

Background Primer on Ancient Ways and Special Ways

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The following is intended to help improve understanding of the commonly used, but frequently misunderstood, terms “ancient ways” and “Special Ways”. Generally, *ancient way* is a colloquialism and *Special Way* is akin to a zoning classification.

Ancient Ways

There are many old roads across the Island dating back to Colonial days that have not “evolved” to accommodate modern, daily use of motor vehicles as so many of the other roads driven daily. They experience very little, if any, motor vehicle traffic but usually are used by walkers, equestrians, and bicyclists. These ways are commonly referred to as “ancient ways”; old cart paths, often recessed from the surrounding earth from continual use. In some instances, use has been so slight for so long, that the path is little more than a footpath, or even completely overgrown from inactivity. There are dozens of such old roads throughout the Island and only short remnants of still more

Many people assume that these ancient ways are by their very age open to the public. This is not necessarily true. Actually, the term “ancient way” has no legal meaning in Massachusetts statutes. In some cases, public rights of access are clearly recorded, but usually the public’s rights in the road are ambiguous as they predate the formal laying-out of public roads adopted in the mid 19th Century. Even if an old road has never been formally recorded in the town records as a public way, the public may still have access rights to it. The courts are the final arbiters of access rights.

Oftentimes, a portion of the way is already developed and routinely used by motor vehicles, but another portion of the way retains a more primitive character due to the adjacent land not being developed or not being used as a vehicular access.

Pennywise Path and Watcha Path are but two examples of such old roads.

Special Ways

For decades, town and island-wide planning for Martha’s Vineyard have acknowledged the importance hiking, horseback riding and, more recently, off-road or mountain bike riding is to Island residents to enjoy the natural character of the Vineyard. Trails are often the highest ranked amenity or activity cited by Islanders in surveys. A reflection of the importance of trails is that protection of old “ways” was among the first three DCPCs ever enacted by the MVC in 1975.

The Island Road DCPC is comprised of Major Roads and Special Ways. Special Ways are old cart paths that have little or no motor vehicle use and retain a link to the community’s cultural past. The term *Special Way* avoids the not-legally-defined *ancient way* and mirrors the “Special Place” terminology used for another type of DCPC created at the same time.

Special Way designation is intended to prevent the way from being more heavily used by motor vehicles with the concomitant widening of the way and alteration of the character. (An analogy would be commercial strip development: a community may determine that it is in the public

interest not to allow extension of commercial activity to uses along a main road. The community would then change its zoning and subdivision regulations to protect the bordering road frontage from being similarly developed.)

The guidelines the DCPC established for towns that choose to designate Special Ways and protect their character by:

- discouraging additional motor vehicle access
- limiting widening of the road to not more than 12 feet
- preventing fences, walls and structures within 20 feet of a way's centerline
- preventing paving of the road
- prevent blockage of the way to non-vehicular passage

Existing Special Ways

All Vineyard towns except Tisbury have designated at least one Special Way. In all, fifteen (15) Special Ways have been designated.

1975 in the initial creation of the Island Road DCPC

Aquinnah Old Lobsterville Road
 Old South Road
 Old Church Road

Chilmark Kings Highway

West Tisbury Tiah's Cove Road
 Watcha Path

1975 as a distinct DCPC (Edgartown portion not adopted by town)

West Tisbury Dr. Fisher Road

1991

West Tisbury Extension of Watcha Path/Scrubby Neck Path
 Old Courthouse Road
 Old Holmes Hole Road
 Roger's Path/Burying Ground Road

1999 as part of the Southern Woodlands DCPC

Oak Bluffs Old Holmes Hole Road
 Old Back Road to Oak Bluffs
 Road to Farm Neck
 Chase Road
 Connector Road

2000 establishing a Special Ways bylaws section

Edgartown Dr. Fisher Road

(Another paper focuses on common questions regarding Special Ways)