

## Survey shows four backyards encroach on public right-of-way

By Mike Stucka

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TOPSFIELD — Newly planted trees, fresh mulch and neat fencing are hallmarks of happy suburban lives, but they could also mark a nightmare in Topsfield because at least five properties' improvements encroach on town land.

Fencing, trees and even a septic system cross a 50-foot swath that will host the town rail trail, according to a pair of surveys and the Topsfield Rail Trail Committee chairman. The latest survey, dated Friday, shows four backyards encroach between Washington Street and the playground behind Proctor School.

The committee will meet with homeowners at 7 p.m. tomorrow in the town library to discuss the encroachments and a proposed route for the rail trail, which would have to snake between two playgrounds, Chairman Joe Geller said.

Only one encroaching property — a hill covered in grass clippings that looms 10 feet over the pathway — would be an obstacle to construction of the 12-foot-wide trail itself. But the survey raises the issue of whether the town will force yards off the public right-of-way, and that's a question for the selectmen to answer, Geller said.

Selectman Dick Gandt said the town would try to work with abutters on encroachment problems, privacy screenings like fencing and bushes, and other issues.

"Now we know one thing, we know where the line is," Gandt said. "Then there's the continuing thing of what the individual abutters want, and what we can do, what we can afford to do and the ongoing issue of what's already there."

Selectman Nancy Luther said the town hasn't yet received a report on the survey or the encroachment it shows.

In the one problem spot for the rail trail, the pathway bulges to one side "because one of the abutters, it looks like, they've been depositing their yard waste over the embankment," Geller said.

Geller said even that mound would not be a major obstacle to construction.

The one-third-mile trail segment recently surveyed is planned to run from Washington Street to Main Street, generally behind Grove Street homes, Proctor School and the Topsfield Village Shopping Center.

At the Washington Street end, year-old trees on Bob and Cathy Morgan's property appear to jut some 18 feet into town property. The mulch extends until just 7 feet before the centerline of the pathway. On the other side, a surveyor's stake sits a few feet within the backyard fence of Michael and Susan DeAmario.

Friday's "working drawing" survey doesn't definitively establish ownership of a slice of property along one side of the rail trail. However, surveyor's stakes are pounded into the 10-foot-high mound in line with blue pine trees, while mulch and landscaping fabric extend behind what appears to be Brian and Linda Cabral's property. The Rail Trail Committee's survey describes at least some of that land as "now or formerly" railroad property.

Near the tot lot, a surveyor's stake suggests that a short length of wood and wire fencing owned by Alan and Janis Smallman runs on town property. Homeowners could not be reached for comment yesterday.

Geller said a town employee, whom he declined to identify, has a septic system under the proposed rail trail on the property of the new Topsfield Station. That also won't be an obstacle to trail construction, he said. Geller said he'd favor the septic system being moved as soon as any work is required on the property. An earlier survey filed with the Southern Essex Registry of Deeds does not show the location of the septic system.

Geller said tomorrow's meeting — with informal talks at 7 p.m. and presentations at 8 p.m. — is focused on abutters of the trail. A meeting geared toward the general public will be scheduled in August, he said.

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Photos



About 18 feet of Bob and Cathy Morgan's garden, trees and mulch to the right of this

stake encroaches on town land along a rail trail's path. A survey and officials identified at least five encroaching properties in a one-third-mile segment. Staff photo