

Pursuant to RSA 674:41,II, we are requesting a “reasonable exception” from the Town’s Ordinance 1993-01 precluding building on the tract know as the Poor Farm. We are requesting the entire tract be considered as a single building lot accessed by the Class Vi portion of Farm Road.

Based on the statute, the following elements need to be addressed:

- 1) continued enforcement of the ordinance precluding any building “would entail practical difficulty or unnecessary hardship...”
- 2) “the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based...” and
- 3) the “erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. “

Before addressing these elements, a summary of the physical, access and legal aspects of the Poor Farm tract along with an overview map should help provide context for our request.

The Poor Farm has a long history of private and public use. Those uses and a major relocation of Stage Road in the early 1950s resulting in several road and bridge changes complicated the access to the tract.

Below are some of the pertinent road, access and use restrictions that have a bearing on the request,

*- Poor Farm tract is approximately 170 acres; Farm Road bisects it with an estimated 35 acres on north side and 135 acres on south side;*

*- Farm Road Class V section is about 100 feet in length from Stage Road to west side of bridge over the Blow-Me-Down with town maintenance to Joel Water’s driveway;*

*- Farm Road Class VI section is about 2,200 feet from the bridge to the Poor Farm foundations in the middle of the tract; all former roads have all been discontinued with no public right of way retained; (Farm Road southwesterly to Jordan Road at the Maurice and Doris Mercier residence – discontinued in 1825, Tallow Hill Road “eastern extension” from foundations north to Old Sage Road, - discontinued in 1949 and the Old Stage Road discontinued in 1954)*

*- Bill and Donna Heath maintain about 550 feet of Farm Road Class VI section from the bridge to their driveway; their residence was built by a prior owner before Plainfield’s Ordinance was adopted;*

*- The Class V and improved Class VI sections of Farm Road have a travel width of 12 feet; while most of the road right-of-way appears to be 3 rods (49.5 feet), the width*

*between the stone walls narrow considerably in the hill section between the Water's and Heath's residences to 31 – 33 feet;*

*- Poor Farm tract has approximately 200 feet of frontage on Stage Road starting at the former Old Stage Road bridge abutment just west and opposite of the Halleran/Sheehan driveway and going west along Stage Road for 200 feet. Using this frontage for access would entail building a bridge over the Blow-Me-Down Brook, result in a steep and potentially unsafe driveway onto Stage Road and require over a half mile driveway uphill across many drainage areas to reach the old foundations and any practical building site.*

*- Poor Farm is subject to a 2004 Conservation Easement with the Society for the Protection of New Hampshire Forests (SPNHF). The Easement limits use of the tract to forestry and agricultural uses except for the reserved right of two building lot envelopes (one to a 600 foot depth on the south side of Farm Road and a second to a 200 foot depth on the north side); the Easement was part of a three Franklin/Smith family transaction in 2004 that added nearly 400 acres to the existing Yatsevitch Forest of SPNHF; Our request, if granted, would entail forfeiting one of the two building envelopes.*

*- Conserved land west and south of the Poor Farm now total approximately 2,000 acres precluding any further development and the need for public roads in those directions;*

*- The Poor Farm was owned by the Town from 1857 – 1868 as the third and last Poor Farm (see history attached); It contained the original cape with a dormitory style wing added to allow the housing of 8 – 27 indigent individuals, extensive barns and a hearse house; the Town still retains a deeded right to maintain a hearse house on the property.*

Following are our responses to the three elements contained in RSA 674:41,II.

**1) continued enforcement of the ordinance precluding any building “would entail practical difficulty or unnecessary hardship...”**

Access to the allow building, without seeking a “reasonable exception”, could be obtained by either upgrading the Class VI portion of Farm Road to Class V standards or building a bridge and long driveway off Stage Road. But both would entail “practical difficulty or unnecessary hardship”.

Upgrading Farm Road to Town road standards would cost several hundred thousand dollars disproportionate to the need and benefit for a single building lot. Also it would be practically difficult to widen to Town standards in the steep area from the Water residence to the Heath residence without causing excess back-slopes and drainage issues especially to the Water's house lot. The existing road already fits tightly in this “cut” area and widening it could increase runoff into the nearby Blow-Me-Down Brook and would likely exceed the width of the existing

right of way. It also would result in a new Class V road 1200 – 2200 feet in length (depending on its terminus) that would require on-going Town maintenance and cause “undue financial impact on the municipality” disproportionate to the benefit of one house lot.

Access from Stage road is even more impractical and unreasonable, as it would involve a new bridge across the brook and extensive and potentially environmentally damaging roadwork in steep grades and wet areas.

Granting a reasonable exception would allow an adequate narrower driveway using the Farm Road right-of-way. The existing “cut” section could be improved without widening and impacting the two existing residences, and the resulting drive would preclude the expense of Town maintenance.

**2) “the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based...”**

The historic uses of the Poor Farm tract, coupled with the SPNHF Easement and the adjoining 1800+ conserved acres, are in keeping with Plainfield’s Master Plan goals, especially those in the Historic Resources, Land Use, Natural Resources and Recreation chapters. Allowing building on the tract as a single house lot will not change those uses. The public will still have access for all non-motorized uses such as hiking, cross country skiing hunting, fishing etc. in keeping with the SPNHF Easement. The Poor Farm has always been actively used for agriculture, forestry and recreational purposes and allowing it to be built on as a house lot could improve those capabilities with on-site housing and equipment.

It’s also hard to suggest that a 170 acre single house lot would “distort the official map” given that it contained a residence until the early 1950s and had been owned and used by the Town for caring of 8-27 citizens and housing the Town hearse.

**3) the “erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. “**

One could argue that a future owner bearing the cost of the driveway maintenance is a “hardship”. But there are numerous long drive, large residential lots in Plainfield and subsequent owners have accepted the maintenance cost liability along with the privacy benefits. The existing recorded SPNHF Easement and any RSA 641:41, I c (2)&(3) recordation of limited municipality liability, if the ZBA considers it as a condition, would apprise any subsequent owner of their responsibilities and not result in any “hardship”.

There would be no “undue financial impact” on the Town by granting this “reasonable exception”. As noted earlier, conversely, there would be a financial impact by denying this request and requiring the Town take over a ¼ to ½ mile of more Class V road to maintain.

In short, we believe the aspects of this parcel (unusable State highway frontage, construction difficulties and cost of improving the Farm Road Class VI section, Farm Road public right-of-way ending in the middle of the parcel and the SPNHF Easement restrictions) are unique so as to warrant granting a reasonable exception to the Town's Ordinance.

*Paul Franklin*  
*Henry JB Franklin*

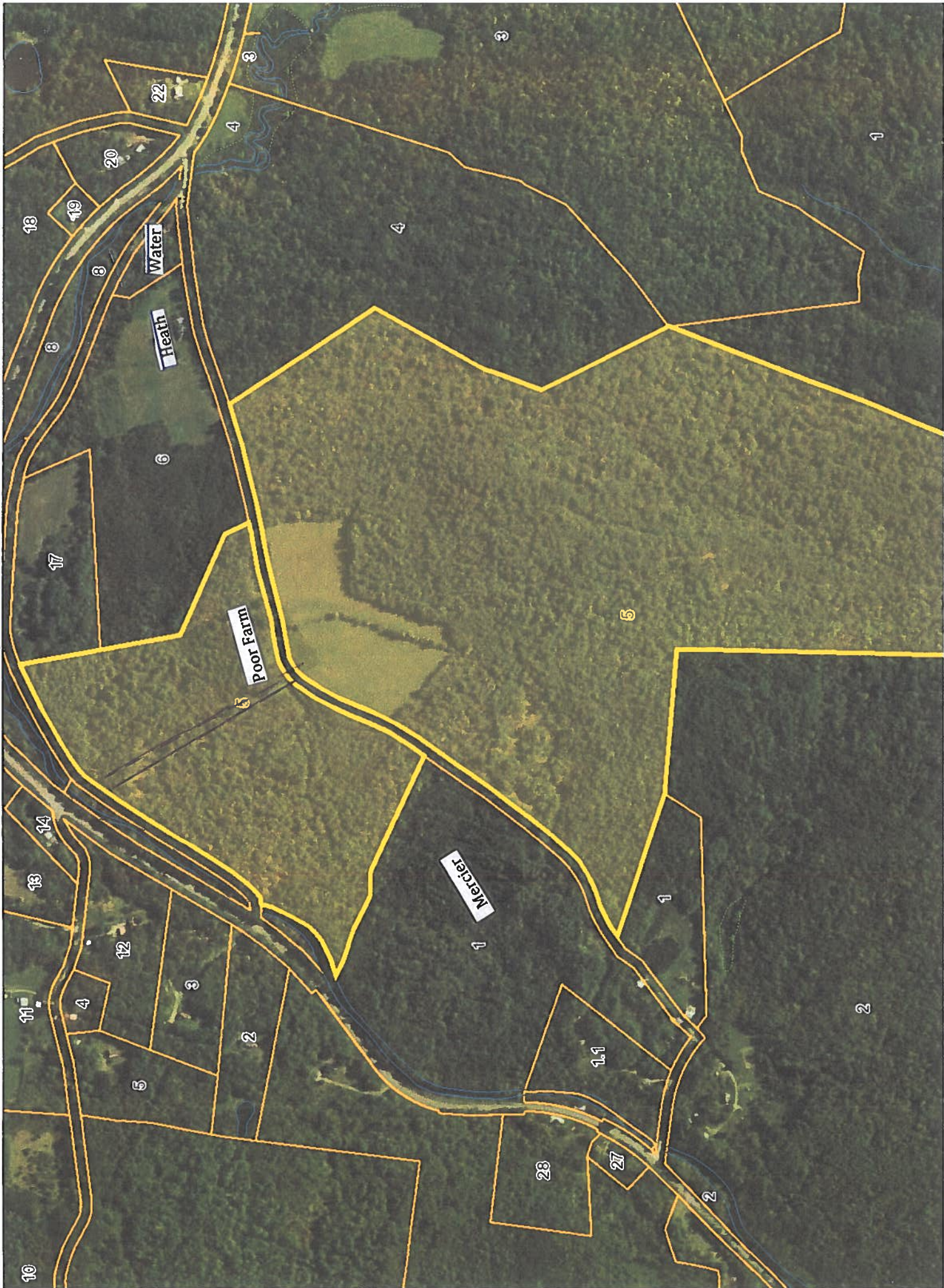
**Attachments:**

Maps of the parcel;

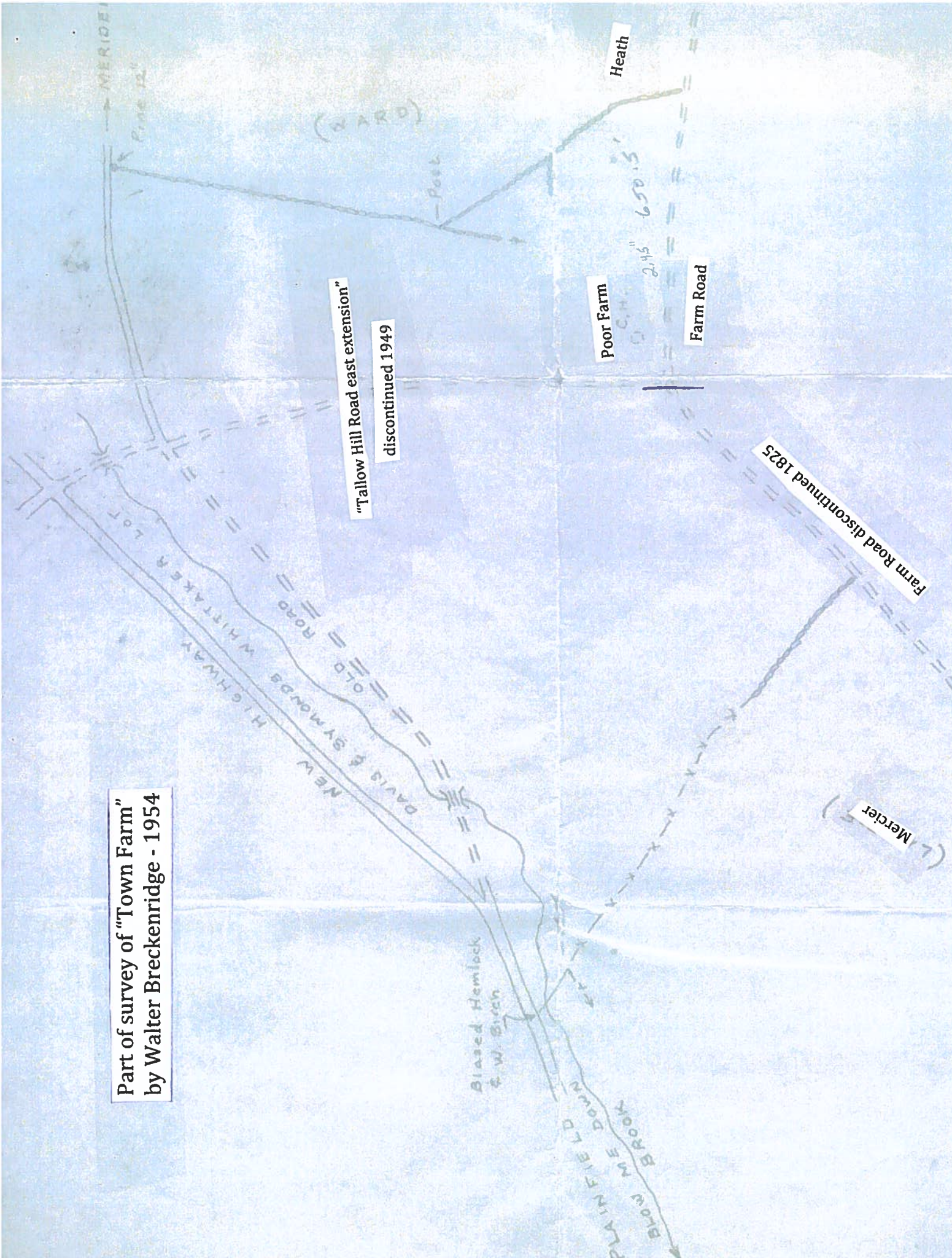
Town Ordinance 1993-01;

RSA 674:41 Statute;

History of Plainfield's Poor Farms



Part of survey of "Town Farm"  
by Walter Breckenridge - 1954



"Tallow Hill Road east extension"  
discontinued 1949

discontinued 1949

Poor Farm

Farm Road

Heath

Farm Road discontinued 1825

Merrier

MERIDIAN

PINE FL

(WARD)

Post

2.45" 650.5'

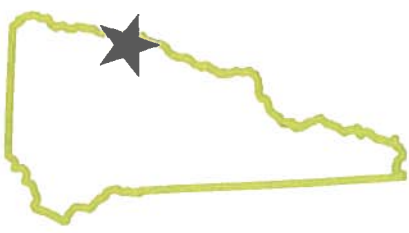
NEW HIGHWAY  
DAVID & SYMONDS WHITTAKER LOT  
ROAD

Blased Hemlock  
& W. Birch

BROOK PLAIN FIELD  
BROOKWOOD



# Yatsevitch Forest Proposed Addition 164 ± Acres Plainfield, NH



- Yatsevitch Forest
- Proposed Addition
- Other Conservation and Public Lands
- Yatsevitch Forest
- Town Lines



**Ordinance 1993-01**

**Whereas**, RSA 674:41 restricts the issuance of building permits in cases where the street giving access is not a Class V or better highway;

**Whereas**, the Town of Plainfield Master Plan recommends that the "Town should attempt to discourage development among Class VI roads," [V1-6] and further that "Class VI roads subject to gates and bars should be kept available for future recreation use, but not upgraded..." [X1-10];

**Whereas**, the lack of maintenance to Class VI roads may inhibit the delivery of emergency services to persons or property on such roads;

**Whereas**, the Town may have liability to parties who might occupy properties along such roads;

**Whereas**, the Board of Selectmen is given the authority under RSA 47:17 to make Bylaws and Ordinances;

**Whereas**, it has been the policy of the Town of Plainfield to restrict the issuance of building permits on Class VI roads since August 1, 1987;

**Whereas**, an applicant, having been denied a building permit, may appeal from the decision to the Zoning Board of Adjustment, as allowed in RSA 674:41;

**Whereas**, the Zoning Board of Adjustment has the power to authorize or issue a permit, subject to such conditions as it may impose and as permitted by law;

**Now Therefore**, after review and comment by the Planning Board, the Board of Selectmen has enacted the following ordinance:

**Ordinance 1993-01**

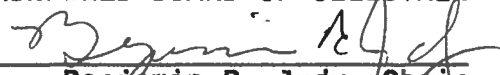
**Issuance of Building Permits on Class VI Highways**

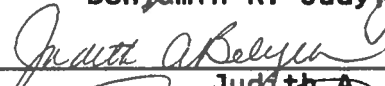
1. No building permits shall be issued for new buildings where the street giving access to the lot upon which the building is proposed is a Class VI road.

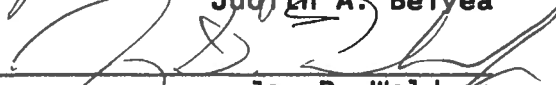
2. No building permit shall be issued for any addition to an existing building where the street giving access to the lot is a Class VI road, if any increase in the need for municipal services or increased impact on the Class VI road results.

This ordinance was adopted by an affirmative vote of the Board of Selectmen on November 10, 1993.

**PLAINFIELD BOARD OF SELECTMEN**

  
\_\_\_\_\_  
Benjamin R. Judy, Chair

  
\_\_\_\_\_  
Judith A. Belyea

  
\_\_\_\_\_  
Jay D. Waldner



# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

### LOCAL LAND USE PLANNING AND REGULATORY POWERS

#### Regulation of Subdivision of Land

##### Section 674:41

###### **674:41 Erection of Buildings on Streets; Appeals. –**

- I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:
- (a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or
  - (b) Corresponds in its location and lines with:
    - (1) A street shown on the official map; or
    - (2) A street on a subdivision plat approved by the planning board; or
    - (3) A street on a street plat made by and adopted by the planning board; or
    - (4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40; or
  - (c) Is a class VI highway, provided that:
    - (1) The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and
    - (2) The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and
    - (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds; or
  - (d) Is a private road, provided that:
    - (1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and
    - (2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and
    - (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; or
  - (e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with

RSA 674:35, if one or more buildings have been erected on other lots on the same street.

II. Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, if the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

II-a. Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

- (a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or
- (b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

IV. In addition to the requirements for the erection of buildings in paragraph I and notwithstanding the exceptions provided in paragraph II, the planning board for a county in which there are located unincorporated towns or unorganized places shall require every building which is erected on leased land located within an unincorporated town or unorganized place to have a building permit. A building permit shall be required under this paragraph regardless of the proximity of the building to any street or highway. The county shall, by resolution, authorize the planning board to issue building permits under this paragraph.

**Source.** 1983, 447:1. 1988, 131:2, 3. 1989, 266:20. 1995, 291:10. 1998, 344:6. 2002, 270:1, 5. 2004, 154:1, 2. 2005, 226:1, 2, eff. Sept. 3, 2005.

## Brief History of the Town Poor Farm (s)

This property, known as the Town Poor Farm, was actually the third and last Poor Farm in Plainfield.

The concept of public housing of the poor and those with mental disabilities started in Portsmouth, NH in 1711 when Portsmouth voted to construct an alms house, have it overseen by the selectmen and put the able-bodied poor to work for the town. The alternative method for towns to “care” for the poor was for the selectmen to contract out the able-bodied poor to farmers for labor, and to bid out (or “venue”) to the lowest bidder, those less able to work for their support. The Town paid an annual fee to the lowest bidder.

As one might imagine, this system fostered abuse of the poor and cost the towns more tax dollars than they wanted to spend. As a result many NH towns in the 1830s started to purchase farms to place the poor and pay an overseer to manage the operation.

### First Town Poor Farm

In 1832, a Plainfield committee of Elias Frost, Charles Flanders and Thomas Penniman recommended the Town purchase a poor farm. Until one could be found, the Town for seven years leased the Elijah Underhill farm, and paid him to be the overseer. This is the property at the corner of Penniman Rd. and Underhill Rd. that my folks, William F. Franklin and Doris G. Franklin, owned from 1946 to 2004 (currently owned by Terry and Joanna Donoghue).

### Second Town Poor Farm

In 1839, the Town purchased, for \$2,400, a farm from Samuel and Ruhamah Johnson, kept them there as overseers and, over the next two years, gradually purchased their chattel (livestock and farm equipment, etc). However, the buildings were in disrepair and too small to properly house the poor. The Town held multiple town meetings from 1842 to 1855 on site or at the Penniman School House (at the intersection of Whitaker Rd. and Penniman Rd.) to raise funds to repair and enlarge the buildings or sell the farm. All proposals were turned down until the place burned down on March 6, 1856 and then sold eleven days later. The cellar holes of the house and associated sheds and barn are located on land currently owned by the Society for the Protection of NH Forests (formerly the Mike Yatsevich property). It's a pleasant setting in a saddle of the hills with some relatively flat land and a pretty pond that holds water most years.

### Third Town Poor Farm

After the second Poor Farm burned, as luck would have it, the adjoining farm owned by Jacob Smith was available, as he had just died. The Town leased the farm until purchasing it from his executor in January 1857 for \$2,916. The Town voted the same year to build a dormitory-like addition to the east end of the existing cape-

style house. A transcript of the 1858 "Report of the Auditors" describing the addition is at the end of this paper. In 1862, the Town voted to purchase a hearse and build a shed to house it on the property (hearse - \$225; shed - \$86.24). The Town still retains the right to have a "hearse house" on the property as noted in the deed. The Town records contain annual inventories of produce and livestock raised on the farm in support of its inhabitants (ranging in number from 8 to 27), the most notable being the several hundred bushels of potatoes, 6-8 barrels of hard cider and 200+/- sheep. As the county home and farm system began in the 1860s (for Sullivan County in Unity), the Town voted in December 1868 to send its inhabitants to Unity and sell the property. It was sold for \$2924.65 at auction to James Wardner Jordan who lived there until his death in 1899.

After two intervening owners, the property was sold in 1948 for \$1,900 to a local renowned farmer, Albert K. Read, who bought it for pasturing livestock. Within two years, Abe sold it to Arthur Davis and B. Read Lewis. Arthur Davis was the father of Tom Davis, principle owner of Freeport Development from whom we purchased the property in 1990. Abe was a clever businessman. When he sold the property, he retained three property rights: 1) the right to pasture the property for 35 years; 2) the right to cut timber in an acre and a half area (that was shortly to be transferred to the State of NH for the relocation of Stage Rd. ) along the northern portion of the property and 3) the buildings to be removed "as soon as convenient (sic) may be." Abe sold the salvageable timbers from the house to Nathan Mace for \$200. With that \$200, Abe told me he purchased enough barbed wire to entirely fence the 170 acres. Those two strands of barbed wire along with the many stonewalls still identify the boundaries of the Poor Farm. The house and extensive shed/barn foundations are still very identifiable today.

Paul Franklin  
April 2017

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From the Plainfield Town Records on File with the Town Clerk

### **1858 Report of Auditors of house addition built:**

"A building 1 1/2 story high, 50 ft. by 28, with a basement. In the basement, there is a kitchen 28x18 with one large kettle set and another place for boiling. There is one division in basement for woodshed 28 by 18, and one place for hog house 28x14, the basement not quite finished. On the next floor above there is a carriage house or tool house 28 by 14. A woodshed 14 by 16. There is an insane room 9 feet by 10 divided by 4 in. maple joists, 4 inches apart, with a stove in one part, so the maniac can be made comfortable and still not able to do much damage to himself or any body else.

There is a bedroom designed for the family who live at the Poor House, with a clothes press (freestanding closet), the whole 9'x10'; cheese room 8'x10'; Family room 18'x18'.



There are 4 front sleeping rooms upstairs and 5 in the rear, with a passage between them running the whole length of the building. Two of these rooms have stoves. There is also a clothes press in three of these rooms.

The building is finished in good plain style, clapboarded with pine and painted. The cost of the building in cash paid out \$1,015 which with the board of the hands while at work on the building, which we have estimated at \$80, and the use of the oxen in drawing lumber, stone, making cellar, etc. which we have estimated at \$65 makes us the cost of the building \$1,160."