

## *In Perpetuity*

Lisa Doner, Plymouth Conservation Commission

Ruth, Henry and Matthew Walter, Suzanne Newton, Alfred Fauver, Philip Simpson – these names are embedded in the Plymouth landscape and familiar to all who hike the local trails. These are all landowners who so loved their land, and the natural values it provides, that they took action to guarantee it stays that way forever, in perpetuity. Today, because of these generous and forward-thinking landowners, the general public has access to those cherished areas for hikes in the woods, along brooks, to lookouts, waterfalls, and beaver dams. Their efforts are honored by place and trail names, like the Walter and Newton trails, Walter's Skiing and Hiking Area, and the Fauver East and Fauver Link trails.

Of course, the easiest way to protect and care for your property is to retain ownership, but that protection disappears when ownership changes. New owners may have very different perspectives about the value of the land and how to use it. There are ways to protect property beyond ownership. These options require thinking ahead, making plans and acting upon them before circumstances take away your protection. If you are considering this, reach out to your local conservation commission. They can direct you to the resources and people you'll need to get started.

A "conservation easement" is one of the better known mechanisms for land protection. That term describes a legally-binding restriction that accompanies the property deed. The restriction prohibits certain changes in use of the property no matter who owns it. The property can be sold, donated, inherited or subdivided, or logged, but the protections about use stay with the property forever. Still, the landowner cannot just dictate what they want done and expect that to be the end of it. Conservation easements are a negotiation between the establishing landowner and a group they contract with to ensure that the property is protected, usually a land trust. Once a conservation easement is in place, the current landowner is also required to adhere to the protective rules.

Land trusts have their own criteria for determining which natural features have high enough value to make their involvement worthwhile. It is the duty of the land trust to monitor the conserved land and ensure that the protections are followed. Sometimes this involves going to court if a problem cannot be worked out by simple communication. Many land trusts are run by volunteers who would need to hire a lawyer if court action were required. For this reason, conservation easements often involve paying a one-time fee, usually \$5000 or more, to the land trust holding the conservation easement. This fee helps support lawyer and court costs, over centuries, for otherwise unresolvable easement violations.

Many who wish to conserve their land end up discouraged by this lengthy and expensive process. We are forever thankful to those who stuck with it and created a lasting piece of the natural world. In 1988, the Walter-Newton Natural Area in Plymouth was created by efforts of the Walter's and the Newton's. Their property ownership was transferred to the Town of Plymouth and placed in a conservation easement with the State of New Hampshire. The State delegates easement monitoring tasks to the Conservation Commission and, every year, Commission members walk the boundaries and note any changes of concern. These might include snowmobile or bike use (both prohibited), dumping of leaves or other debris onto conservation land, tree cutting or other uses that cross the boundary onto the conserved area.

You can protect your land without a conservation easement if working through a land trust is not for you. A direct deed-restriction, for instance, creates a new deed that contains specific language prohibiting or allowing certain activities. For instance, you might restrict solid infrastructure but allow land uses like camping, recreational biking or ATV and snowmobile use. While there can still be lawyer and deed-filing fees with this option, it provides landowners freedom to tailor the deed to their exact wishes. As the landowner, you may enforce the restrictions or not because they only come into play when the land transfers ownership. If the deed restrictions are violated, you may have trouble selling the property.