

DEMONSTRATION OF THE PUBLIC NATURE OF MEADOWS ROADS IN NORTHAMPTON, MASSACHUSETTS

Prepared for the Mayor of the City of Northampton

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Overview

- 2 Settlement of the Land
- 2 Forming the Community:
Establishing Roads & Home
Lots
- 3 Enlarging the Community
into the Meadows: Roads,
Divisions & Lots
- 4 Correlating Meadows
Roads: From Past to
Present
- 6 Laws Relating to Public
Roads: Past & Present

References

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Executive Summary

There are roads in the Northampton meadows which have been public ways throughout the city's history (1654 to the present). These roads, by their origin as public ways, their layout in the officially authorized Town Plan and Map of 1831, their continuous public use throughout the entire history of Northampton, and their status as having never been discontinued, should continue to be recognized as public ways now.

Key Points

- Roads in Northampton were laid out before home lots were granted to settlers
- The division of meadows land into large blocks preceded the break up into individual lots
- Ownership of scattered meadows lots required public roads
- Roads were defined by the boundaries of the lots that made up the big land divisions; they were not made from land taken from individuals
- The lots given to settlers abutted, but did not include, these roads
- Meadow roads were 2 rods (33 feet) wide
- The names of the 1650s division of meadows lands are shown on the 1831 map of Northampton.
- The authorization in Town Meetings of the survey, production and purchase of the 1831 map that lays out the roads meets legal requirements for public access
- The shapes of the 1650s division of meadows lands are shown in the 1831 map of Northampton and in the 2010 map of Agricultural land use in the meadows
- The orientation of modern lots within the divisions of land in the meadows, consistent within each division but varying from division to division, show that the 1650s lots and road locations are nearly unchanged through time
- The meadows roads predate M.G.L. c. 82.; they were created for the common good and meet modern criteria as public roads by virtue of "dedication."

SETTLEMENT OF THE LAND

The earliest history of settlement in the Connecticut River Valley shows that the first towns in the region - Enfield, CT, Northampton, Hadley, Deerfield - were settled by people with similar socio-economic and political backgrounds. These people who settled the land also followed the same habitation / land-use development rules and patterns in each town (Ellsworth, 2007, p 13-16). Northampton and Hadley were settled on opposite sides of the Connecticut River, within three years of one another. The settlement patterns and practices were similar in each town. This narrative draws from the history of each settlement.

"The Dutch had originally discovered the Connecticut River in 1614, and built a fort at Hartford in 1633. Though the Dutch were aware of the rich land available north of the fort at Hartford, this would be the furthest extent of Dutch colonization in the Connecticut River Valley. That same year English settlers from the Plymouth colony arrived, eventually establishing their own towns. The towns of Wethersfield, Hartford, and Windsor were begun in 1635. From these settlements in Connecticut, other people began to move north and inhabit other "plantations" along the Connecticut River. In 1636, William Pynchon and others from the town of Roxbury settled at Springfield, north of the colony of Connecticut. The Pynchons would eventually become a great economic force in the river valley, and would play a role in the settlements at Northampton and Hadley. The spread of settlements north of Springfield would be halted for a time, however, because people dared move only as far north as the river was easily navigable....

This would change in 1653, when a group of men petitioned for a settlement north of Springfield, at Nonotuck. The General Court determined that the land there should be divided into two plantations. The land for the western plantation was purchased by John Pynchon in 1653. This plantation on the west side of the river, which would be Northampton, was settled in 1654, while the land on the east side of the river was reserved for another plantation." (Ellsworth, 2007, p.18)

Hadley, on the east side of the river, was settled in 1657.

FORMING THE COMMUNITY: ESTABLISHING ROADS AND HOME LOTS

Settlers of Northampton formed their community first by laying out the roads, then dividing the land into lots which would become "home lots." The boundaries of the lots defined the location of the roads:

"First among the duties of the settlers must have been that of determining the position of the highways. It was necessary that they should be decided upon before any home lots were granted but no record of their location other than as boundaries of such lots was made." (Trumbull, 1898, p.89)

Homes were first established outside the meadows. Each home had 2 to 4 acres for farming adjacent to the home, which were called "home lots."

"To nearly all the first settlers home lots of at least four acres were granted though to some much more land was given. In most cases the grant was all in one lot." (Trumbull, 1898, p.17)

"The homesteads first occupied in this town [Northampton] were situated on both sides of what is now Pleasant Street. It was first named Bartlett Street in honor of Robert Bartlett one of the first men to locate there." (Trumbull, 1898, p.17)

Judd & Sheldon's (1863) historical account suggests that there were debates about roads in Hadley, Northampton and Deerfield during the mid-1800s, and strongly asserts that the roads were not owned by owners of lots adjacent to the roads:

"The early settlers of Hadley first designated the streets and highways, and then laid out the lots contiguous to them. The supposition that the ways in this and other old towns [e.g., Northampton, Deerfield] were laid over the land of individuals is without the least foundation." (Judd, 1863, p.34).

ENLARGING THE COMMUNITY INTO THE MEADOWS: ROADS, DIVISIONS & LOTS

After the Northampton settlers' homes were established, with tillable land on the same lots, lands were granted in the meadows and uplands:

"To the owner of each home lot were granted other lands meadow upland or plain land. The meadows were generally divided into small lots no individual having all his meadow land in one place. The number of acres awarded to different persons varied. Some had but eight or ten acres while others obtained from thirty to fifty. Meadow lots usually contained three, six, eight, ten, or more acres and those having the largest quantity held a number of lots sometimes widely separated from each other." (Trumbull, 1898, p.20)

"According to the rule adopted Nov 15 1653 no person could acquire an absolute title to a home lot till it had been occupied four years." (Trumbull, 1898, p.23)

In awarding the meadow lots, the land was first divided into large sections called divisions. Lots were then subdivided within divisions.

"The first settlers divided the meadows into many sections giving to each an appropriate name. Either the conformation of the land, the course of the river, some local tradition, or an Indian name seem to have determined these appellations. As the names appear in the earliest deeds they must have been adopted when the land was apportioned." (Trumbull, 1898, p.21, 22)

"The names of twelve separate divisions of the meadows are to be found upon the oldest book of real estate records. In the bend above "Shepherd's Island" along the river bank, is "Old Rainbow" and adjoining it on the west, "Young Rainbow," named without doubt from the original shape of the land caused by the curve in the river; "Walnut Trees" division was laid out along the southern half of Young Rainbow; "Venturer's Field" extended from Walnut Trees to Pomeroy Terrace; there is a tradition that one or more families ventured to spend the winter of 1653 in a cave in the bluff at this point, hence the name; above Venturer's Field up to the present bridge across the river, extended the "Last Division"; on the river bank, opposite Shepherd's Island, was "Bark Wigwam"; following the Connecticut to the present mouth of Mill River, was "Middle Meadow"; between Middle Meadow on the south, and Walnut Trees and Venturer's Field on the north, were "First, Second, and Third Squares", the latter forming the eastern boundary; "Manhan Meadow" named from Manhan River, embraced the land now bounded on the east by Mill River, south by Connecticut River, Old Bed, and west by Fort Hill; "Hog's Bladder" lay at the most southerly point of the "Ox Bow"; another lot of meadow land containing 120 acres, "more or less", lying north of Hulburt's Pond granted to John Pynchon has since been known as "Pynchon's Meadow" but was not so called at that date." (Trumbull, 1898, p.21, 22)

The community's best interest was reflected in a communal view ('common lands') of land ownership to discourage land speculation:

"Everybody in town at that time owned meadow land and the proprietors without doubt then, as in after years, assessed the length of fence in proportion to ownership. The meadows, though divided into small parcels were, in many respects, considered as common lands. While each citizen had the right of proprietorship in certain tracts, the community held the right of general control for the good of the whole, lest the greed of the few should incommode the many." (Trumbull, 1898, p.41)

A similar 'common lands' approach holds for the common, public ownership of the meadows roads as well. The meadows roads were, by necessity, public ways because "everybody in town owned meadow land," and for some individuals that land was comprised of "a number of lots widely separated from each other."

"The first highways upon which the town took action were those in the meadows some three years after the settlement commenced and the first allusion to any was to that in Manhan meadow when in 1657 that section was divided. In 1655 John Lyman and George Alexander were chosen way wardens or Surveyors of Ways, but no further reference to these officers appears for five years. In the meantime a committee on highways was appointed which confined its work to roads already in existence. Though these roads were three, six or more rods in width they were mere passage ways for carts or paths for horseback riders." (Trumbull, 1898, p.89)

The roads in the meadows are wide.

"Land was plenty and of comparatively little value except in the meadows or within the settled village and there was no scrimping of the roadways. The committee was very careful to specify at every point the width of these roads which were to vary from two rods in the meadows to four, six, eight, twenty, and in some places forty rods." (Trumbull, 1898, p.164-165)

CORRELATING MEADOWS ROADS: FROM PAST TO PRESENT

The sections or "divisions" of meadows land and roads, named in the earliest years, are shown on the 1831 map of Northampton titled, Plan of the Town of Northampton, "Surveyed under the direction of the Selectmen," by John G. Hales, surveyor and civil engineer. Records of the Town Meetings authorizing the survey of the town and production and purchase of an official Town Map, are excerpted in the following table.

The pattern of sections of land, bounded by roads, that appears in the 1831 Plan of the Town of Northampton is the same pattern preserved in Northampton's Agricultural Land Use Map of 2010. The modern pattern of land division is derived from the original settlers' first division of meadow lands (see attached map that superimposes the land divisions of the 1600s as shown on the 1831 Northampton Town map, onto the 2010 map of Agricultural Land Use in the meadows).

Lot boundaries within the larger "divisions" of land trend on compass bearings that are consistent within a given division, but which vary in orientation as one moves from division to division (see Northampton's Agricultural Land Use Map of 2010). The consistency of these orientations shows that land division that originated in the past shapes the modern pattern of meadow's roads.

Northampton Street Records, Vol. 4, 1827-1844

Action	Citation	Meeting Minutes
Authorizing a survey of town roads Establishing a committee	Town Meeting April 15, 1830 p.73	<i>"Committee to procure a Survey of the Town Map."</i> [margin notation] <i>"On the second article in the warrant "to see if the town will cause a Survey of said Town and a Map of the same to be made". Noted. That the subject matter of the article be referred to a Committee of three persons to consist of the Chairman of the Selectmen and two others to be nominated by the Moderator. Whereupon in pursuance of said Vote-and a nomination made by the Moderator, Voted that (Elphilet?) Williams, Charles E Forbes and Chauncey Clark be a Committee for that purpose—and that they be authorized to proceed to procure a Survey of the Town and a Map thereof to be made under a late resolve of the Legislature."</i>
Authorizing funds for survey & map	Town Meeting May 10, 1830 p.77	<i>"\$150 for survey the Town & making a Map"</i> [margin notation] <i>"Voted to raise One hundred and fifty dollars for expense of surveying the town and making a map."</i>
Authorizing payment for survey Authorizing estimates for lithograph maps	Town Meeting March 9, 1831 p.91	<i>"1831 March Report of the Financial Committee for 1831"</i> [margin notation] <i>"The Town of Northampton in account current No. 5 To amount paid for Survey of the Town 122.50"</i> <i>"Subject of a Lithograph-ic Town Map"</i> [margin notation] <i>"On the article in the warrant "to see what order The Town will take in relation to procuring a Town Map and in relation to procuring a Map to be lithographed" Noted That the subject matter of the article be committed to Eliphilet? Williams, Charles E Forbes and Chauncey Clark Esquires—to consider and report the probable expense of procuring the same be done on the scale made and also on a smaller scale."</i>
Accepting the completed Northampton Town Map	Town Meeting March 9, 1831 (cont.) p.93	<i>"Town Map"</i> [margin notation] <i>"The Committee to whom was referred the subject of procuring a Map of the Town for the use of the Inhabitants. Report"</i>
Authorizing funds for 400 large lithographic copies of the town map Authorizing sale of map to residents Filing one map in Clerk's Office	Town Meeting March 9, 1831 (cont.) p.94	<i>"March Meeting 1831 Report of a Committee on the subject of a Town Map 400 Lithographic copies to be procured"</i> [margin notation] <i>"That they have made the necessary inquiries relative to the expense thereof-and find that a Map on a scale of 100 rods to the inch being the scale on which the Map drafted by J. G. Hales is taken-will cost for 400 Copies \$180.. That a Map on a scale of 160 rods to the inch – for 400 Copies will cost \$85. Do on a scale of 200 rods to the inch for 400 Copies will cost \$70. Which is respectfully submitted whereupon. Noted. That said Committee to wit Eliphialet Williams, Charles E Forbes & Chauncey Clark be authorized to procure at the expense of the town four hundred lithographic copies of said Map-of the largest size mentioned in said report and that said Committee furnish individuals with copies of the same at such price as they may judge reasonable and best calculated to remunerate the town for the expense-the avails to be paid into the Town Treasury. One Copy thereof forever to be lodged in the Town Clerk's Office for the use of the town."</i>

LAWS RELATING TO PUBLIC ROADS: PAST & PRESENT

Alexandra Dawson, lawyer, in a pamphlet published in 2005 by the Trustees of Reservations, states that roads which date prior to 1846 need to meet one of four criteria to be public ways. She summarized the conditions as follows:

"Before 1846, a road could be made public by:

- *a proper layout and vote of the city, town, or county.*
- *"dedication" – creation by an individual or group without public cost, followed by "acceptance" in the form, usually, of public use.*
- *creation of a "statutory private way" – a way, again, created by an individual or group without public cost but laid out by the community, thus gaining some but not all of the characteristics of a public way.*
- *"prescriptive use," a term describing continued, uninterrupted use of the way by the general public without asking anyone's permission, over at least 20 years.*

This loose system created burdens of maintenance on communities for roads it had never intended to make public. Chapter 203 of the Acts of 1846 changed the whole system, requiring detailed layouts and votes to create a public way (LORIEL, 1961)."

From Smithers, 2011, p2:

Public ways in Massachusetts consist of state highways, highway/county ways, town ways and statutory private ways, each of which is governed by statute.

Generally speaking an existing way in a city or town in the Commonwealth is not a "public way"... unless it has become public in character by one of three ways: (i) a laying out of public authority in the manner prescribed by statute, (ii) prescription, and (iii) prior to 1846, a dedication by the owner to public use, permanent and unequivocal (see Longley v Worcester 304 Mass.580 at 587-589 (1939), coupled with an express or implied acceptance by the public.

The meadows roads, as shown in the 1831 Plan and Map of the Town of Northampton and the 2010 Northampton Agricultural Land Use map were laid out for the common good in the 1650s. The roads were dedicated for use by all, and include two ferry roads to/from the Connecticut River. They were not made from land taken from individuals (Judd, 1863, p.34; Trumbull, 1898, p.17). The lots granted to settlers abutted, but did not include, any of these roads.

Massachusetts General Laws dating after 1846 were written after the meadows roads were long established. Dawson (2005) states that roads which origins date prior to 1846 need to meet one of four criteria to be public ways. The preceding summary of history shows that the meadows roads meet the criterion of "dedication." Official actions taken by the Town that authorized the legal survey and procurement of the 1831 Plan and Map of the Town of Northampton are sufficient to confirm that the Town government approved and accepted the layout of all of the roads shown. Therefore, in addition to meeting the criteria for public access under previous statutes, the history and official records of Northampton support the facts needed under current statutes for continued general public access to the roads in the meadows.