



**TOWN OF PELHAM CONSERVATION COMMISSION**  
Pelham, Massachusetts

**Minutes for July 7, 2022**

Present: Janice Gifford, David Gross, Dana MacDonald, Richard Seelig, Tilman Lukas

Also present: Jeffrey Blake (K-P Law), Alan Weiss (Cold Spring Environmental)

The meeting was held via Zoom under guidelines from the Attorney General and the Governor.

The meeting was opened at 7:00 PM.

**Review Incursion onto Harkness Conservation Area from 96 Harkness Road**

Chair MacDonald reported that he was unable to find a conservation restriction (CR) on the Harkness Road Conservation Area land purchase. He noted that there is a restriction on the deed that prohibits construction and motorized vehicles on the property. He said that he will contact Stu Watson of Kestrel Trust and Judy Eiseman, who was chair of the Commission when the land was purchased, to see if either of them has a record of a CR.

Jeffrey Blake, representing town counsel K-P Law, confirmed that the deed prohibits buildings and motorized vehicles on the conservation area. Chair MacDonald said that this is consistent with other deed transfers for conservation lands. He told Mr. Blake that the current owner, Hazel Dardano, purchased 96 Harkness Road in 1984, prior to the town's purchase of the conservation area. He said that Ms. Dardano reported that she had been using the woodshed sited on conservation property since before the conservation area transfer to the town. He also said that movable material such as a boat had been removed from conservation land at the request of the Commission and that Ms. Dardano had reported that she had stopped parking on the drive leading to her back yard. Commissioner Seelig said that he had seen cars parked on the drive a few days prior to the meeting. Chair MacDonald told Mr. Blake that Ms. Dardano had asked for an extension on the time to move the woodshed.

Commissioner Lukas reported that he had walked the property perimeter. He found that the north side of the house was not accessible for wood transport to the back yard due to a ravine located there. Commissioner Seelig pointed out that the Commission does not have an independent confirmation of the time of placement of the woodshed.

Commissioner Gross asked if it would be possible for the town to trade land at the back of the 96 Harkness lot for a piece of the frontage where the trespass has occurred. Mr. Blake said that would be possible and that any such swap would require approval by Town Meeting. Chair MacDonald was concerned that there is insufficient area at the back of 96 Harkness to make a swap possible. Mr. Blake said that the screen porch is the larger problem since it appears to have a foundation. He said that if a prior owner had installed the porch, then the current owner could use that installation to accumulate the 20 years needed for an adverse possession judgement. He said that other options would be an outright sale or a

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license for use. Commissioner Seelig asked if there a building permit for the porch had been located. Chair MacDonald said that the Zoning Board of Appeals did not find one. Mr. Blake noted that that if Ms. Dardano goes to land court there is no guarantee that either side would prevail. He said that he can draft a license that is very specific to allow Ms. Dardaon the use of the area under dispute. He pointed out that the language would say that the license is revocable at will. Chair MacDonald asked Mr. Blake to draft a license for Ms. Dardano's access to the woodshed for a period of 20 years or at transfer of property.

It was moved to have Mr. Blake draft a license for Martha Dardano for her use of the adjacent conservation area for 20 years or upon sale of the property in order to access the woodshed on the conservation area. Second. Approved 5-0. (Gifford – yes, Gross – yes, Lukas – yes, MacDonald – yes, Seelig – yes).

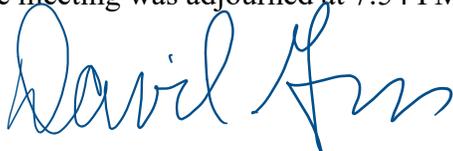
**Review Septic Plan for 33 Enfield Road**

Alan Weiss of Cold Spring Environmental said that he had sent a revised plan for the septic installation at 33 Enfield Road to all Commission members. He noted that this is a very tight property and that a property line survey completed after his original draft plan was created had forced him to move the septic field in the revised plan to the east. He said that it is within the 100 foot buffer of the spring resource area on the northeast corner of the property. He also said that there is a move afoot to obtain 20 feet of the adjacent property to the west of 33 Enfield Road so that the septic field could be moved more westerly away from the resource area.

After discussion by the Commission members who had joined a site visit with Mr. Weiss (Seelig, Lukas and Gross), it was agreed that the constraints of the property limit the septic installation design and that the only reasonable restriction from the Commission would be to put the limit of work at the tree line to the east of the yard. Chair MacDonald proposed that the Commission issue an advisory assessment letter listing the location of the spring and the limit of work.

It was moved that the Commission issue an advisory assessment letter for the project to allow the construction to proceed with the current plan given the contingency that a design change moving the septic system farther from the resource area would be allowed. Second. Approved 5-0. (Gifford – yes, Gross – yes, Lukas – yes, MacDonald – yes, Seelig – yes).

The meeting was adjourned at 7:54 PM.



Respectfully submitted by David Gross