premises adjacent to said sidewalk, and, as an owner abutting upon a public highway, was the owner of a reversionary interest in the sidewalk area where the injury was sustained, subject to a right of way in favor of the general public.

"The parties agree, however, that for purposes of a ruling on the issues raised by the pleadings in this matter, the plaintiff's allegations may be considered as true."

The defendant filed a motion to dismiss on the ground that the sidewalk upon which the plaintiff fell was a public sidewalk which defendant owed no duty to the plaintiff to keep in repair and suitable for travel thereon. The questions of law raised by the pleadings, the agreed statement of facts and motion to dismiss were reserved and transferred by *Loughlin, J.*

The issue presented by the agreed statement of facts is whether the defendant property owner owed a duty to the plaintiff who was injured because of an alleged defect in a public sidewalk abutting defendant's premises, which defect was not caused by any affirmative act of the defendant, but of which the defendant had been notified and had been requested to repair the same but had neglected to take any action relative to it.

"It is the generally recognized common-law rule, except in Pennsylvania, that the owner or occupants of property abutting on a public sidewalk does not, solely by reason of being an abutter, owe to the public, including invitees or business invitees of the abutter, a duty to keep the sidewalk in safe condition. Annot. 88 A.L.R. 2d 331, 340 (II); Restatement (Second), Torts, s. 349, ill. 2; *Winston v. Hansell*, 160 Cal. App. 2d 570.

305 The plaintiff concedes that while the overwhelming weight of authority permits defendants to escape the possible consequences *305 of their negligence in similar situations, such a rule " is unjust, violative of the general duty of each of us to use due care in our relations with others, in conflict with the principle that requires affirmative conduct in the nature of a warning of dangerous conditions (Partin v. A & P Tea Co., 102 N. H. 62, 64), and contrary to the trend of the law." 31 Am. Trial Lawyers J. 97.

The plaintiff does not contend that the defendant should have taken some affirmative action but rather, that under the circumstances here the defendant's conduct or lack of it, should be measured against the general standards of duty and due care by a jury without being barred by an arbitrary application of an arbitrary rule of nonliability based on a boundary line location.

The plaintiff calls our attention to the so-called "Pennsylvania Rule" which is unique to that jurisdiction and its validity, if any, is based solely upon the fact of possession. An owner or tenant in possession under this rule has the primary responsibility of keeping in repair the pavement or sidewalk in front of the property owned or occupied by him and is liable for his negligence in failing to perform this duty if injury results. Great Atlantic & Pacific Tea Co. v. Boyles, 102 F. 2d 343, 344 (3d Cir. 1939). The plaintiff concedes that this basis of establishing liability is unsound and invites analysis of the case at bar on the more basic principles of duty, failure, causal connection and injury.

To bring the undisputed facts of the case at bar "within the category of actionable negligence, some wrongful act must be shown or a breach of some positive duty." Flynn v. Gordon, 86 N. H. 198, 202; Kopfinger v. Grand Central Public Market, 389 P. 2d 529 (Cal. 1964).

The duty to repair, maintain and reconstruct sidewalks rests with the highway agent under the direction of the selectmen of a town or mayor and aldermen of a city and such sidewalks shall be maintained "without further assessment to the abutting owner." RSA 252:3. A sidewalk is a component part of the highway (Hall v. Manchester, 40 N. H. 410) and under the provisions of RSA 247:10 a remedy has been created in favor of one injured by certain defects in highways and bridges. It would be questionable policy to require abutting landowners or possessors thereof to make their own repairs which might create a greater hazard to the general public than the existing defect.

306 No claim is made here that any affirmative act of the defendant, *306 or his agents, caused the defect complained of. Absent such circumstances we hold that the defendant was under no duty to repair the sidewalk abutting his premises. Defendant's motion to dismiss should be granted.

Remanded.

All concurred.

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Sidewalks

NHDOT in conjunction with construction projects occasionally reconstructs or constructs new sidewalks adjacent to highways. However, the maintenance of the sidewalks, including snow removal, is the responsibility of the local community. This policy is firm and longstanding statewide. In addition, in those communities where on-street parking is permitted, snow removal from the parking areas, including plowing and or hauling away, is a local responsibility. The local NHDOT crew will adjust its plow pattern when possible to assist the community if at all possible, which could include pushing back snow banks during No Parking hours, or leaving a windrow as close to the traveled way as possible. Usually these arrangements are made locally between the municipality and the NHDOT Patrol Foreman.

Reduced Winter Maintenance

The NHDOT will evaluate the feasibility of establishing low or no salt sections on selected low volume roadways following a written request from the local governing body. To facilitate this program two additional highway types are specified as follows:

Type 4—Highways on the State highway system carrying less than 2,500 vehicles daily for which all municipal officials, including all selectmen, the police chief, the fire chief, the chief of ambulance service, and the superintendent of schools or the school board, have signed and submitted a written request to establish low (minimum) salt sections on existing Type 2 highways (orange routes) shown on the winter maintenance system map.

Type 5—Highways on the State highway system carrying less than 1,000 vehicles daily for which all municipal officials, including all selectmen, the police chief, the fire chief, the chief of ambulance service, and the superintendent of schools or the school board, have signed and submitted a written request to establish no salt sections on existing Type 3 highways (red routes) on the winter maintenance system map.

Maintenance Requirements

All Local Public Agency (LPA) projects carry maintenance obligations for the project sponsors, which are identified in the LPA project agreement. Specifically, Section I.C. states that:

The PROJECT SPONSOR shall provide or cause to provide for both the maintenance of the Project during construction and subsequent maintenance of all Project elements together with the maintenance of sidewalks, which includes winter snow and ice removal in accordance with the requirements of 23 CFR 1.27 and 28 CFR 35.133, once the work under this AGREEMENT is completed.

In this context, maintenance should generally be understood to require whatever effort is necessary to provide for the safe and efficient utilization of the completed project. This also includes correction of NHDOT/FHWA identified deficiencies within a reasonable period – typically 90 days.

It is important to note that there are consequences to sponsors for any project not being adequately maintained. It is therefore important to understand the expectations established in the LPA project agreement to prevent maintenance related issues from arising during or after a project's construction. These maintenance obligations translate into money and time for sponsors as well, since project maintenance is not considered eligible for LPA funds. This makes it especially important for the Project Sponsor to calculate the required costs of a lifetime of maintenance and to ensure that they have that ability for maintenance before accepting LPA funding.

During the Project:

The Project Sponsor must agree/commit to maintain project property in good operating order, in compliance with any applicable Federal laws as well as New Hampshire state laws. This includes roads, bridges, sidewalks, trails, structures, parking areas, as well as conservation easements and websites.

For Construction Projects:

Maintenance is expected on all construction projects during and after the project is complete. It is the responsibility of the Sponsor to see that maintenance is provided for seasonal conditions as well as longevity. NHDOT reserves the right to deny funding for future projects if a Sponsor does not act to correct a maintenance issue within 90 days of receiving a written notice from NHDOT.

For Non-infrastructure Projects:

LPA's are expected to provide maintenance for the life of the equipment or item purchased using federal monies. At the end of the useful life of equipment or items purchased they will be taken to the White Farm in Concord, N.H. and disposed by public auction. The New Hampshire Department of Administrative Services will set rules for disposal. LPA's are sub-recipients of NHDOT and will follow the same rules as a state agency.

Items such as websites must have a maintenance contract that includes hosting arrangements that can be extended for the first 5 years of the website. At the end of that time a written explanation of future plans for the site needs to be approved by NHDOT. Any electronics, hardware, or other tangible items of value that have met their useful life will be disposed of at public auction following the rules above.

Proof of insurance is required on any item purchased using federal funding for the life of the item. It needs to provide replacement value if the item is damaged or destroyed. Should the insurance lapse; the Sponsor is liable for reimbursing NHDOT or using the cash value of the loss toward a new replacement at the discretion of NHDOT.

The examples listed only represent a few of the possible scenarios regarding maintenance of your LPA project. Sponsors seeking to purchase other items, like passenger and transit vehicles through the CMAQ program, should speak with their NHDOT project manager for additional details regarding maintenance obligations for these items.

Potential Consequences:

Sponsors can expect that future inspections will take place to ensure that maintenance is being done correctly. In the event that maintenance is identified as lacking or deficient in some manner, NHDOT will notify the sponsor of the issue in writing. The notification will include identification of a period during which corrective action must be taken.

If no satisfactory corrective action is taken, consequences for the Sponsor include:

- Being declared ineligible for future federal funding.
- Repayment of the LPA program funds used for the project per section I-H of the Local Agreement.

MEMORANDUM – OFFICE OF THE TOWN ADMINISTRATOR

TO: File
FROM: Carter Terenzini, Town Administrator
RE: Village Sidewalk Study
DATE: September 3, 2013
CC: R. Korber; B. Woodruff

Carter



This is to report on the results of a survey of “Business Owners” as to their thoughts about the need for sidewalks. The undertaking of this was suggested at the Public Informational Meeting of August 12, 2013. The survey attached was mailed out to 44 property owners within the study area with returns due about 10 days later in pre-stamped and pre-addressed envelopes. We had 15 responses for a return rate of 34% percent.

Of our 15 responses some 13 “generally” supported the construction of sidewalk facilities. Two did not. Nine persons did not object to the use of the right of way (RoW) along their frontage while four did object and two skipped the question.

In some cases, insufficient RoW or an off street location, the town may need to acquire easements to construct and maintain the sidewalks. Approximately three-quarters of the respondents indicated they were willing to work with the town to negotiate on the use of their lands and provide such an easement. However, the Town needs to be mindful that this leaves a significant portion of the respondents who did not want to do so.

A full copy of the results and the comments on the questions is attached.



Office of Selectmen
Town of Moultonborough
6 Holland Street - PO Box 139
Moultonborough, NH 03254
(603) 476-2347 * Fax (603) 476-5835

August 19, 2013

Dear Property Owner:

As you may know the Town Meeting approved an article requiring the SelectBoard to present a plan for the construction of a sidewalk or sidewalks in the village area to the March 2014 Town Meeting. The first step of the process was an open forum on April 17th to define the study area. The second step was an open forum held on August 7th where interested citizens and stakeholders suggested potential route ideas.

Several comments at that meeting asked us to identify the thoughts of the property owners in the study area on this matter. Below you'll find a very short, questionnaire to help us gain a more definitive view of what you think. **Please circle your answers and place this sheet in the provided return envelope by August 30, 2013. You will find spacing on the reverse side of this letter to provide additional comments.** You may also feel free to talk with any tenants you might have as to what they think.

1. Do you generally support the construction of sidewalk facilities in the Village area?

Yes

No

2. Do you object to the construction of sidewalk facilities in the states' right-of-way along your property's frontage?

Yes

No

3. If the Town needs an access easement on your property to construct and maintain the sidewalk, would you be willing to negotiate or work with us on providing such an easement?

A. On the street-side of my property:

Yes

No

B. On the side boundary or to the mid or rear of my property:

Yes

No

The results of this survey will be part of the presentation at the third public meeting on September 4, 2013.

Thank you very much!

Sincerely yours,

Carter Terenzini
Town Administrator

Added Comments

Question 1: Do you generally support the construction of sidewalk facilities in the Village area?

Question 2: Do you object to the construction of sidewalk facilities in the states' right-of-way along your property's frontage?

Question 3: If the Town needs an access easement on your property to construct and maintain the sidewalk, would you be willing to negotiate or work with us on providing such an easement?

A. On the street-side of my property:

'B. On the side boundary or to the mid or rear of my property:

If you have any questions you would like answered or other comments you would like to submit, please send them to Mr. Carter Terenzini, Town Administrator, in hand to Town Hall at 6 Holland Street, by mail to PO Box 139 Moultonborough, NH 03254, by fax to 1.603.476.5835, or email to cterenzini@moultonboroughnh.gov .

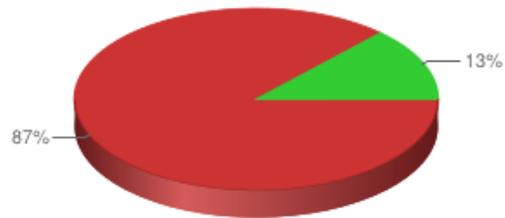
Sidewalk Study August 2013

1. Do you generally support the construction of sidewalk facilities in the Village Area?

Answered: 15 Skipped: 0

Yes (13)

No (2)

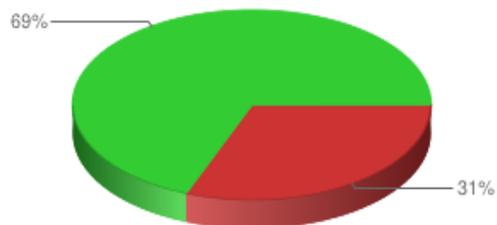


2. Do you object to the construction of sidewalk facilities in the states' right-of-way along your property's frontage?

Answered: 13 Skipped: 2

Yes (4)

No (9)



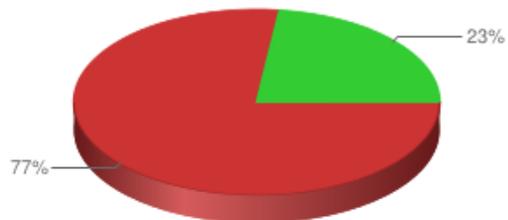
3. If the Town needs to access easement on your property to construct and maintain the sidewalk, would you be will to negotiate or work with use on providing such an easement?

A. On the street-side of my property:

Answered: 13 Skipped: 2

Yes (10)

No (3)

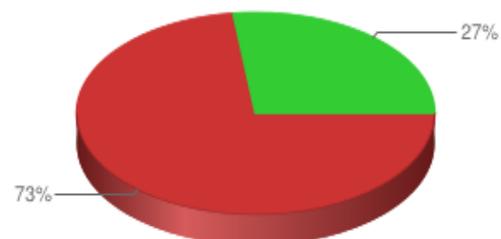


B. On the side boundary or to the mid or rear of my property:

Answered: 11 Skipped: 4

Yes (8)

No (3)



Added Comments to the Questions Above:

Question 1: Do you generally support the construction of sidewalk facilities in the village area?

Answered: 7 Skipped: 8

- No, crosswalks are what is needed.
- If it is determined that they will be used as serving a public need.
- Yes, but for the children's safety only.
- Yes
- Yes
- We have no problem with the current plans from the schools to the center. If the plan includes going to the public building keeping pedestrians on the side of Rt. 25 makes sense.
- Yes up to my center

Questions 2: Do you object to the construction of sidewalk facilities in the states' right-of-way along your property frontage?

Answered: 6 Skipped: 9

- Not applicable to our property (Map 52 Lot 21).
- I understand this is to keep children safe, if so why give them a path down Route 25. The Town already owns the land off from 25 from the Elementary School to somewhere near the property of MMC. I would support sidewalks in that area w/sufficient lighting. Access for emergency vehicles (Not Route 25).
- Yes, we gave up our front parking so Artie could have his. We won't give up our signage!!
Signed Cecile Holden – The Country Store.
- No
- People exercising, walking along the front now so a walk would make sense and provide safety.
- No – it is much needed for the safety of our citizens, especially the children.

Question3: If the Town needs to access easement on your property to construct and maintain the sidewalk, would you be willing to negotiate or work with us on providing such an easement?

A. On the street-side of my property:

Answered: 6 Skipped: 9

- Not applicable to our property (Map 52 Lot 21)
- See above
- Yes
- My only concern is that you NOT touch the stonewalls. They're part of our history. Thank you!
- Is a sidewalk were to be place going up Old Rte. 109 I would have some concerns – the trees and the stonewall need to be protected.
- Yes

B. On the side boundary or to the mid or rear of my property:

Answered: 5 Skipped: 10

- Unable to answer at this time as we are not clear in who would be constructing and maintaining the sidewalk and also who would be responsible for the safety and liability issues, e.g. insurance associated with the sidewalks.
- No problem foreseen on 109 side.
- Yes
- I am not in favor of any sidewalk going to the pond in back or around sidewalk in my field going from the school to Old Rt. 109.
- We would need to discuss.