

To: Town of Blue River Mayor and Board of Trustees  
From: Paul Semmer

Re: Communication to Trustees – Town of Blue River Road Issues  
Date: January 12, 2024

Town of Blue River Mayor and Board of Trustees,

The issue being presented here deals with the Town of Blue River (Town) assertion of prescriptive rights to certain private property alongside the historically used public road system of Sherwood Lane in the Sherwood Forest Subdivision parallel to the western lot line of Lot 103, a distance of approximately 140 feet.

As the owner of Lot 103 since 1979 I have witnessed firsthand the snow plowing/storing operations of the various contractors that the Town has used to remove snow along Sherwood Lane and Blue Grouse Trail adjacent to Lot 103. From the early 1980's up to mid-1990's the plowing and road maintenance use occurred within the physical area of approximately 30 feet, including the 20-foot-wide road-right-of-way (r-o-w) as indicated on the 1961 plat for Sherwood Forest Subdivision (Reception Number 92845, February 2, 1961) and/or an additional area, parallel to the road, less than 10 feet into Lot 103 along Sherwood Lane.

Sometime in the mid-late 1990's, the Town plow operator began stacking snow beyond the historically used portion of the southern portion of Sherwood Lane immediately north of the intersection of Blue Grouse Trail. The snow was stacked in the perennial creek on Lot 103 that parallels the road for a distance of about 80 feet. I met with the Town Road Manager on site and asked that the snow not be piled in the creek as it was affecting the drainage flow pattern in the spring and potentially would cause the creek to be redirected toward the house on Lot 103. In addition, stacking snow and residual road base from snowpack removal in the spring was causing environmental impacts to the creek and riparian ecosystem, essentially filling the creek bed with compacted snow and excess road base. The Town Road Manager agreed and informed the plow contractor to stop doing so. Since that time, I have annually placed temporary snow poles along that portion of the road, as a reminder of the boundary of the right-of-way for road operations. As a result, snow stacking has not occurred along the 80-foot southern portion of the road into Lot 103 and the snow poles have been effective in delineating the historically used r-o-w for over 20 years.

Since the early 1980's, along the northern portion of Sherwood Lane adjacent to Lot 103 for a distance of about 60 feet to the NW corner of the lot, plow operations occurred within the 1961 plat for Sherwood Forest Subdivision and/or an additional historically used area, parallel to the road, less than 10 feet into Lot 103. The witness marks of damaged trees, broadcast road base, disturbed ground, distressed or altered native vegetation, as well as the visually obvious traveled and maintained surface of the road is the physical evidence indicating the historically used road r-o-w area. Additionally, in 2022, I contracted a professional land surveyor to prepare a lot line location survey to affirm the location of the corners and boundary lines of Lot 103 as well as the recorded road r-o-w and existing used road surface.

The January 2023 Town of Blue River Newsletter information on Snow Removal stated, "A reminder that there is a 10 ft road easement on both sides of the road to allow for snow removal. Crews do try to be aware of sensitive areas, however, there are designated snow storage areas in each subdivision." In February 2023 I sent an email to the Town Manager

expressing my concern that there is no recorded documentation for the “10 ft road easement on both sides of the road” and that the statement in the Newsletter implies that the Town has rights for a 40 ft right-of-way for road maintenance; being the 20 feet noted in subdivision plats or prescriptive road easement area and the arbitrary 10 feet on both sides of the road.

The Town’s Attorney responded with a very detailed definition of prescriptive rights and the Town’s assertion for such rights on the roads in Town. Basically, it is not the subdivision map that creates the easement, **it is the historic use of the land that creates the easement**. If the Town plowed the road (as it exists on the ground) and placed snow adjacent to the road for the past 18+ years and can prove that they used the landowner’s property, the Town holds an easement on the land that was actually used. (See Exhibit A-Blue River News January 2023 and Road Easements). The snow plowing and pushback/stacking activities over the last winter in the aforementioned portion of Sherwood Lane on Lot 103 are beyond the limits of what has historically occurred and therefore not subject to a prescriptive right.

In December 2023, I sent an email to [info@townofblueriver.org](mailto:info@townofblueriver.org) inquiring if the Town had a map showing where the designated snow storage areas are located and how these areas are identified on the ground. I was told there are no marked areas on a map or on the ground, the plow contractor stores snow where they have historically stored snow utilizing the 10 ft on the side of the roads, and the locations of snow storage areas were developed based on how plows move and operate and where it makes the most sense with the least amount of impact. The plow drivers work to be respectful of where and when landscape markers are placed. (See Exhibit B- Winter Plowing Operations).

The response indicates that the Town relies on the location of the recorded road r-o-w or prescriptive easement to designate snow storage areas. The former being defined by the recorded plat maps in those subdivisions where a road r-o-w was dedicated to the Town and prescriptive easements for roads in all other subdivisions; the prescriptive road easement being defined as an area, not necessarily on any maps, that has been historically used as a roadway. Prescriptive easements apply where the Town has historically, and for more than 20 years, openly, adversely, notoriously, and exclusively managed, maintained, repaired, plowed, and controlled for the purpose of providing for a road system accessible to the general public. To the best of my knowledge, there is no map, recorded plat, nor metes and bounds description identifying the boundaries of the prescriptive easement area along Sherwood Lane, and for that matter, any other roads on or adjacent to private property. The Town defines the limits of the prescriptive easement based on the Town’s definition of the r-o-w simply as having been used for more than 20 years, and there are no markings on the ground to indicate where the easements are located.

It is disconcerting that the Town is saying they can store snow “*where they have historically always stored snow utilizing the 10 ft on the side of the roads.*” If this is true then the Town is potentially claiming a road right-of-way width of 40 feet, 20 feet for the travel way and 10 feet either side of the road for snow storage, whether or not it has actually historically used that amount of land. Yet this is contradicted with the statement “*The drivers work to be respectful of where and when landscape markers are placed*”; which implies snow storage areas may change over time, and somewhat dependent on the judgement of the plow operator who determines “*where it makes the most sense with the least amount of impact.*”

Unless the landowner and Town agree on the boundaries of the prescriptive easement as “10 ft ... on both sides of the road” is an arbitrary assumption when defining a historically used parcel of land that may have unique physical characteristics that define the limits of the

easement area. Specifically, environmental attributes (native and planted vegetation, steep slopes, large rocks, nearness to sensitive habitats, water, etc.) and man-made features (driveways, leach fields, utility poles, landscape improvements, authorized structures with a setback, etc.) along a roadway may dictate the boundaries of the easement area. By definition, it is **the historic use of the land** that creates the limits of the easement and not a predetermined number (10 feet) to apply to all roads claimed as prescriptive rights.

Additionally, without some formally designated snow storage areas, decided upon in collaboration with the lot owner, Town, and its road maintenance contractor(s), it is inevitable that lot owners can and will be putting up more markers and barriers (including berms and landscaping) in areas historically used for snow storage. This creates issues as snow accumulates and road widths will begin to narrow. For the benefit of the landowner, Town and road maintenance contractors, the boundaries of the prescriptive easement r-o-w must be clearly identified, either on the ground, on maps and mutually agreed upon by all parties.

The March 2024 Town of Blue River Newsletter information on Winter Plowing Operations stated, *“Crews have begun to remove snowpack ahead of the spring melt and will work to minimize the spring slush/rut cycle.”* In response to that notice, I sent an email to the Town asking it to recognize the ramification of the work being done along the Town roads and included documentation of those issues and concerns along with recommendations to move forward. Additionally, I insisted that the Town snow removal contractor not stack additional snow or snowpack off the historically used road r-o-w on Lot 103, and I set temporary snow poles and signs in the ground to mark the limits of the area for road maintenance. (See Exhibit C1 “Urgent Winter Road Maintenance Issues-Correspondence” and Exhibit C2 “Urgent Winter Road Maintenance Issues-March 5, 2024”). The Town response was very general in saying that the plow operator will do their best to push past my lot property and that accommodation does not constitute a relinquishment of the Town’s prescriptive easement. However, during the spring of 2024 the plow operator pushed and stacked snow beyond the historically used portion of the north end of Sherwood Lane. Snow was pushed back and stacked an additional 5-10 feet beyond the historically used snow storage area and prescriptive easement.

The March 14, 2024 Board of Trustees (BOT) meeting included a discussion on “Snow Removal Hauling”. (See Exhibit D - Board of Trustees Meeting March 14, 2024). There was a discussion about snow removal and if and how the Town might consider hauling snow away if there was no room to push and stack it along the road. The Town Manager reported that it costs too much to haul and there’s no place to put it. Minutes of the meeting suggest reviewing where areas become narrowed and need to have the snow hauled out of the area on an as needed basis and consider areas where snow stacking takes place. The BOT decided *“... to take time to review over the summer for next winter.”*

After that meeting, I erroneously thought I could place “no snow storage” signs along the historically used r-o-w of Sherwood Lane and Blue Grouse Trail and limit snow stacking that was planned to occur yet that spring. The location of the signs was based on the interpretation of the road r-o-w location as presented by Attorney Widner in 2/2/23 (See Exhibit A-Blue River News January 2023 and Road Easements). Specifically, the Town’s right to use a landowner property for snow storage is *“..only what the Town has historically used.”* I was issued a Notice of Violation for not having followed the Land Use Code regulations dealing with sign installation. I accept full responsibility for the actions I took in the spring of 2024 in not following the proper protocol for installing temporary signs to protect my property rights. I immediately removed the signs as requested in the violation notice. However, I have not given up my private lands rights

to assert that the Town has exceeded its authority to extend snow plowing activities beyond the historically used r-o-w on Sherwood Lane.

At the June 2024 BOT during Public Comment, I again expressed my concerns for road maintenance and referenced an eight page "Communications to Trustees - Winter Road Maintenance in the Town of Blue River, Date: 5-5-24" that was included in the BOT packet. (See Exhibit E1-"6-13-24 BOT Meeting" and Exhibit E2-"Winter Road Maintenance Issues 5-5-24"). The documents reference my comments made at the February 8, 2024 BOT meeting Work Session on Roads Maintenance & Planning and present recommendations to address the ongoing issues and concerns with the Town's road maintenance operations.

The BOT continued its focus on the road maintenance issue during its July 2024 meeting work session "Discussion of 2024-2025 Plow Contract". Both the summer and winter road maintenance contractors were present at the work session, and all agreed that the Town of Blue River is a unique situation that does not have effective road maintenance ditches and in the winter does not have anywhere to put snow. During discussions on the snow removal contract, it became apparent that the Town is hesitant to take on a comprehensive town-wide approach to designating areas for snow storage nor hauling snow off site. Rather the BOT consensus was that if there is a specific problem, it needs to be handled on a case-by-case basis and that the lot owner is the only one that can bring forward the issue as it affects their property. (See Exhibit F-Town of Blue River Board of Trustee Meeting July 16, 2024).

Based on the information noted above from the last two years and the specific direction stated by the BOT at its July 2024 meeting, I began communicating with the Town Manager to install signs along a 60-foot section of Sherwood Lane adjoining the western boundary of Lot 103. Specifically, on September 18, 2024, well in advance of the winter season, I emailed the Town to send me any information and permit requirements to install temporary signs to delineate snow storage areas on private lots in Town and subject to the guidelines in the Land Use Code Article 8 Signs, Sec.16B-8-50.

The Town Manager responded that no permit was needed and outlined conditions for the placement of the signs. (See attached Exhibit G – 9/18/19 Email RE: Is a permit required to install temporary signs on a lot). Following the conditions in the 9/19/24 email, I installed 3 **temporary** signs on November 1, 2024, before the Town snow removal contract began in order to clearly identify, for the benefit of the snowplow contractor, where the Town has historically stored snow along Sherwood Lane adjacent to Lot 103. The signs are temporary information signs meant to be removed at the end of the winter season. They are not permanent signs, and I have no intention of continuing to install such signs in the future as long as snowplow operators demonstrate that they are adequately informed on where it is permissible to store snow along Sherwood Lane adjacent to Lot 103.

On November 27, 2024 I was sent a "Notice and Demand" letter stating "...*conditions were observed at 0272 Blue Grouse Trail ... which violate the Blue River Municipal Code..*" specifically dealing with "... *multiple signs illegally erected...*" in violation of Sec. 16B-8-30, Illegal Signs and Sec. 16B-8-40 **Permanent Signs** [emphasis added]. For the record, there were only 3 temporary signs erected on Lot 103, not "*multiple signs*". In addition, the three photos of the signs. included in the "Notice and Demand" letter, are not the signs I installed on Lot 103. This mistake leads me to wonder if the Town does not know where the lot lines of Lot 103 are located on the ground.

I complied with the corrective action required in the letter and removed the signs on Lot 103 on December 12, 2024. However, I stand firm that I have not done anything wrong nor acted in violation of the Land Use Code. The three temporary signs I installed on Lot 103 were placed at the outside edge of the historically used r-o-w following the conditions outlined by the Town Manager. Specifically, the signs were placed “*no closer than seven (7) feet from any lot line or right-of way.*” I have also asked for clarification on why seven feet is specifically referenced, as it does not correlate with the Town’s assertion that “*there is a 10 ft road easement on both sides of the road to allow for snow removal.*”

For the last several years, in writing and speaking at Board of Trustee meetings, I have communicated concerns about the Town’s administration and management of road r-o-w issues (both summer and winter operations). As recently as the 11/19/24 Board of Trustee meeting concerning “Draft Ordinance 2024-05 dealing with Building Setbacks”, the topic of r-o-w boundaries was discussed and specifically the issue of creeping beyond the r-o-w onto private property as well as protecting the Town’s rights to use and maintain the historical road r-o-w. Language in the Draft Ordinance 2024-05 states that the Town has either a deeded r-o-w or prescriptive easement for all constructed roads that the Town has, “**historically and for more than 20 years** [emphasis added], *openly, adversely, notoriously, and exclusively* [emphasis added] *managed, maintained, repaired, plowed, and controlled for the purpose of providing for a road system accessible to the general public.*” The signs I installed are located beyond the boundaries as defined in the draft ordinance and especially related to such land being historically and exclusively used for road purposes.

Last winter was the first time in well over 20 years snow was stacked intentionally beyond the prescriptive easement road r-o-w boundary along Lot 103 on Sherwood Lane. I installed the signs in November to inform and remind the plow operator of the historical boundaries of snow maintenance operations in conformance with the temporary sign guidelines I received from the Town Manager. I maintain that I have not done anything wrong nor acted in violation of the LUC.

The November 27, 2024 Notice and Demand is an inappropriate and overly aggressive action, as well as a misguided approach, to addressing an issue (property rights related to prescriptive easements) that has been on the table for some time and remains unresolved. Rather, the Town chose to assert its authority and interpretation of a sign code violation, contradictory to the direction given to me by the Town Manager when I approached the Town with my intent to install the signs in September. Instead of taking the time to address the broader, as well as specific, issues regarding snow storage, the Town waited until the signs were in place and it became an issue when the plow operator expressed concerns that they could not be trespassing on the land they used only last year – which is clearly outside the prescriptive road r-o-w.

I agree with Attorney Widner’s explanation that “.. *a prescriptive easement will be created where the party [Town of Blue River] can prove that they used the landowner’s property: (1) in an open manner (known or should be known), (2) **continuous and without effective interruption for an 18-year period** [emphasis added], and (3) *adverse to the rights of the landowner.*” I also agree with the conclusion by Attorney Widner that “... *the ability to defend a prescriptive easement is **fact based** [emphasis added],, and only by a legal challenge, evidence, and a judge’s decision would you be able to definitively say that a prescriptive easement exists.*”*

It is a matter of fact that I have witnessed firsthand the snow plowing/storing operations of the various contractors that the Town has used to remove snow along Sherwood Lane and Blue

Grouse Trail adjacent to Lot 103 for over four decades. The historically used road r-o-w pursuant to a prescriptive easement is indicated by the witness marks of damaged trees, broadcast road base, disturbed ground, distressed or altered native vegetation, as well as the visually obvious traveled and maintained surface of the road. From the early 1980's up to last winter the plowing and road maintenance use occurred within the physical area of approximately 30 feet wide along Sherwood Lane, including a 20-foot-wide road surface and an additional area for snow storage, parallel to the road, less than 10 feet into the northern portion of Lot 103. What factual, evidentiary proof does the Town have to verify its "*continuous and without effective interruption for an 18-year period*" of the area outside the historically used area along Sherwood Lane that occurred last year?

An additional fact is that last season's snow removal operations have trespassed 5-10 feet beyond the historically used snow storage area and prescriptive easement of the north end of Sherwood Lane. I believe that my actions to place temporary informational signs, consistent with the direction given by the Town Manger, to delineate the boundary of the prescriptive easement r-o-w is not a violation of the LUC, but rather my efforts to protect my private property rights.

The continuous "kicking the can down the road" dealing with road issues (summer and winter) is parallel with the Town's continual encroachment onto private land rights, not only as it relates to Lot 103, but also other properties throughout Town. The intentional and unintentional creeping outside the historically used road r-o-w in the last few years, leading to future prescriptive easement assertions, is an insincere solution to snow storage issues and increased demands for better road maintenance. Such actions by the Town only leads to continued questionable trust in the Town's direction to uphold the Town mission statement, "*...nurture our serene mountain community by conserving our natural residential environment, promoting unity with our neighbors and surroundings, channeling the voice of our residents, and enhancing the quality of life for all.*"

Asserting prescriptive rights without proof may likely lead to future legal challenges to acquire needed easements. Furthermore, when the Town starts to use private property outside its prescriptive or deeded easement r-o-w it is a "taking" of private property rights and the Town may be liable for damages to private land and personal property when trees are damaged, address signs and road delineate posts and telephone pedestals are pushed over, manmade landscape features are buried, and other personal items buried or damaged with tons of snow stacked on top including road base shavings and residual mag chloride – in spite of the efforts of the road maintenance contractors to "*be respectful of where and when landscape markers are placed*".

I respectfully request that you to revisit the comments I presented in Exhibit E2-"Winter Road Maintenance Issues 5-5-24" and seriously consider the following recommendations to address the ever-present issues and concerns with the legacy of the historic roads in the Town of Blue River:

- Make it a priority action item for the Town's 2025 -26 program of work to thoughtfully evaluate what rights and responsibilities the Town and lot owners have within the rights-of-way of all roads in town.
- Prepare a comprehensive road management plan that addresses legal easements, road standards, acquisition of new easements and updated evaluation of CIP projects, in addition to the annual program of work for road maintenance.
- Survey the legal r-o-w of all roads, as needed, and determine where snow storage areas are appropriate.

- Conduct a survey of vacant lands within and adjacent to the Town that may be suitable for off-site snow storage and evaluate the feasibility for transporting snow to designated sites on an as needed basis.
- Negotiate with lot owners to obtain authorizations for snow storage and widened road r-o-w on a case-by-case basis.
- **Stop the creep of road maintenance and continued encroachment on private lands.**
- Talk with lot owners, who know the boundaries of their lots and road r-o-w, to determine the acceptable area(s) for roadway travel, snow storage areas and specific road maintenance considerations (e.g. application of mag chloride and road base).
- Establish an appropriate sign ordinance to designate snow storage areas.
- Compensate landowners for damage done to private property outside the r-o-w.
- Roads may be narrower in the winter and consider one lane and one-way roads where the r-o-w width does not allow for adequate snow removal for two-way travel.

Sincerely,

Paul Semmer  
Lot 103 Sherwood Forest

Enclosures

- Exhibit A – Blue River News January 2023-Road Easements
- Exhibit B – Winter Plowing Operations
- Exhibit C1 – “Urgent Winter Road Maintenance Issues-Correspondence”
- Exhibit C2 – “Urgent Winter Road Maintenance Issues-March 5, 2024”
- Exhibit D – Board of Trustees Meeting March 14, 2024
- Exhibit E1 – “6-13-24 BOT Meeting”
- Exhibit E2 – “Winter Road Maintenance Issues 5-5-24”
- Exhibit F – Town of Blue River Board of Trustee Meeting July 16, 2024
- Exhibit G – 9/18/19 Email RE: Is a permit required to install temporary signs on a lot





## EXHIBIT A –Blue River News January 2023 and Road Easements

**From:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Sent:** Thursday, February 2, 2023 8:01 PM  
**To:** 'Michelle Eddy' <[michelle@townofblueriver.org](mailto:michelle@townofblueriver.org)>  
**Subject:** RE: Blue River News January 2023

Thanks Michele, and Bob.

Excellent clarification to my question.

Bottom line, if the Town plowed the road (as it exists on the ground) and placed snow adjacent to the road for the past 18+ years the Town has the right to continue to do so.

Thanks again for the quick reply.

**From:** Michelle Eddy <[michelle@townofblueriver.org](mailto:michelle@townofblueriver.org)>  
**Sent:** Thursday, February 2, 2023 3:50 PM  
**To:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Subject:** RE: Blue River News January 2023

Paul

So that you can have a complete answer to your question, I had Bob provide the necessary information.  
Thank you

Michelle

You asked for advice related to the Town's right to use the roads in the Town over which a prescriptive easement has been created. More specifically, you asked whether the Town can claim the legal right to place snow removed from the roads along the side of the road. To best understand this advice, some background on a "prescriptive easement" is needed.

- A prescriptive easement is a property interest acquired through a party's unauthorized use of another person's land (the "landowner").
- A prescriptive easement is recognized by state statute (CRS 38-41-401 and judicial decisions).
- A prescriptive easement will be created where the party can prove that they used the landowner's property:
  - (1) in an open manner (known or should be known),
  - (2) continuous and without effective interruption for an 18-year period, and
  - (3) adverse to the rights of the landowner.

When these 4 elements are present, by law, the person will automatically hold a right to continue the use even though the landowner objects to the use.

- The "extent" of the prescriptive easement is "what the person used the landowner's property for." If the person drove their car through the same part of the landowner's land whenever they wanted to and every few days for 18 years, then the extent of the prescriptive easement is an easement to allow the person to continue to drive a car on the same land when they want to. The prescriptive easement does not allow the person to build a shed, store pipes, hold a race car event, or park cars on the easement. The historical use is what is allowed to continue.
- For the Town, the Town has adversely, openly, actually, and continuously used the roads in the Town for public access and public transportation to the benefit of the general public. The Town has maintained the roads, plowed snow from the roads, prohibited any development on the roads, managed access points, managed traffic and traffic safety, installed drainage and utility systems, installed signs, openly claimed the roads as public assets, claimed the roads for purposes of HUTF allocation to the Town, insured the roads, all as the presumptive holder of a prescriptive easement or as owner or what is now +60 years. No one ever effectively stopped the Town from exercising control over the roads and the Town's use or the roads was clearly known to everyone. So, the Town has a prescriptive easement on all the land that they have used for the last 60 years.
- The extent of the Town's prescriptive easement is to allow the Town to keep doing what the Town has done for 60 years. If a landowner today closed off the road or tried to stop the Town's use of the road for the public, the Town can legally enforce its easement and prevent the landowner from stopping the Town's use.
- Obviously, the ability to defend a prescriptive easement is fact based, and only by a legal challenge, evidence, and a judge's decision would you be able to definitively say that a prescriptive easement exists. But for Blue River, it seems more likely than not that the Town can prove the elements of the easement and today holds a prescriptive easement on the roads the Town claims as public.

Turning to the right to plow snow from the road and place the snow on the properties adjacent to the road, that is part of the Town's prescriptive easement. So, it is not only the travelled portion of the road on which the Town holds a prescriptive easement, but the easement extends to the area the Town has historically used for 60 years for the placement of plowed snow. The extent or limit of the Town's right to use a landowner property for snow storage is only what the Town has historically done. The Town cannot decide today to put all the snow from a street only on one property if what the Town historically did was plow evenly along the road placing snow on the sides of the road along every lot on the road.

Sometimes residents will look to the plat maps of the municipality and argue that the maps create the limits of the municipality's easement rights. That is, they argue that the municipality can only claim a right to use the area shown as a platted road. And, if the plat

does not illustrate snow storage areas, then the Town has no right to use any lands for snow storage. This argument is misguided – it is not the map that creates the easement, it is the historic use of the land that creates the easement. This is why a municipality can claim a prescriptive easement that is adjacent to or outside of a platted private easement for a road. If the Town never used the platted road easement area, but only used land near or adjacent to the platted easement, the municipality holds an easement on the land that was actually used. The map is irrelevant when it comes to creating a prescriptive easement.

Let me know if you have any questions or I missed your question entirely with this answer.

Robert (Bob) Widner  
Widner Juran LLP

*Michelle Eddy, MMC/CPM  
Town Manager/Clerk  
970-547-0545 ext. 1/ Cell: 970-406-2430  
<https://townofblueriver.colorado.gov>*

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**From:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Sent:** Wednesday, February 1, 2023 4:56 PM  
**To:** Michelle Eddy <[michelle@townofblueriver.org](mailto:michelle@townofblueriver.org)>  
**Subject:** RE: Blue River News January 2023

Michelle,

In reading this month's newsletter I took note of the following statements under the Snow Removal information:

"A reminder that there is a 10' road easement on both sides of the road to allow for snow removal. Crews do try to be aware of sensitive area, however, there are designated snow storage areas. in each subdivision."

I believe the prescriptive easement for the town roads is a 20 ft wide right-of-way defined as 10 feet either side of the road center line, as dedicated on the subdivision plats. There is no additional easement for 10' on both sides of the road for snow removal. The statement in the Newsletter implies that the town has rights for a 40 ft right-of-way for winter road maintenance. Did the town acquire a separate "10' road easement on both sides of the road to allow for snow removal"?

Is there a map showing where the "designated snow storage areas in each subdivision" are located? And, are such areas designated on the ground? Since we have owned our lot in town, I haven't seen any designated areas in Sherwood Forest unless the lot owner sets snow poles and talks to the town plow operator at the beginning of the season. Prior to me designating the snow removal area, the town contractor would decide where to push snow off the road, and often at the cost of damaging trees, shrubs and damming a creek on our lot.

Hope to get clarification on this issue.

Thanks,  
Paul

## EXHIBIT B – Winter Plowing Operations

**From:** info <[info@townofblueriver.org](mailto:info@townofblueriver.org)>  
**Sent:** Tuesday, December 5, 2023 3:29 PM  
**To:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Subject:** RE: Winter Plowing Operations

Paul

As you are aware, there are no marked areas on a map or on the ground where they store snow. I have verified with our contractor that they store snow where they have historically always stored snow utilizing the 10' on the side of the roads. In addition, they have followed the same pattern and snow storage areas utilized by Bob Byron. This means, they store snow in the same spots that have been used for at least the last 30 years. The only differences, which is rare, is when a new home is built and a driveway installed. The location of snow storage areas was developed based on how plows move and operate and where it makes the most sense with the least amount of impact.

The drivers work to be respectful of where and when landscape markers are placed. They have noted this year that as more markers and barriers are placed in areas historically used for snow storage, it will create issues as snow accumulates in that road widths will begin to narrow.

Thank you

*Michelle Eddy, MMC/CPM*  
Town Manager/Clerk  
970-547-0545 ext. 1/ Cell: 970-406-2430  
<https://townofblueriver.colorado.gov>

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**From:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Sent:** Tuesday, December 5, 2023 2:32 PM  
**To:** info <[info@townofblueriver.org](mailto:info@townofblueriver.org)>  
**Subject:** RE: Winter Plowing Operations

Are the areas marked on the ground in any way? Or, does the plow operator look for the wide vacant spot to stake snow?  
Paul

**From:** info <[info@townofblueriver.org](mailto:info@townofblueriver.org)>  
**Sent:** Monday, December 4, 2023 4:46 AM  
**To:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Subject:** Re: Winter Plowing Operations

Paul

As you have asked in the past and I have answered, we do not have a map of the snow storage areas.

Thank you  
Michelle Eddy, MMC/CPM  
Town Manager/Clerk  
Sent from my iPhone-(970)406-2430

On Dec 3, 2023, at 3:59 PM, Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)> wrote:

I notice that the recent Town newsletter has the following information on snow plowing operations:

### **Winter Plowing Operations**

Snow is in the air and hopefully this snow season will be a great winter season of moisture. A reminder that snow storage is used on both sides of the road to allow for snow removal. Crews do try to be aware of sensitive area, however, there are designated snow storage areas in each subdivision. Please ensure all items are moved away from the roads to allow for the proper snow storage. If you see the crews out, feel free to reach out to them with any questions or to bring something to their attention.

Does the Town have a map showing where the "designated snow storage areas in each subdivision" are located?  
How are these areas identified on the ground?

Thanks,  
Paul Semmer

**EXHIBIT C – Urgent Winter Road Maintenance Issues  
Correspondence**

Robert Widner [rwidner@lawwj.com](mailto:rwidner@lawwj.com)  
Tue 3/12/2024 9:57 AM

Dear Mr. Semmer:

The Town claims and holds a prescriptive easement on a portion of your property resulting from more than 50 years of snow plowing in front of the lots along the public roads. The easement has historically allowed for the removal of snow in order for you and your neighbors to gain access to the public street. Absent the annual use of this prescriptive easement, your property would likely be challenged during higher snow years to gain access to the road.

Together with the prescriptive easement, I understand that the Town also holds permanent easements on property adjacent to your lot. The Town has used, when available, those permanent easements for snow storage associated with the public road in front of your residence (to your benefit). Although the Town will seek to accommodate your request, that accommodation does not constitute a relinquishment of the Town's prescriptive easement. The Town must necessarily use the prescriptive easement when needed so you can gain access.

I appreciate your understanding.

Robert (Bob) Widner  
Town Attorney  
Town of Blue River



Widner Juran LLP  
13133 E. Arapahoe Road, Suite 100  
Centennial, Colorado 80112  
[rwidner@lawwj.com](mailto:rwidner@lawwj.com)  
Phone: (303) 246-6131  
[www.lawwj.com](http://www.lawwj.com)

Please consider the environment before printing this email.

**CONFIDENTIALITY NOTICE:** This message and any accompanying documents are intended only for the use of the individual or entity to which they are addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message and the accompanying documents is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone (303-754-3396).

Michelle Eddy [michelle@townofblueriver.org](mailto:michelle@townofblueriver.org)  
Tue 3/12/2024 8:39 AM

Thank you Paul

The crews will do their best to push past your property.

*Michelle Eddy, MMC/CPM*  
Town Manager/Clerk  
970-547-0545 ext. 1/ Cell: 970-406-2430  
<https://townofblueriver.colorado.gov>

**CONFIDENTIALITY NOTICE- OFFICIAL GOVERNMENT BUSINESS:**

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**From:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Sent:** Monday, March 11, 2024 7:08 PM  
**To:** Michelle Eddy <[michelle@townofblueriver.org](mailto:michelle@townofblueriver.org)>  
**Subject:** RE: Winter Road Maintenance

Michelle,

Thanks for the quick reply.

Until the comments and concerns expressed in my email are adequately addressed, we insist that the Town snow removal contractor not stack additional snow or snow pack off the road r-o-w on Lot 103.

The boundary of the road r-o-w maintenance along Sherwood Lane and Blue Grouse Trail adjacent to Lot 103 was delineated at the beginning of the winter season. The location of the road r-o-w is based on a professional land line survey for Lot 103, and adjacent lots, that was done last year. Snow poles and signs were set in the ground to mark the limits of the area for road maintenance. While the Town plow operator has ignored many of those signs this year and has pushed snow beyond the road r-o-w, we expect that not to continue as work is yet to be done to removal additional snow and pack removal this spring. We would appreciate an acknowledgement of this request.

Paul and Martie Semmer

**From:** info <[info@townofblueriver.org](mailto:info@townofblueriver.org)>  
**Sent:** Monday, March 11, 2024 12:03 PM  
**To:** Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)>  
**Subject:** Re: Winter Road Maintenance

Thank you. We will take your comments and suggestions into consideration.

Michelle Eddy, MMC/CPM  
Town Manager/Clerk  
Sent from my iPhone-(970)406-2430

On Mar 11, 2024, at 11:12 AM, Paul and Martie Semmer <[semmer@colorado.net](mailto:semmer@colorado.net)> wrote:

The recent Blue River News posted a notice on Winter Plowing Operations stating "Crews have begun to remove snowpack ahead of the spring melt and will work to minimize the spring slush/rut cycle."  
Snow pack removal was recently done in the Royal subdivision.

Before additional work is done in the next few weeks, it is urgent that the Town recognize the ramification of the work currently being done. The attached "Urgent Winter Road Mtce Issues.pdf" documents our issues and concerns along with recommendations to move forward.

Thank you for your attention on this important matter.

Paul Semmer

## Winter Road Maintenance in the Town of Blue River

During the February 8, 2024 Board of Trustees meeting I made a public comment regarding road maintenance. Specifically, I expressed concerns dealing with road maintenance activities taking place outside the road right-of-way (r-o-w). Many of the original Town roads were located and established based on what worked on the ground and not necessarily what was recorded on the subdivision plats. Although many of the roads are formally recorded as being 20 feet in width, the current use far exceeds that when considering drainage ditches, culverts, traffic signs, widened curves and intersections and areas for snow storage. To the best of my knowledge no effort has been made to document the change in use, either by obtaining recorded easements or other land use agreements with lot owners to use lands adjacent to the original 20 ft wide r-o-w.

The December 2023 Blue River News included the following notice:

### **Winter Plowing Operations**

Snow is in the air and hopefully this snow season will be a great winter season of moisture. A reminder that snow storage is used on both sides of the road to allow for snow removal. Crews do try to be aware of sensitive area, however, there are designated snow storage areas in each subdivision. Please ensure all items are moved away from the roads to allow for the proper snow storage. If you see the crews out, feel free to reach out to them with any questions or to bring something to their attention.

Earlier this winter season, I asked Staff “Does the Town have a map showing where the ‘designated snow storage areas in each subdivision’ are located?” Staff responded saying:

- There are no marked areas on a map or on the ground where snow is stored.
- The contractor stores snow where they have historically always stored snow utilizing the 10’ on the side of the roads that have been used in the past.
- The location of snow storage areas was developed based on how plows move and operate and where it makes the most sense with the least amount of impact. And,
- The drivers work to be respectful of where and when landscape markers are placed.

As lot owners place markers and barriers on their private property in areas historically used for snow storage, more snow accumulates in the road, road widths begin to narrow, and new areas to store snow are found. A similar situation exists beyond snow removal activities along roads where traffic signs, drainage ditches, culverts and widened areas for curves and enhanced sight distance at intersections is needed. Staff noted that “10’ on the side of the roads that has been used in the past” is where such use occurs, implying that the road r-o-w can be 40 feet wide! When the legal road r-o-w is only 20 feet wide, the road maintenance activities are clearly outside the r-o-w and trespassing on private property. Where is it recorded that the Town has a legal right to the full 40 feet being used for road maintenance? Has this been documented to assert a prescriptive right-of-way?

There are inevitable impacts to private land and personal property as trees are damaged, address signs and road delineate posts and telephone pedestals are pushed over, manmade landscape features are buried, and other personal items buried or damaged with tons of snow stacked on top –in spite of the efforts of the road maintenance contractors to “be respectful of where and when landscape markers are placed”. In addition, the continued encroachment on private lands for road maintenance activities outside the documented r-o-w is infringing on private property rights.

## Typical Town of Blue River Winter Road Maintenance



The recent Blue River News posted a notice on Winter Plowing Operations stating “Crews have begun to remove snowpack ahead of the spring melt and will work to minimize the spring slush/rut cycle. As the pack is removed, snow will be placed along the road right-of-way as in years past.” The pages that follow include a series of photos taken over the last few weeks that show various roads in subdivisions throughout Town where the contractor has removed the snowpack and placed it along the road r-o-w. The photos are alarming and show piles of snow in excess of 8 feet tall and more than 10 feet beyond the r-o-w. (Figures 3, 9, 12 & 14). In some cases, the plow operator has intentionally ignored snow poles that designate an area to avoid and stacked snow on either side of the poles or pushed them over altogether. (Figures 19 & 20). Trees that are outside the r-o-w, and have never been damaged before, show witness marks of the recent snow removal activity. (Figures 11 & 18). Recently placed boulders along Coronet Drive to define the roadway for summer use have been pushed away and buried in the snowpack. (Figure 9). Traffic signs are barely visible. (Figure 14). The Town Park is becoming buried and unsightly to use. (Figure 2). Snow is being pushed off the road and dumped in the live water channel along the Blue River (Figure 13) and Pennsylvania Creek (Figure 10).

The notice on Winter Plowing Operations is right that “this is a messy process...” around town. It is a fact of life that we have to deal with snow removal on our road system with long winters at 10,000 feet in a community that was designed 60 years ago and did not plan for the level of development and winter use that we have today. However, is the Town aware of the extent of the mess it is allowing to occur on private lands outside the road right-of-way and overall aesthetic landscape around our “our serene mountain community”?



What can be done about this?

- As soon as possible, including the March snow removal activities, stop pushing/stacking snow outside the legal road r-o-w and **start transporting it to acceptable off-site storage areas.**
- Make it a priority action item for the Town's 2024 program of work to thoughtfully evaluate this situation and develop an implementation strategy to resolve the issue along with a comprehensive road management plan that addresses legal easements, road standards, acquisition of new easements and focused CIP projects.
- Survey the legal r-o-w of all roads and determine where snow storage areas are needed.
- Negotiate with lot owners to obtain authorizations for snow storage and widened road r-o-w on a case-by-case basis.
- Stop the creep and continued encroachment on private lands.
- Talk with lot owners, who know the boundaries of their lots and road r-o-w, to determine the approved area for road use and snow storage areas.
- Compensate landowners for damage done to private property outside the r-o-w.
- Accept the fact that roads will be narrow in the winter.
- Consider one lane and one-way roads where the r-o-w width does not allow for adequate snow removal for two-way travel.

We urge you to consider the comments above as the Town moves forward in addressing Roads as a high priority item for 2024.

Respectfully,  
Paul and Martie Semmer

Figure 1. Wilderness Road & Blue River Road



Figure 2. Coronet Drive at Town Park



Figure 3. Davis Court and Silverheels Road



Figure 4. Blue River Road and Mountain View Drive



Figure 5. Calle de Plata



Figure 6. Whispering Pines Circle in Timber Creek Estates



Figure 7. Starlit Lane



Figure 8. Sherwood Lane



Figure 9. Coronet Drive



Figure 10. Regal Circle and Coronet Drive – Town Park



Figure 11. Sherwood Lane



Figure 12. Blue Grouse Trail



Figure 13. Theobald Way



Figure 14. Royal and Blue River Road



Figure 15. Blue River Road



Figure 16. 97 Circle and Hwy 9



Figure 17. Sherwood Lane



Figure 18. Sherwood Lane



Figure 19. Blue Grouse Trail



Figure 20. Blue Grouse Trail





## **EXHIBIT D– Board of Trustees Meeting March 14, 2024**

The Town of Bue River Board of Trustees 3/14/24 meeting agenda included a discussion on Snow Removal Hauling. Below are the minutes related to that discussion.

### **G. Snow Removal Hauling**

There was a discussion of snow removal and snow storage. Information and quotes were provided by the snow contractor, Highland Excavating and the road contractor, G & G Services. Manager Eddy reviewed what the contractors provided for quotes and recommendations. Town Attorney Widner reviewed the prescriptive easements and what has taken place over the last 60 years. He noted this happens throughout the State by towns and the State as snow is removed from roads onto private property.

Discussion of options and challenges. Discussion to review where areas become narrowed and in need to have the snow hauled out of on an as needed basis. Perhaps develop where snow stacking takes place. Decision to take time to review over the summer for next winter.

Recording <https://www.youtube.com/watch?v=-DC7vlwTkTo> 2:27:15 to 2:47:08

Specific comments on r-o-w by Fossett 2:39:50—2:41:00

Specific comment by Mayor Babich to task Town Manager to work with plow contractor and look into the matter of specific sites for snow storage --- 2:42:40 – 2:47:08





## EXHIBIT E1– Board of Trustees Meeting June 13, 2024

BLUE RIVER BOARD OF TRUSTEES REGULAR MEETING JUNE 2024 - Minutes

June 13, 2024 at 5:00 PM

<https://www.youtube.com/watch?v=gTlajPPyUyE>

(Audio Recording 00:04:10 – 00:09:40 (Public Comment by Semmer) and

Public Comment on Road Maintenance and reference to document included in the packet (5-5-24 Winter Road Mtce Issues\_Semmer memo to BOT.pdf, 8 pages



EX F1\_5-5-24 Winter  
Road Mtce Issues\_Sr

### G. Review of Plow Contract

The Town's Plow Contractor was present. Discussion on the current contract which is up for renewal. Trustee Stimpson noted he believes the contractors have been doing a good job. Trustee Hopkins noted the road base that was scrapped up and if there is a way to mitigate it. Mr. Allen noted it's an issue in the spring when the road gets soft during a plow and it's better to drive the roads versus plowing. He noted it was during the road cut time. Trustee Heckman noted that it depends on the spring and not much that can be done. Mr. Allen noted the roads soften in the spring and it becomes an issue with scraping. He suggested in the spring use more discretion in the spring. Discussion of timing of plowing and determining when to go out. It's generally 4" in a 24-hour time period unless it's a multi-day storm and then they try to time it out. Discussion of the run-off and the culverts clogging and then the road base that ends up in the ditch. Trustee Pilling recommended a roads commission be established in the future. Trustee Hopkins asked about extending the contract into May. Discussion to have a work session on the plow contract and provide recommendations back to the contractor for revisions and discussion of a roads committee

VII. REPORTS K. Mayor No report. L. Trustees Reports/Comments Trustee Heckman-reported on the variance recommendation and approved an addition. They discussed limiting the building amount in the buildable area. Trustee Stimpson-requested establishing a road maintenance committee and to serve as a liaison. The Committee would be a proactive committee to provide recommendations to the Trustees. He requested either the road contractor or plow contractor or their crew representatives on the committee. Discussion of potentially hiring a roads manager/public works. Trustee Stimpson left at 7:50 p.m.

Other Business: Trustee Pilling noted a need to review short-term rental regulations and the changing demographics. He recommended a moratorium on short-term rentals in place to allow time for review. He recommended to decide tonight and set a date for when it will go into place. Discussion on whether or not to implement a moratorium. Discussion that short-term rentals need to be a priority and discussed in the future. Discussion to have the first work session in July to review the citizen survey. The second work session will be to review the plow contract. It was discussed to add short-term rentals on the agenda or at one of the work sessions.



## EXHIBIT E2 - Winter Road Maintenance Issues - 5-5-24

To: Town of Blue River Mayor and Board of Trustees  
From: Paul and Martie Semmer  
Re: Communications to Trustees - Winter Road Maintenance in the Town of Blue River  
Date: 5-5-24

During the February 8, 2024 Town of Blue River Board of Trustees (BOT) meeting I offered public comment regarding road maintenance. (SEE <https://blueriver-co.municodemeetings.com/bc-bot/page/board-trustees-regular-meeting-february-2024> -- Work Session on Roads Maintenance & Planning, recording time 00:30:26 to 00:34:31, and Communications to Trustees, recording time 00:36:58 to 00:38:040).

Specifically, I expressed concerns dealing with road maintenance activities taking place outside the road right-of-way (r-o-w). Many of the original Town roads were located and established based on what worked on the ground and not necessarily what was recorded on the subdivision plats. Although many of the roads are formally recorded on subdivision plats as being 20 feet in width, the current use far exceeds that when considering drainage ditches, culverts, traffic signs, widened curves at intersections and areas for snow storage. To the best of my knowledge no effort has been made to document the change in use, either by obtaining recorded easements or validation of prescription rights or other land use agreements with lot owners to use lands adjacent to the original 20 ft wide r-o-w. In addition, the continued encroachment on private lands for road maintenance activities outside the documented r-o-w is infringing on private property rights.

The December 2023 Blue River News included the following notice:

### **Winter Plowing Operations**

Snow is in the air and hopefully this snow season will be a great winter season of moisture. A reminder that snow storage is used on both sides of the road to allow for snow removal. Crews do try to be aware of sensitive area, however, there are designated snow storage areas in each subdivision. Please ensure all items are moved away from the roads to allow for the proper snow storage. If you see the crews out, feel free to reach out to them with any questions or to bring something to their attention.

In March 2024 I asked Staff; "Does the Town have a map showing where the 'designated snow storage areas in each subdivision' are located?" Staff responded saying:

- There are no marked areas on a map or on the ground where snow is stored.
- The contractor stores snow where they have historically always stored snow utilizing the 10' on the side of the roads that have been used in the past.
- The location of snow storage areas was developed based on how plows move and operate and where it makes the most sense with the least amount of impact. And,
- The drivers work to be respectful of where and when landscape markers are placed.

The agenda for the upcoming BOT 5/9/24 meeting, under New Business, includes a discussion of the Review of the Plow Contract. A copy of the 2023-24 "Agreement for Winter Snow Removal and Road Maintenance Annually Renewal Contract" and a list of other documents pertinent to the "Snow Contract 2023-2024 – Final Audit Report" is included in the BOT packet. However, the public is not able to access those specific documents in the "Snow Contract 2023-2024 History" of the audit report, and therefore unable to compare and verify their connection to the 2023-24 contract. This is concerning because many of the exhibits referenced in the contract, and available for the public to see in the packet, are incomplete and miss important details of the contract work. Most importantly is that there is nothing in "Exhibit D – Winter Snow Removal and Road Maintenance Methodology Narrative", which asks for a description of details of "plowing, snow bank removal, pack removal

and road sanding.” Perhaps this missing information is found in the documents listed in the “Snow Contract 2023-2024 – Final Audit Report”?

With this understanding that the public is not able to access all of the documents referenced in the BOT packet, it is confusing as to what the contractor’s responsibilities and obligations are. In particular, dealing with snow storage areas, the 2023-24 contract states:

*B. Contractor’s Obligations for Winter and Spring Snow Removal.*

*7. Snow Banks.*

*c) Contractor shall take care to ensure that snow storage areas are selected to avoid damage to trees and other property and to minimize the impact upon Town property owners. **A map of the Town and designated areas shall be highlighted.** [Emphasis added]*

This provision in the contract implies that there is a map of the designated areas to be used for snow storage. Yet there is no map in the 2023-24 contract in the BOT packet. And, Town Staff acknowledged that there are no marked areas on a map or on the ground where snow is stored. How then does the contract plow operator(s) and landowners know where the snow storage areas are located?

As lot owners place markers and barriers on their private property in areas historically used for snow storage, more snow accumulates in the road, road widths begin to narrow, and new areas to store snow are found. A similar situation exists in addition to snow removal activities along roads where traffic signs, drainage ditches, culverts and widened areas for curves and enhanced sight distance at intersections is needed. Staff noted that “10’ on the side of the roads that has been used in the past” is where such use occurs, implying that the road r-o-w can be 40 feet wide! When the legal road r-o-w is only 20 feet wide, the road maintenance activities are clearly outside the r-o-w and trespassing on private property. Where is it recorded that the Town has a legal right to the full 40 feet being used for road maintenance? Has this been documented to assert a prescriptive right-of-way? How are landowners notified that the Town has asserted prescriptive rights on their property beyond the platted road r-o-w and/or deeded easements?

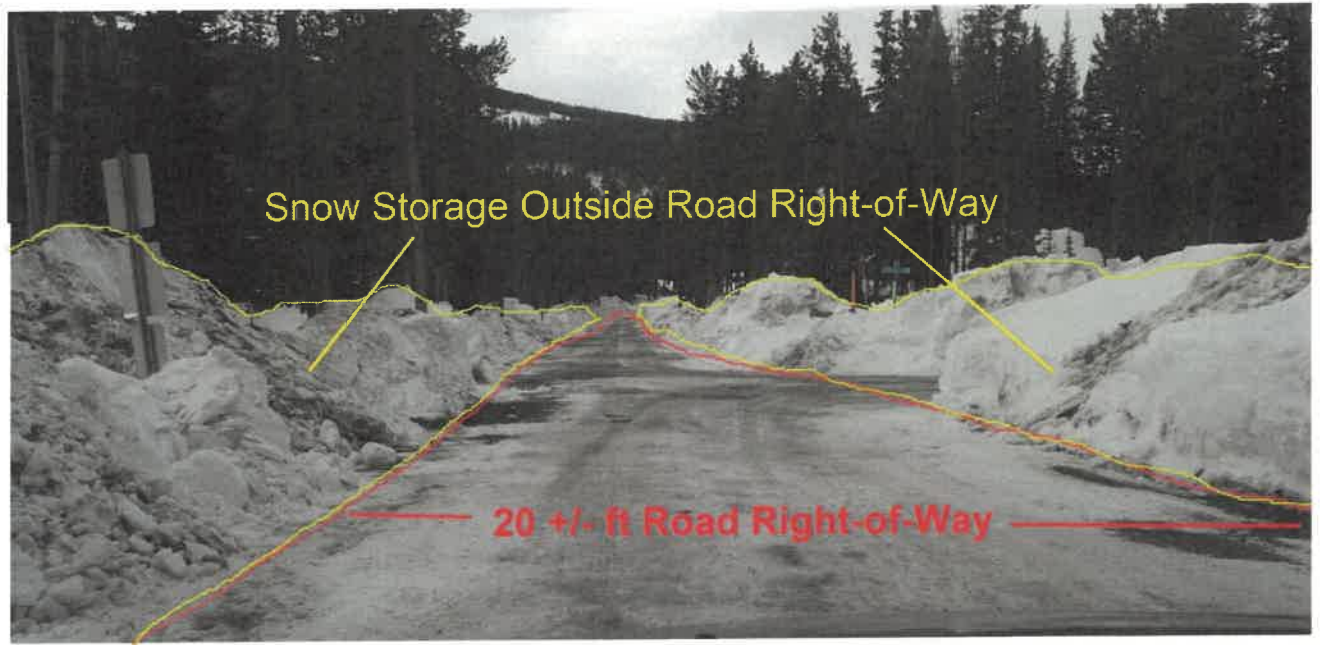
There are inevitable impacts to private land and personal property as trees are damaged, address signs and road delineate posts and telephone pedestals are pushed over, manmade landscape features are buried, and other personal items buried or damaged with tons of snow stacked on top including road base shavings and residual mag chloride – in spite of the efforts of the road maintenance contractors to “be respectful of where and when landscape markers are placed”. However, without well-defined limits of the plowed roadway and snow storage areas, how is one to know if the property damage is in or outside the responsibility of the Town/contractor? This is particularly pertinent when the 2023-24 contract states:

*I. Damage to Public or Private Property.*

*1. If the Contractor damages public or private property, the Contractor will be responsible for its repair and or replacement within 30 days or within a reasonable time depending upon seasonal conditions.*

Driving the roads around Town today, one can see there are several areas where excessive snow removal over the winter has deposited a significant amount of road base and debris onto snow banks outside the roadway onto private property. As the snow melts, this shows up as several inches of road base/debris on top of the ground in some cases. Unless the debris is removed, it remains forever as an eye sore to beauty of our natural environment and neighborhoods. Additionally, the deposition of a few inches of road base and debris, often with residual mag chloride, prohibits the growth of native plants previously established along the roadway. Is the contractor responsible for raking off the road debris from these areas to allow the native vegetation to reclaim the area and before invasive noxious species take hold on the disturbed soils?

## Typical Town of Blue River Winter Road Maintenance



The March 2023 Blue River News posted a notice on Winter Plowing Operations stating “Crews have begun to remove snowpack ahead of the spring melt and will work to minimize the spring slush/rut cycle. As the pack is removed, snow will be placed along the road right-of-way as in years past.”

The pages that follow include a series of photos taken in early March 2023 that show various roads in subdivisions throughout Town where the contractor has removed the snowpack and placed it along the road r-o-w. The photos are alarming and show piles of snow in excess of 8 feet tall and more than 10 feet beyond the r-o-w. (Figures 3, 9, 12 & 14). In some cases, the plow operator has intentionally ignored snow poles that designate an area to avoid and stacked snow on either side of the poles or pushed them over altogether. (Figures 19 & 20). Trees that are outside the r-o-w, and have never been damaged before, show witness marks of the recent snow removal activity. (Figures 11 & 18). Recently placed boulders along Coronet Drive to define the roadway for summer use have been pushed away and buried in the snowpack. (Figure 9). Traffic signs are barely visible. (Figure 14). The Town Park is becoming buried and unsightly to use. (Figure 2). Snow is being pushed off the road and dumped in the live water channel along the Blue River (Figure 13) and Pennsylvania Creek (Figure 10). Photos 21, 22, 23 & 24 were taken on recently, showing the impacts of snow removal activities and the deposition of road base/debris along the roads. Figure 23 is from Theobald Way looking at the Blue River and shows the road debris from snow stacking being discharged into the Blue River.

The notice on Winter Plowing Operations is right that “this is a messy process...” around town. It is a fact of life that we have to deal with snow removal on our road system with long winters at 10,000 feet in a community that was designed 60 years ago and did not plan for the level of development and winter use that we have today. However, is the Board of Trustees aware of the extent of the mess it is allowing to occur on private lands outside the road right-of-way and overall aesthetic landscape around “our serene mountain community”?

## What can be done about this?

Any resolutions to the issues related to road needs to reaffirm the goals of the Town Mission Statement:

*The Town of Blue River endeavors to nurture our serene mountain community by conserving our natural residential environment, promoting unity with our neighbors and surroundings, channeling the voice of our residents, and enhancing the quality of life for all.*

Related to the Mission Statement, during the Town of Blue River Candidate Forum earlier this year, both incumbent and prospective Mayor and Trustees were asked a question related to road design standards for width and road surface and drainage treatments. All candidates stated that it was important to develop “site specific” management guidelines that address the diverse neighborhoods and environmental characteristics in the Town.

The following recommendations are presented for you to consider as you tackle the challenge of developing a comprehensive plan to address the multifaceted issues of road maintenance for the Town. In order to engage the community and “channeling the voice of our residents” maybe the BOT could convene a special taskforce to help on specific recommendations to assist the Town moving forward in addressing Roads as a high priority item for 2024.

- Make it a priority action item for the Town’s 2024 -25 program of work to thoughtfully evaluate what rights and responsibilities the Town and lot owners have within the rights-of-way of all roads in town.
- Prepare a comprehensive road management plan that addresses legal easements, road standards, acquisition of new easements and updated evaluation of CIP projects, in addition to the annual program of work for road maintenance.
- Survey the legal r-o-w of all roads, as needed, and determine where snow storage areas are appropriate.
- Conduct a survey of vacant lands within and adjacent to the Town that may be suitable for off-site snow storage and evaluate the feasibility for transporting snow to designated sites on an as needed basis.
- Negotiate with lot owners to obtain authorizations for snow storage and widened road r-o-w on a case-by-case basis.
- Stop the creep of road maintenance and continued encroachment on private lands.
- Talk with lot owners, who know the boundaries of their lots and road r-o-w, to determine the acceptable area(s) for roadway travel, snow storage areas and specific road maintenance considerations (e.g. application of mag chloride and road base).
- Establish an appropriate sign ordinance to designate snow storage areas.
- Compensate landowners for damage done to private property outside the r-o-w.
- Roads will be narrower in the winter and consider one lane and one-way roads where the r-o-w width does not allow for adequate snow removal for two-way travel. (e.g. Theobald Way bridge).

Thank you for your attention to the ever-present concern for road maintenance in the Town of Blue River. We look forward to staying involved in future discussions on these matters as it relates not only to our neighborhood of 43 years, but also the character of the entire Town of Blue River.

Respectfully,  
Paul and Martie Semmer  
272 Blue Grouse Trail

Attachment: Representative Photos of Winter road Maintenance Concerns in the Town of Blue River

## REPRESENTATIVE PHOTOS OF WINTER ROAD MAINTENANCE CONCERNS IN THE TOWN OF BLUE RIVER

Figure 1. Wilderness Road & Blue River Road



Figure 2. Coronet Drive at Town Park



Figure 3. Davis Court and Silverheels Road



Figure 4. Blue River Road and Mountain View Drive



Figure 5. Calle de Plata



Figure 6. Whispering Pines Circle in Timber Creek Estates



Figure 7. Starlit Lane



Figure 8. Sherwood Lane



Figure 9. Coronet Drive



Figure 10. Regal Circle and Coronet Drive – Town Park



Figure 11. Sherwood Lane



Figure 12. Blue Grouse Trail





Figure 13. Theobald Way



Figure 14. Royal and Blue River Road



Figure 15. Blue River Road

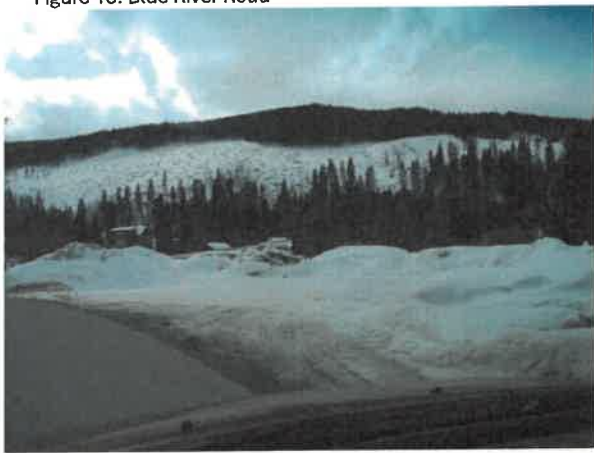


Figure 16. 97 Circle and Hwy 9



Figure 17. Sherwood Lane



Figure 18. Sherwood Lane



Figure 19. Blue Grouse Trail



Figure 20. Blue Grouse Trail



Figure 21. Bent tree - Damage to vegetation outside r-o-w. (May 5, 2024)



Figure 22. Damage to vegetation outside r-o-w and discharge of road base into Blue River. (May 5, 2024)



Figure 23. Discharge of road base in stacked snow bank into Blue River. (May 5, 2024)



Figure 24. Excessive amount of road base in snow stacking (April 23, 2024)



## EXHIBIT F – Town of Blue River Board of Trustee Meeting July 16, 2024

BLUE RIVER BOARD OF TRUSTEES REGULAR MEETING JULY 2024  
July 16, 2024 at 5:00 PM

Below is a summary of the audio recording for the meeting found at:  
<https://www.youtube.com/watch?v=wDRVEd6VJXE>  
Audio Recording 00:00:36-00:40:48

### 5:00 PM WORK SESSION:

Discussion of 2024-2025 Plow Contract and review of current contract

Mayor Decicco opened the work session at 5:00 p.m. The Trustees reviewed the current plow contract for discussion of changes to be applied to the 2024- 2025 contract. David Allen with Highland Excavating, the contractor, attended via Zoom to answer questions. Discussion to have additional reporting locations for snow measurement. Discussion to have addresses as reporting areas. Suggestion to reduce amount to 3" versus 4" and multiple pack cutting times and replenishing the road base per the contract. Recommendation to remove the map reference. Suggestion to either remove the road base repair requirement. Dave noted that the most accurate way to determine snow fall accumulation is to drive around to assess the snow depth. Dave noted a concern at 3" and scraping more base off the road. He stated the issue with road base in the spring when it's melting. He recommended getting it packed in the fall. Dave reviewed the timing of storms and when to go out to ensure that it is clear within the 24-hour time period. He was open to cutting pack one or two more times of year to keep the pack low. Kasey Grosskreutz, the Town summer maintenance contractor noted there is an issue with ditches and the need for easements and agreement with the comments on the road grader from the plow contractor. He noted there wasn't significant issue from winter to summer for road maintenance issues. He noted he also sends out crews as cameras don't show amounts well. He stated a loader is more efficient especially to push snow high. It was recommended to remove the map and road base requirement. Add an additional road cut in the contract and have the contractor provide a bid accordingly. Recommendation to coordinate with staff and the contractor when issues arise. Manager Eddy and Attorney Widner will work to draft a new contract and collect a bid from the contractor.

Audio Recording 00:00:36-00:40:48 Significant comments pertinent to snow storage issue:

"If they want to come up with a better solution then I would hear it, but I don't think there is a better solution in the Town" John Heckman (JH) 13:55-14:13

"They use common sense with where they push it and you're not going to make everybody happy." Barrie Stimson (BS) 14:14-14:28

"You've little choice but to push it up to the sides. Your problem is getting everyone in Blue River to agree and I don't think that its going to happen. There's always someone who is not happy." David Allen (DA) 16:25-16:55

Paul Semmer (PS) comment reiteration of what was included in previous BOT mtg packets – what happens beyond r-o-w and taking of private property who is taking responsibility for impacts to private land outside r-o-w creeping factor . PS 19:41 – 21:48

“Blue River is an entity unto itself, ... you’ve got to live with what you’ve got, if you’ve got a solution to where we’re putting snow I’m willing to listen.” DA 22:55

“I don’t think there is a solution for not going onto people’s property. And we should leave that part alone and because it is what it is. It is Blue River and I think it’s a part of the privilege of living here and we all make sacrifices to live here. Everybody got to come together a little bit and if there is a better idea I’m welcome to it, but I don’t see one.” JH 24:00 -24:30

“You’re biggest problem up here with summer road maintenance winter road maintenance is that you do not have road maintenance ditches and in the winter you do not have anywhere to put snow.” Snow storage is a big issue and I agree with everyone. Kasey Grosskreutz 27:44 – 30:26

Semmer 32:52 – 34:23 --- 43:22 comments and concerns with r-o-w creep---

“If somebody has a specific problem where the snow is being staked I think that a conversation can be had with Michelle or if we had a road manager in the future and get a better place to push out but I don’t think going around and actually designating on a map adding specific areas that would be a pretty cumbersome solution to do that. So you see what I’m saying if there is a specific problem lets address the specific problem and get Dave involved to see if there’s another place ... take it on a case by case basis.” BS 34:24

“Then it is the lot owner that brings up the cases is what you are saying? PS 36:45

“Yes the lot owner or the property owner. That is the only person that has a right to change anything” JH

“Pretty much everybody that has a lot that adjoins a road has got to take their fair share and it’s one of the facts of living in Blue River in winter.” DA 38:00