

Property: 0-230 Lake Avenue (Crystal Lake area)

Newton Conservators Conservation Restriction Monitoring-2022

BACKGROUND:

1. NAME OF PROPERTY

0 230 Lake Ave. Conservation Restriction (City-owned property below)

230 Lake Ave. Conservation Restriction / Public Access Easement (over privately owned property, below)

230 Lake Ave. Grant of Fountain Easement -- temporary grant by City to current private owner, will terminate upon conveyance of this private property

Address of Property 0 and 230 Lake Avenue, Newton Highlands, MA 02461

Newton- Assessor Data Base # SBL 62001 0003A (City-owned)

SBL 62001 0003 (privately owned)

2. Current Property Owner and Address—if City of Newton, Department Responsible for Property

For 230 Lake Avenue (Lot 1):

Atilla Habip and Karen Ayas

Emails: ahabip@ripplesgroup.com, kayas@ripplesgroup.com; both may also be contacted via Carolyn Stapleton at Newton Parks, Recreation & Culture, below

For 0 Lake Avenue (Lot 2):

City of Newton Dept. of Parks, Recreation and Culture

Telephone # 617.796.1500

Emails: parks@newtonma.gov; Luis Perez Demorizi <lpdemorizi@newtonma.gov>;

Carolyn K. Stapleton <cstapleton@newtonma.gov>

Is there any knowledge of the property being transferred, leased or sold? No

3. Date of Inspection 18 October 2022

4. Monitor/s Alice Ingerson, Peter Barrer, Ken Mallory

5. Name of Owner or Representative Present During Inspection

Carolyn K. Stapleton, Luis Perez Demorizi, Atilla Habip

INSPECTION VISIT:

6. Briefly Describe the Nature and Methods of the Site Visit

As in 2022, we walked the perimeter of Lot 2 (abutting 20 Rogers Street), then the fountain easement area, and finally the lakeshore public path through 230 Lake Avenue that connects with the public land at Levingston Cove.

7. Current land use: also list and describe any changes in land use since last inspection, if none, so state

Passive recreation year-round.

8. List any man-made alterations since the last monitoring visit, (i.e. construction, dredging, clearing of fields, trail work, tree work, invasive plant removals, etc.) and note location(s) on the route map and attach maps, photographs, and illustrations as helpful.

See discussion under question 10 below.

9. List any natural alterations since the last monitoring visit, (i.e., flooding, fire, insect infestations, tree damage, invasive plants, etc.). Note the location(s) on the route map and attach maps, photographs, and illustrations as helpful.

- In 2021, the lake lapped to within a foot or so of the retaining walls at both 20 Rogers Street and 230 Lake Avenue. However, during our 2022 site visit the recent and continuing drought had exposed several feet of sand between these walls and the waterline, at both sites.
- One challenge at Crystal Lake, as a Great Pond, is that Massachusetts law (MGL Ch. 131, Section 45) requires public access to Great Ponds and requires authorization “for all activities in, on, over, or under the entire area of any Great Pond, whether larger or smaller today than historically.” Any “new” land uncovered at the edges of Crystal Lake, either by human action or by climate change, is still considered part of the Great Pond.
- The invasive vines we noted last year have again grown significantly, and there appears to have been no systematic effort to control them. They include porcelain berry growing on and through the yews along the former driveway of 20 Rogers Street, English ivy growing on several mature trees (including cedars) near the edge of the stone patio/fountain at 230 Lake Avenue and along the (somewhat tumble-down) retaining wall along the original boundary between 20 Rogers Street and 230 Lake Avenue, and some *very robust* (2” or more in diameter) bittersweet vines growing along and through the original retaining wall between 230 Lake Avenue and the lake itself.
 - Note: Carol Stapleton confirmed that Janis Sciegenny built this stone retaining wall between the lake and 230 Lake Avenue during his ownership, which began in the 1960s.

10. List areas in need of discussion or review (depositing/dumping, wetland alteration, excavation, residential structures, tree or shrub removal, agricultural structures, damage to the property, etc.).

- NOTE: Detailed plans, community meeting presentations, etc. for the various City projects mentioned below are available from <https://www.newtonma.gov/government/parks-recreation-culture/parks-open-space>
- As we suggested in 2021, in April-May 2022 the City conducted a new survey to support the planned improvements at 20 Rogers Street, including major trees and shrubs already on the site. We have attached that survey.
- As we noted last year, much of the existing woody vegetation, including large yews closer to Rogers Street and cedars closer to the lake, follows the original boundary between 20 Rogers Street and 230 Lake Avenue, rather than the current boundary between public and private property, which runs *through* the stone patio and fountain at 230 Lake Avenue. Many of these shrubs and trees are seriously infested with invasive vines, including porcelain berry, English ivy and bittersweet. We saw no evidence of any attempt to control these invasives.
- As in 2021, we suggested that these existing plantings be replaced with new ones that clearly mark the current boundary between public and private property. Some of the conceptual plans presented for the upcoming City project suggest such replanting is under consideration. In reviewing plans for this project, the Conservators should discuss in detail with City staff how to balance replanting with any value of the existing vegetation as habitat or food for wildlife.
- There is some potential for an ADA-compliant connection between 20 Rogers Street and Levingston Cove close to the lakeshore, but this would require removal of some cedars, some regrading along the original boundary between 20 Rogers Street and 230 Lake Avenue, and possibly regrading or stabilization of the public access path across 230 Lake Avenue.
- Since our 2021 site visit, the owners of 230 Lake Avenue have placed two new, explanatory plastic lawn signs at either end of the public access easement across their property. As in 2021, we continue to suggest that the City install more permanent boundary markers and signs explaining the location of and rules for this public path, including that much of the sand on the lake side of the path is private property.
 - The public will not be allowed to use Levingston Cove during the upcoming construction of new paths, retaining walls, and decks at that site. As a result, this construction will turn the public path across 230 Lake Avenue into a dead end.
 - We suggested that the City discuss with the property owners at 230 Lake Avenue whether it might make sense simply to close the path entirely to the public during this construction. If this is done, it will be important to ensure that the path is fully re-opened for public use after construction finishes.
- The owners of 230 Lake Avenue also explained, and City staff confirmed, several problems they have experienced for the past few years. Parks, Recreation & Culture staff do their best to support the owners by calling on assistance from the Police Dept. when needed, but these problems might also be partly mitigated by clearer, more official-looking signage at both ends of the path:
 - The City-held restriction & public access easement for the path (Sections II.B. 1 and 3) explicitly allows public use “for passing and repassing on foot” (or using any non-motorized vehicles needed by public safety officers to perform their duties or “necessary for the mobility of persons with disabilities”) and “for the purposes of walking, or nature study.”
 - However, the public also regularly rides bicycles along the path at speed and uses it to carry kayaks or canoes between Levingston Cove and 20 Rogers Street.
 - Some members of the public use the lawn furniture placed on the lake side of the path by the private owners, presuming this furniture is public property.

- Other members of the public built a new stone “bench” on the lake side of the path this year by carrying pieces of stone away from the fountain area and retaining wall on the private property and reassembling them on the sand exposed by the 2022 drought.
- Most significantly, after-hours drinking and swimming, including at night, often spill over from the public property at 20 Rogers Street (where the sloping topography makes such activities difficult to observe from the street) onto the public path and private property at 230 Lake Avenue.

11. Monitor comments: list any other observations or comments, information requests, etc. Also note any rare or unusual plant or animal life or sign thereof seen.

None.

12. Are there any items that monitors should be aware of pertaining to future visits, including land owner contact or access to the property?

As we recommended last year, this year we invited the homeowners at 230 Lake Avenue to accompany our monitoring visit. We strongly recommend continuing this practice.

13. Are the terms of the Conservation Restriction being upheld? If not, explain?

Yes.

14. Do the owner(s)/representative(s) seem familiar with the terms of the Conservation Restriction?

Yes.

15. Is any follow up needed? If so, why?

The Conservators should closely monitor

- any indirect impacts of the upcoming construction at Levingston Cove on the plans under development for 20 Rogers Street and on the use of the public path connecting that parcel to Levingston Cove.
- If that path is indeed closed to the public temporarily during construction at Levingston Cove, it will be important to ensure that the path is fully re-opened to the public after construction, and that it has visible signage explaining the rules for public access.

16. List attachments to this report (route map, photos, notes, etc.). Be sure provide a route map of the path walked and locations where on-site photos or other observations were made. Sign and date all materials.

of 10 Ground photographs 1 (3 pp) Map/Survey 1 Aerial photograph
0 Illustrations

 Other, explain:

(See monitor signatures on separate page.)

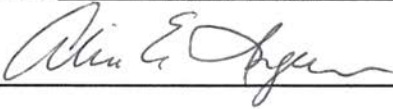
2022 Crystal Lake Conservation Restrictions Monitoring

- 20 Rogers Street/Crystal Lake Park (City-owned parcel)
- 0 Lake Ave (City-owned parcel, formerly part of 230 Lake Ave)
- 230 Lake Ave. (public access path through private property):

Newton Conservators Monitors' Signatures

Date (site visit): 18 October 2022

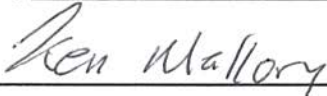
Name of Monitor/s (please print): Alice Ingerson

Signature of Monitor/s: 

Name of Monitor/s (please print): Peter Barrer

Signature of Monitor/s: 

Name of Monitor/s (please print): Ken Mallory

Signature of Monitor/s: 

Name of Monitor/s (please print): _____

Signature of Monitor/s: _____

Name of Monitor/s (please print): _____

Signature of Monitor/s: _____

Name of Monitor/s (please print): _____

Signature of Monitor/s: _____

NEWTON CONSERVATORS CR MONITORING REPORT ATTACHMENT

Waypoint Documentation – see map for locations

Property 0-230 Lake Avenue **Date** 18 Oct 2022 **Page** 1 of 6

Monitor/s Alice Ingerson, Peter Barrer, Ken Mallory (see separate signatures page)

Camera or other information: Photos by Ken Mallory & Alice Ingerson (smartphone)

Waypoint no.	Photo ID#	Photo location, direction, description
1	map	
2	Mallory 0229, 0212	Looking roughly west, beginning of public path from 0 Lake Avenue across 230 Lake Avenue, including sign installed by the owners of that private property
3	Mallory 0223	Looking roughly west, patio and fountain for 230 Lake Avenue; the boundary between public & private property runs through this area
4	Mallory 0256, 0283	Looking roughly west, public path across 230 Lake Avenue
5	Ingerson 1028221112, 1028221113, 1028221114, 1028221114c	Looking roughly west, private furniture on sand, vines along retaining wall, "bench" built of elements taken from private property
6	Mallory 0245, 0251	Looking roughly east, end of public path across 230 Lake Avenue, including sign installed by the owners of that private property



Crystal Lake CR – NADB aerial photo

2	Mallory 0229, 0212	Looking roughly west, beginning of public path from 0 Lake Avenue across 230 Lake Avenue, including sign installed by the owners of that private property
3	Mallory 0223	Looking roughly west, patio and fountain for 230 Lake Avenue; the boundary between public & private property runs through this area



4

Mallory 0256, 0283

Looking roughly west, public path across
230 Lake Avenue



5	<p style="text-align: center;">Ingerson 1028221112, 1028221113, 1028221114, 1028221114c</p>	<p>Looking roughly west, private furniture on sand, vines along retaining wall, "bench" built of elements taken from private property</p>
---	---	--



6	Mallory 0245, 0251	Looking roughly east, end of public path across 230 Lake Avenue, including sign installed by the owners of that private property
---	--------------------	--

