

**Cape Elizabeth Land Trust**  
**330 Ocean House Road**  
**Cape Elizabeth, ME 04107**  
**Easement Monitoring Report**  
**Year 2022**

**Easement Name:** Cross Hill

**Easement Property Owner:** Town of Cape Elizabeth

**Owners contact information (address, phone, email):** Cape Elizabeth Conservation Committee  
c/o Maureen O'Meara, Town Planner, 207-799-0115, [maureen.omeara@capeelizabeth.org](mailto:maureen.omeara@capeelizabeth.org)

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**Date of Inspection:** 10/19/22, 10/27/22, 11/2/22, 11/15/22, 12/2/2022

**Method of Inspection:** Site walks

**Monitor's Name and Title:** Ardath Dixon, Stewardship Manager; Chris Tullmann, Stewardship Committee Co-Chair

**Monitors Contact Information (email and phone):** [ardath@capelandtrust.org](mailto:ardath@capelandtrust.org), 978-491-7888;  
[ctullmann@gmail.com](mailto:ctullmann@gmail.com), 207-712-2671

**Monitor Accompanied by:** n/a

**Brief Summary of Inspection:** Monitored over five days fall 2022, walking the boundaries and several trails of the Cross Hill conservation easement. Witnessed several structures, surface alterations, and vegetation/waste management instances on Town land from neighboring properties, described and mapped below.

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**1. Conservation Easement Provisions (document change)**

- **Structures**

- i. Shed still on Town land next to 5 Chesterwood Rd, see photo below.
- ii. Slack line on Town land behind 1 Tiger Lily Ln and swing behind 13 Steeplebush Rd, see photos below.
- iii. Most of the treehouse on Town land behind 10 Steeplebush Rd has been removed, with some pieces still to be finished.
- iv. Remnants of an old platform are bolted into a tree on the Town trail in the SE corner of the Cross Hill property by Leighton Farms.
- v. Hunting stand with hunter's informational tags properly displayed by the SW corner of the Cross Hill property.
- vi. Fence cutting across Town land behind 9 Peppergrass Rd, see photo below. (Incorrectly classified as a dog fence in 2022 report.)
- vii. Successfully addressed since 2021 report: ziplines, ninja courses, and/or slack lines were removed from Town land behind 6 Tiger Lily Ln, 13 Steeplebush Rd, and 40 Cross Hill Rd.
- viii. *Potential:* Bolt in tree and string for clothesline potentially on Town land by 23 Tiger Lily Ln.

- **Surface Alterations**
  - i. Gravel on Town land behind 19 and 40 Cross Hill Rd, see photos below.
  - ii. Dump pile on Town land wetland behind 42 Cross Hill Rd still present, along with another new pile found off the back corner of the same parcel.
  - iii. Pavement successfully removed from Town land by 70 Cross Hill Rd.
- **Vegetation Management**
  - i. Semi-recent tree stump on Town land behind 15 Cross Hill Rd, with boundary pins located.
  - ii. Mown grass and/or brush clearing on Town land still behind 19 Cross Hill Rd and 10 Steeplebush Road. New notes of mown grass on Town land behind 41 and 70 Cross Hill Rd; 5 Chesterwood Rd; and 10, 12, and 13 Steeplebush Rd.
  - iii. Successfully addressed since 2021 report: New revegetation is coming up adjacent to 71 Cross Hill Rd and 3 Chesterwood Rd. No new cuts seen behind 23 Tiger Lily Ln and they agreed to cut no more on Town land.
  - iv. *Potential:* Mown grass potentially on Town land behind 67 Cross Hill Road, yet no boundary pin was located.
- **Waste Management (pet, brush, etc.)**
  - i. Organic waste on Town land with cues of recent additions behind 1 Chesterwood Rd; 15, 40, 41, 42, 51, 56, 59, and 71 Cross Hill Rd; 8, 10, and 15 Steeplebush Rd; and 1, 10, and 19 Tiger Lily Ln. Organic waste on Town land along the road with signs of recent additions between 56 and 60 Cross Hill Rd, and across from 5 and 7 Hawthorn Rd.
  - ii. Man-made waste on Town land behind 40 Cross Hill Rd (plastic doors), 51 Cross Hill Rd (old lobster trap), and 5 Poplar Ln (old lobster trap).
  - iii. Electric dog fences were sighted on Town lands behind 15, 25, 38, 40, 42, 47, 51, 64 Cross Hill Rd; 15 Peppergrass Rd; 5 Poplar Ln; and 6, 7, and 19 Tiger Lily Ln. Electric dog fence sighted on Town land behind 21 Cross Hill Rd, and the current owner had confirmed it does not belong to them.
  - iv. Successfully addressed since 2021 report: Brush piles were removed from Town land behind 23, 31, and 53 Cross Hill Rd and 13 Steeplebush Rd. Old organic waste was left alone with no new additions on Town land behind 17, 19, and 21 Cross Hill Rd; 5 Poplar Ln; and 6 and 11 Tiger Lily Ln. Carpet waste was removed from Town land behind 17 Cross Hill Rd.
  - v. *Potential:* Organic waste, man-made waste, and dog fences may be on Town lands in the following locations.
    - Organic waste piles with signs of recent additions are potentially on Town land behind 33, 48, and 55 Cross Hill Rd; 1206 Sawyer Rd; and 5 Steeplebush Rd, yet all boundary pins were not located.

- A second lobster trap behind 5 Poplar Lane may be located on Town land (with small trees growing up through it), yet the corner boundary pin was not located.
- A dog fence is potentially on Town land behind 5 Steeplebush Rd, yet all boundary pins were not located.

## 2. Natural Changes

- Some newly fallen trees due to storms. The fallen tree noted in the 2021 report on the fence by 21 Cross Hill Rd was since removed.
- Invasive species including bittersweet, honeysuckle, and multiflora rose continue to persist in several areas.

## 3. Human Use

- Item storage on Town land behind 5 Chesterwood Rd (metal stakes, wheelbarrow, plastic container), 15 Cross Hill Rd (garden fence circle), and 21 Cross Hill Rd (rolled metal fence and wheelbarrow), see photos below.
- Item storage (split wood) on Town land behind 1 Tiger Lily Ln and 12 Steeplebush Rd.
- Manmade stream crossings on Town lands behind 38 and 51 Cross Hill Rd, see photos below.
- Cross Hill Town trail crosses onto private land at 8 Tiger Lily Ln (other section of Town trail was successfully redirected off 23 Tiger Lily Ln).
- *Potential:* Boundary pin may be under firewood pile behind 14 Steeplebush Rd and compost bins may be on Town land behind 25 and 33 Cross Hill Rd, yet all boundary pins were not located.
- Item storage (wheelbarrow, split wood pile, old wooden boat, trailers) was removed from Town lands behind 27, 31, and 60 Cross Hill Rd; and 14 Steeplebush Rd.


## 4. Conservation Values – Large area with 102 acres of conserved ecosystems in Cape Elizabeth. Helpful as a connecting wildlife corridor along and near to some areas of higher development (e.g. Peppergrass Rd, Chesterwood Rd, Hawthorn Rd, Steeplebush Rd). Contains several wetland areas, which are helpful for flood mitigation. Lush vegetation throughout, providing animal habitats, carbon sinks, and shade for temperature control.

## 5. Other Information/Comments/Areas of Concern – The deed prevents structures (p. 2); surface alterations including filling, dumping, and paving (p. 3); cutting, disturbing, altering, or removing vegetation (p. 3); and rubbish, garbage, building debris, or

unsightly waste material (p. 1) (See Appendix C). Observations of these are listed above under 1. Conservation Easement Provisions.

## 6. Recommended Follow-up

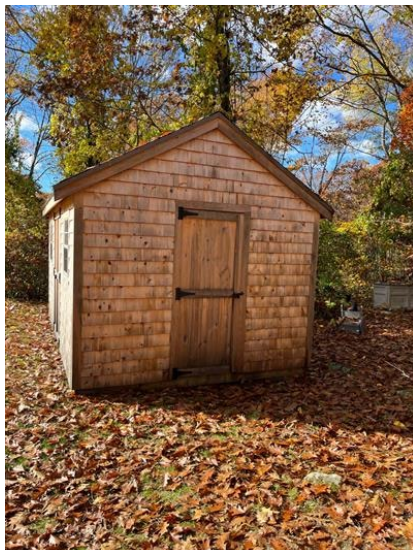
- Collaborate with Town to establish a plan for notifying landowners of infringements and creating action plans for their removals. Prioritize according to infringements' urgency and time-sensitivity, and address accordingly.
- Keep a log of actions taken for infringements and status updates. Integrate these 2023 notes into the GIS data to assist with future years' monitoring visits.
- Address field tasks that do not require neighbor dialogue such as putting up "no dumping" signs and removing dump piles that do not directly abut one private landowner, removing the old dog fence from Town land behind 21 Cross Hill Rd, and redirecting the trail off from the property at 8 Tiger Lily Lane.
- Address confirmed infringements this year. Long-term, would be nice to calculate distances from specific pins and/or install new pins to clarify boundaries near the sites of potential infringements

Monitor's Signature:   
Ardath C. Dixon

## Appendix A: Pictures of some larger issues from monitoring visits in 2022

### Structures

Shed on Town land adjacent to 5 Chesterwood Rd, 10/27/22 photo.



Slack line connected to trees on Town land behind 1 Tiger Lily Ln, 11/15/22 photo.



Swing on Town land behind 13 Steeplebush Rd, 11/15/22 photo.





## Structures & Surface Alterations

Fence on Town land behind 9 Peppergrass Rd, 11/2/22 photo.



Gravel on Town land behind 19 Cross Hill Rd, 11/15/22 photo.



Gravel on Town land behind 40 Cross Hill Rd, 12/2/22 photo.



## Human Use

Wheelbarrow, plastic container, and metal stakes on Town land behind 5 Chesterwood Rd, 10/27/22 photos.



Metal fence on Town Land behind 21 Cross Hill Rd, 11/15/22 photo.



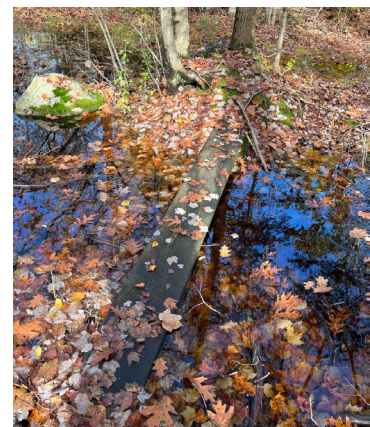
Metal fence on Town land behind 15 Cross Hill Rd, 11/15/22 photo.



Board found atop a small stream on Town land behind 38 Cross Hill Rd and moved to the side, 12/2/22 photo.



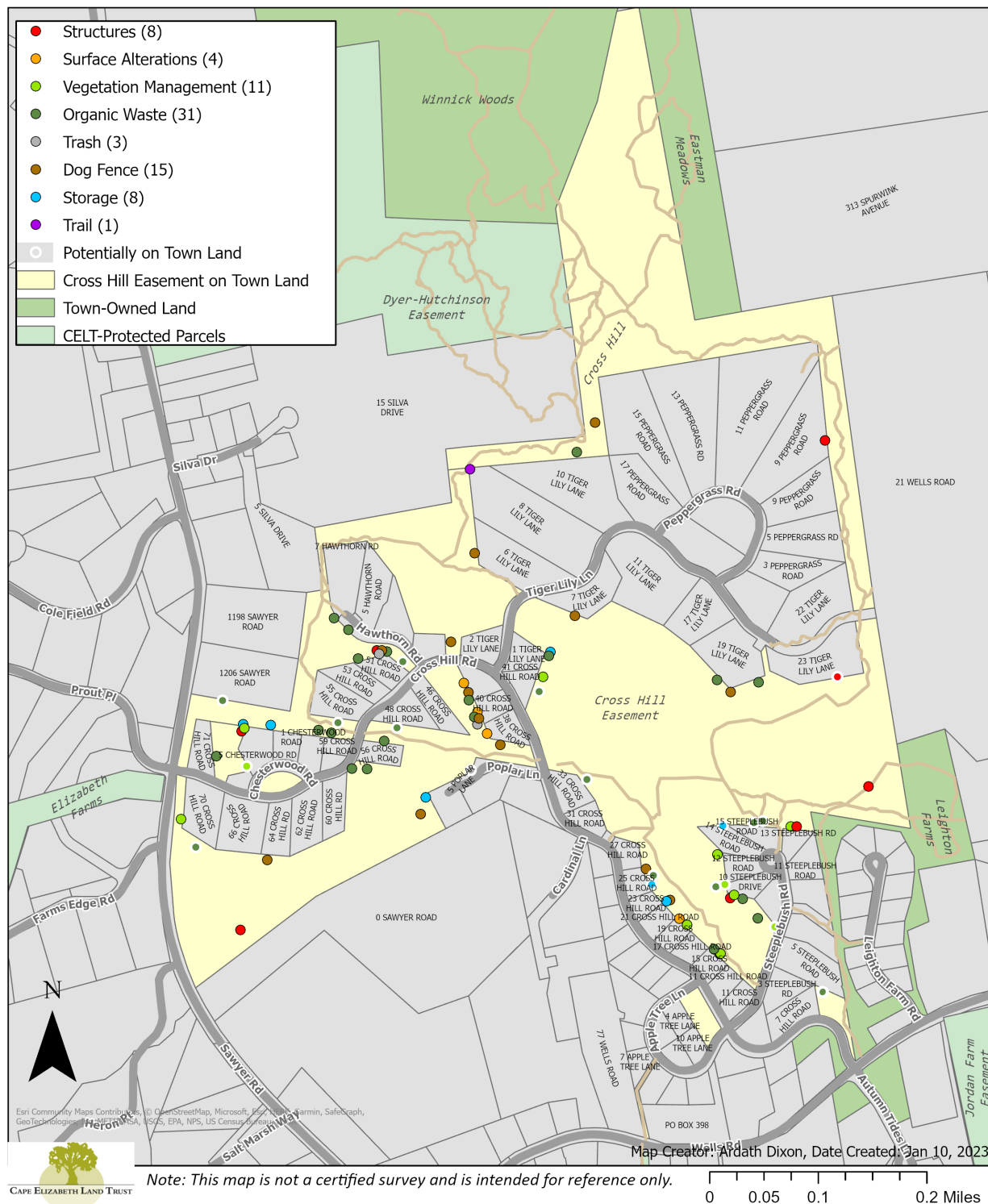
Board on Town wetland behind 51 Cross Hill Rd, 10/27/22 photo.





**Appendix B:** Map display of field notes and infringement locations from 2022, as described above

## Notes from Cross Hill Monitoring Visits in 2022



**Appendix C:** Original text from Conservation Easement, recorded with the Registry of Deeds of Cumberland County on February 11, 2000 in Book 15318, pages 065 – 086.

**WASTE (p. 1-2)** – It is forbidden to dispose of or store rubbish, garbage, building debris, unregistered vehicles, abandoned equipment, parts thereof or other unsightly or offensive waste material on the Protected Property, except that blowdowns and other slash may be left to remain on the Protected Property and other waste generated by permitted uses on the Protected Property may be stored temporarily in appropriate containment for removal at reasonable intervals.

**STRUCTURES (p. 2)** – As of the date of this grant, there are no structures on the Protected Property except for unpaved footpaths and utility facilities over, under and upon the Central Maine Power Company and Portland Water District easements in Exhibit C attached hereto. No additional structure of any kind, temporary or permanent, may be located on the Protected Property without the prior written consent of Holder ...

**SURFACE ALTERATIONS (p. 3)** – No additional filling, dumping, excavation, paving or other alteration may be made to the surface of the Protected Property without the prior written consent of Holder ...

**VEGETATION MANAGEMENT (p. 3-4)** – As of the date of this grant, the Protected Property is in a substantially undisturbed, predominantly forested condition with areas of mixed softwood and hardwood forest and freshwater wetlands, with the significant exception of the open former pastureland within that portion of the Protected Property delineated as “Common Green Phase I” or “Picnic Area” or “Half-Court Basketball Area” on Exhibit B. No vegetation may be cut, disturbed, altered or removed from the Protected Property without the prior written consent of Holder, except, however, Grantor reserves the right to cut, disturb, alter, plant or remove vegetation as follows:

- A. anywhere upon the Protected Property, to maintain existing trails and structures upon the Protected Property;
- B. anywhere upon the Protected Property, to establish and maintain additional unpaved trails and construct and maintain those additional structures permitted under Paragraph 4 or carry out those surface alterations permitted under Paragraph 5;
- ...
- F. anywhere on the Protected Property to reasonably protect the safe use of the Protected Property for low-impact, non-motorized recreational uses otherwise permitted herein, or to prevent the spread of disease or danger of fire;
- G. anywhere on the Protected Property to clear and restore forest cover and other vegetation that is damaged or destroyed by the forces of nature, such as fire or disease.

Subject to any rights reserved in Exhibit C or to other easement holders of record, the use of chemical herbicides, pesticides, fungicides, fertilizers and other agents upon the Protected Property shall be limited to those not having a demonstrably adverse effect on the wildlife, wetlands, or other habitat associated with the Protected Property. Any such use of chemical herbicides, pesticides, fungicides, fertilizer and other agents shall be carried out only with the prior approval of Holder and in accordance with a plan of application consistent with all applicable law and protection of safety of the neighboring property owners and the public.

**RIGHTS (p. 5-7)** – To accomplish the purpose of this Easement the following rights are conveyed to Holder:

- A. the right to preserve and protect the conservation values of the Protected Property;
- B. the right to enter and inspect the Protected Property at any reasonable time and in any reasonable manner provided that the time and manner of such entry does not unreasonably interfere with the uses of the Protected Property permitted hereunder or the quiet enjoyment of other lands of Grantor, and to enforce by proceedings at law or in equity the covenants set forth herein, including the right to require restoration of the Protected Property to its condition prior to any breach hereof;
- C. the right to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use.

If uncertainty should arise in the interpretation of this Easement, judgement should be made in favor of conserving the Protected Property in its natural, open and scenic condition.