

Weston Conservation Commission Policy: Response to Encroachment on Conservation Land

Approved: November 1, 2016

Preamble: Reasons to Delineate and Enforce Boundaries

1. It is part of the Conservation Commission's mission and legal obligation to protect the land it holds in trust for the citizens of Weston from intrusions and alterations such as the extension of lawns, the erection of structures, and the dumping of yard waste and other debris. All parcels held for conservation purposes are protected under Article 97 of the Massachusetts Constitution. Many parcels were donated to the Commission for conservation purposes, and the Commission is required to uphold the donor's intention. It is, therefore, the Commission's responsibility to delineate, mark, and manage these parcels. In cases of confirmed encroachment, the Commission will require removal of any indication of private intrusion. The encroached-upon area shall revert to the Commission's control to be maintained or naturalized as the Commission deems appropriate.
2. In many areas, encroachments, which are violations of the state constitution and the town's land use policy, result in diminished public access, reduced wildlife habitat value, and pollution.
3. Monitoring and enforcement of property boundaries will allow the Commission to restore these public lands to their natural condition. Enforcement of this policy and restoration of land to the Commission's control will provide wildlife habitat, stormwater control, and other natural resource values to the environment. Further, clearly defined boundaries will facilitate public access to land that is held in trust for public use.

The Conservation Commission's Policy

1. Commission members and its agents will maintain a professional and objective attitude regarding property boundaries at all times.
2. The Commission will delineate all parcel boundaries, identifying locations where encroachment is suspected.
3. The Commission will document as much information as possible about the boundary and will provide sources of information and conclusions that it has drawn.
4. The Commission will inform the abutting land owner of possible encroachments and gather information from him/her.
5. The Commission will determine (in concert with abutting land owner, if possible) the boundary line as well as possible using all available information (e.g., surveyed plans, abutting land owner information, as-built plans from the building inspector, wetland plans, etc.).
6. Once the boundary has been confirmed, the Commission may post boundary signs on trees or stakes close to the boundary.
7. If encroachment is confirmed, the Commission will determine how best to return the land to public use.
 - a. If lawn or landscaping has been extended onto Conservation land, the Commission will require of the abutting land owner that the encroaching lawn or landscaping area no longer be mowed/maintained and/or that the encroaching lawn or landscaping area be renaturalized as specified by the Commission.
 - b. If structures have been erected on Conservation land (fences, walls, play sets, sheds, etc.), the Commission will require that the encroaching structures be removed by the owner of such structures. In addition, the Commission may require this area be renaturalized.
 - c. The Commission may require that the cost of restoration be borne by the abutting land owner.
 - d. In the absence of cooperative development of a restoration plan, the Commission, as land owner, may develop and implement a restoration plan, or seek further legal remedies.