

# Waltham Land Trust

is a non-profit corporation dedicated to preserving our community's natural resources for the future through education, open space acquisition and protection.



JOURNAL FALL 2018

## The Struggle to Remove the "Antico Tower" part two

*Dave Kehs, WLT Board member*

This is the second installment of a two-part article about the so-called "Antico Tower." The first installment described the landowner's two successful petitions to the Zoning Board of Appeals where the landowner requested permission to replace the existing tower with a newly constructed tower. Following the second ZBA decision, the City of Waltham's Building Inspector challenged that decision in Massachusetts Land Court. Part 2 of the article continues here.



DAVID KEHS

*The tower as it stood for years.*

### Building Inspector Action

The new Building Inspector, William Forte, conducted a review of the records of the property on file with the Building Department. In addition, he had the tower and associated structures inspected by a professional engineer. The result of these studies was a Cease and Desist Order, issued by the Building Department on

April 29, 2015. The order was based on the following determinations:

1. Certain structures and unpermitted wiring and equipment on said property appear to be dangerous to life and limb in violation of the State Building Code and G.L. c143
2. The commercial use occurring at said property constitutes an illegal use violation unsanctioned by any permit.

The order required the property owners to cease the illegal commercial use and to remove or make safe the dangerous structures.

The property owner challenged the first determination (unsafe structures) by producing his own engineering analysis. This was deemed unacceptable by the Building Inspector, who convened a Survey Board to conduct yet another analysis. Based on this analysis, the Building Inspector filed a lawsuit in Middlesex Superior Court to enforce the conditions of the Cease and Desist order. This lawsuit was filed on December 14, 2015.

The property owner appealed the second determination (illegal commercial use) by filing an Appeal of the Building Inspector's Decision with the Zoning Board of Appeals.

### WLT Position

As these events were occurring, the Waltham Land Trust Board decided to attempt to raise public awareness of the issues concerning the tower and its impact on Prospect Hill Park. Accordingly, a position paper calling for the removal of the tower was released in April, 2015.

### Rec Board Action

The Waltham Parks and Recreation Board, which has jurisdiction over Prospect Hill Park, began studying the issues relating to the impact of the tower on park land in early 2015. Potential legal actions were discussed at the Board's meeting of April 2015. The Board filed a lawsuit against the property owner on December 16, 2015. The lawsuit identified four counts whereby the Park had been damaged due to the construction and use of the tower:

**continued on page 4**

# Thanking Erica Zissman

Sonja Wadman, WLT Executive Director

Last February, the world lost a very special, warm, kind woman and talented photographer, Erica Zissman, shown left. We would like to acknowledge an extremely generous gift Erica and her husband, Morty Isaacson, made to the Waltham Land Trust on her behalf before her passing.

MORTY ISAACSON



ERICA ZISSMAN



Mute swan and male common merganser

From Morty: “Erica loved being a part of the Land Trust. She enjoyed the duck walks in winter and the invasives clearing in the summer, tramping through the Paine Estate, or bird watching on Hardy Pond. She loved community and caring for the community, and she found the Land Trust to be one of those wonderful Waltham organizations that gave her a sense of belonging and fulfillment. She also admired the fact that the Land Trust was an effective organization in protecting and promoting the open spaces she loved. When it became clear to her that she might not have much longer to be a part of the community she enjoyed so much, she decided to give large gifts to her favorite organizations, rather than leave them as bequests. The Waltham Land Trust was high on her list.”

As members of the Waltham Land Trust for many years, Erica and Morty regularly heard our plea for donations. Passionate about supporting causes important to them, Erica and Morty contacted us on #Giving Tuesday and made a donation that

Erica in France, 2015



MORTY ISAACSON

kicked off with a bang WLT’s 2017 year-end campaign. We can’t thank Erica and Morty enough for their foresightedness and generosity.



Female hooded merganser

ERICA ZISSMAN



Erica birding at Cape Ann, 2016

MORTY ISAACSON

# 5<sup>th</sup> Annual Western Greenway 5K—Same course, exciting new start/finish point!

Anna Richardson, WLT Board member

Enjoy cool temperatures and gorgeous foliage with the *Western Greenway 5K*, a family fun run/walk to benefit the Waltham Land Trust. This year, the *Race for Open Space* is happening on October 28, the last Sunday of October. Runners and walkers of all fitness levels join the Land Trust to stay fit and raise funds to protect community greenspace at the same time! As one of the only trail runs in Waltham, the *Western Greenway 5K* is a wonderful opportunity to support the Waltham Land Trust and enjoy some of the most interesting parts of the Western Greenway, one of the largest conservation areas in our community. The Greenway includes amazing natural habitats including cattail marshes, mature oak-hickory forests, brooks, vernal pools, and open meadows. Run by the plots in the Belmont community garden, pay homage while passing the historic Met-Fern cemetery, and take in beautiful views as the race course takes you through the largest contiguous wooded area in Waltham. Best of all, the 2018 *Western Greenway 5K* comes in later in fall when temperatures are cool and leaf color is at its peak!

More forgiving than running on pavement, this trail run is a great first race for those who have never run a 5K (3.1 miles) before, or avid runners looking for a lighter recovery run. If you haven't had a chance

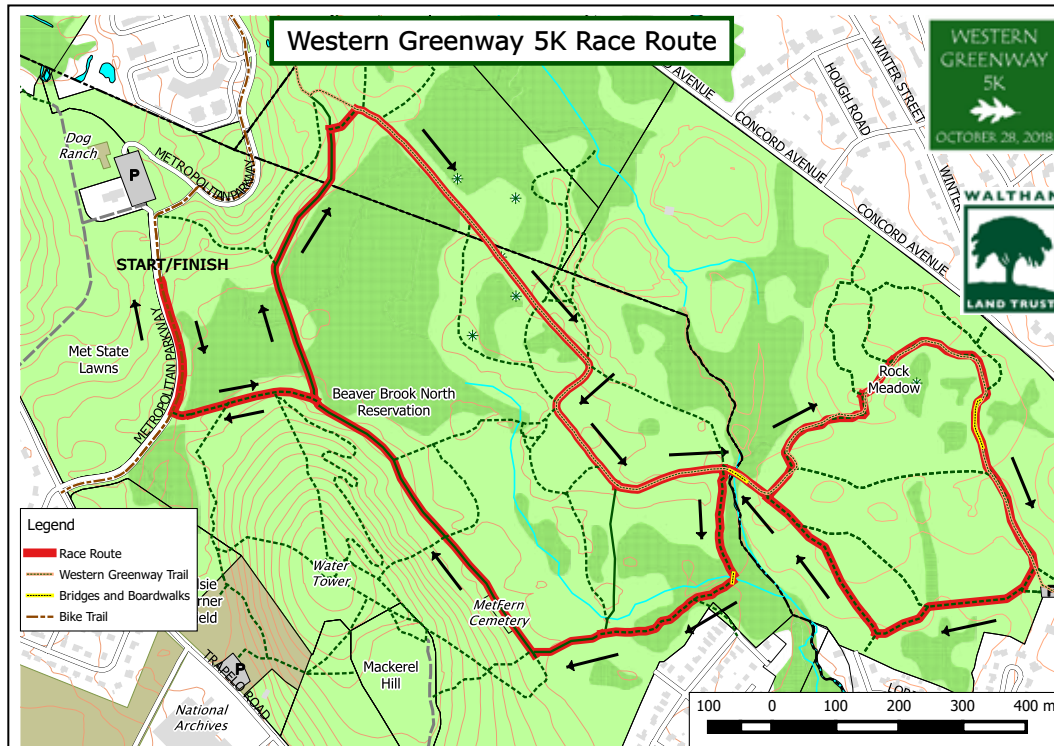
take in the wonderful wildlife the Western Greenway has to offer, come join us for the race and you may see everything from red-tailed hawks to foxes and various migratory birds while the race route takes you through some of the best parts of the Beaver Brook North Reservation and Rock Meadow Trails.

Not a runner? Not to worry. Walkers are welcome and volunteers are always needed to direct runners on the race route, hand out water, and help clean up. Prizes will be offered for the top finishers overall, and by age and gender, along with a range of raffle prizes so everyone who registers for the race and picks up a bib has a chance to win. The first 150 runners to register will also get a *Western Greenway 5K* t-shirt. Registration in advance is preferred and there is an additional \$5.00 fee for registration after Thursday, October 25 (in person at the bib pickup Saturday and on site before the race starts). Many thanks to Bistro 781 for hosting the bib pickup and post-race party, and to Bertucci's for providing pizza and rolls on-site immediately after the run.

The event will start at noon on Sunday, October 28, 2018. This year, we are excited to start and end the course at a super cool new location – the McLaughlin Building at the Metropolitan State. This historic, large, brick building with a beautiful copper copula and weathervane once served as the administration center for the Metropolitan State Hospital. It is located next

to the city's Dog Ranch on the Metropolitan Parkway in Waltham off Trapelo Road. All proceeds of the *Race for Open Space* will benefit the Waltham Land Trust and help it to protect and preserve community green space throughout the city.

For more information, and to register or sign-up to volunteer, visit <http://www.walthamlandtrust.org> or contact Sonja at [swadman@walthamlandtrust.org](mailto:swadman@walthamlandtrust.org) today.



**Antico** *continued from page 1*

1. Continuing Trespass by Structures [guy wires and anchors]
2. Continuing Trespass by Vehicular Traffic [access road and gate]
3. Trespass and conversion of trees [site preparation]
4. Public Nuisance

### **Appeal of Cease and Desist ZBA**

Public hearings are required for all ZBA Cases. The Waltham Land Trust encouraged its members as well as any other interested members of the public to attend the hearing for this case and to oppose the property owner's appeal of the Building Inspector's Cease and Desist order. This ZBA case received a larger-than-usual public turnout. Unfortunately, the case had to be continued (postponed) several times for various procedural reasons. Therefore, the people who showed up to offer support for one side or the other found out at the last minute that the case that they were interested in would not be heard that evening.

The ZBA appeal was finally decided in the Building Inspector's favor by a 2-3 vote in February, 2016.

The property owner immediately appealed the ZBA decision in Middlesex Superior Court.

### **Cases Consolidated in Middlesex Superior Court**

By March, 2016, five separate lawsuits had been filed relating to the tower (three by the city and two by the property owner). At that time the court



SONJA WADMAN

*As the site looks now.*

consolidated all the cases into one case in Middlesex Superior Court. From that point on, the whole matter was shrouded in a news blackout, since no one who was involved was willing to discuss a subject that was under litigation. There were no court hearings, but there were rumors that an out-of-court settlement had been reached.

### **Tower Removal**

Whatever negotiations may have been going on behind closed doors, their result was revealed on June 26, 2017, when a large crane was observed at the tower site. Over the next few days and weeks, the tower was removed, the locked gate was replaced with a new gate accessible by City of Waltham trucks, and the asphalt was dug up from the access road. Apparently, the settlement, whose terms have not been made public, required the land owner to remove the tower and restore the park land to its natural state. Visitors to this area of Prospect Hill Park are now rewarded with a view that is no longer obstructed by the unsightly tower.

It took quite a bit of time and effort, but this can only be seen as a major victory for those of us who are concerned with the protection of our parks and open spaces.

Following all of the court proceedings, the Waltham City Council, in a resolution introduced in the Fall of 2017, has approved a proposal for the city to acquire the 5-acre parcel on which the tower was located. These 5 acres could be incorporated into Prospect Hill Park. Negotiations on this proposal are still ongoing. The Waltham Land Trust continues to monitor the latest developments on this issue.

*[Editor's Note: We are eternally grateful to the author, Dave, for doggedly following the Antico case for years, keeping the WLT's Land Committee informed of all the meetings and court sessions.]*



DEE KRICKER

*A crane starts to remove the tower.*

## The Old Stone Walls of Prospect Hill Park

*Mort Isaacson, WLT member, Waltham Historical Commission Chair*

As you ramble along the paths in Prospect Hill Park, you might find that the trail you are on crosses a fairly straight line of large stones half embedded in the ground. Chances are this line of stones is the remnant of an old stone wall marking the boundary line from land grants dating back to the first decade of European settlement in New England. These land grants were made to the early inhabitants of Watertown (from which Waltham later split off) between 1636 and 1638; final plot surveys were completed before 1670; and the existence of stone walls in the park area was recorded in town records as early as 1731. Therefore, these walls probably originally date to between 1670 and 1731.

Some of the many places to see these wall traces are from the trails leading down from the Little Prospect parking lot to the various look outs, including the Boston Rock look out; from the Buttrick Trail just after it leaves the Maloy Trail; from the Ridge Trail a little north of Little Prospect peak; from the Boy Scout Trail near where it reaches the paved road to Big Prospect peak; from the Blueberry Trail just before it enters the Berry Park section of the park; and from the trail that comes up from the abandoned Fitchburg Railroad tracks (the soon-to-be Wayside branch of the Mass Central Rail Trail) into the Berry Park section of the park. There are in all over two miles of these stone wall traces found throughout the park, although it takes a bit of bushwhacking to see many of them. The accompanying map shows their locations in orange.

These ancient land grant lines continue to influence our lives, today, as many streets and property lines in the city are still aligned with them. Although traces of the old stone walls marking the original land grants can be found in many other open spaces in the city as well as back yards, Prospect Hill Park probably contains the largest collection. Since most of the park's land was always used primarily for woodlots and not extensively subdivided for pastures or tilled fields (except in the Berry Park area), the original colonial stone walls continued to function as lot lines up to the acquisition of the land for a public park starting in the late 1800s.



And here is another interesting historical tidbit about the park: the major paved park road that enters at the south gate was, for most of its length through the park, originally laid out in 1731, and formed part of a stage coach route between Boston and Lancaster, MA, in the early 1800s.

For more information on the ancient stone walls and their history, and an illustrated field guide to their locations in the park, please see the Waltham Historical Commission's webpage on the City's website for its downloadable publication "The Old Stone Walls of Prospect Hill Park." Later this year, the Waltham Historical Commission will also be publishing on its website interactive maps of the old stone walls in the Shady's Pond and Mackerel Hill areas as well as Prospect Hill Park.

## Member Spotlight

In each Fall *Journal*, we highlight a member of the Waltham Land Trust who goes above and beyond the call of duty with volunteering their time to further our mission. Barbara Jacobs, a WLT member since 2007, lives with her husband Ted in a house above Hardy Pond. She is a very active member of the WLT's Development Team and recently worked on a successful grant proposal that will fund a comprehensive watershed map for Hardy Pond. Barbara also leads walks for seniors in and around Waltham, and bicycle rides with local clubs. We asked her to take time out of her busy schedule to answer a few questions.

**WLT: What is your first memory of enjoying open space and nature?**

My family did not participate in an active lifestyle. When I moved to Boston I began to participate in outdoor activities such as bicycling, walking, and hiking. This was when I truly began to appreciate the beauty of nature. I traveled on a limited budget which meant that I often times traveled on my own power including cycling, camping and hiking through many areas of the country and Canada. My goal is to visit every national park in the US and Canada.

**WLT: We know you are on the Development Team and have helped secure the Land Trust significant grant funding for various projects. Thank you! Why should someone consider being a part this group seeking out and writing grant requests?**

The Waltham Land Trust is a vibrant organization that focuses on the open space of our community. It is very rewarding to participate in the Development Team as it supports the mission of the organization and helps to raise funds for needed projects. We focus on many grants that secure funds for the Hardy Pond Association

### HELP WLT GO PAPERLESS!

Join the 120 Land Trust members who have selected to have their *Journals* sent to them electronically. By opting out of the mailed hard copy, these supporters are helping WLT reduce our carbon footprint and save on costs associated with printing, postage, and transportation. Please send an email with your name to [swadman@walthamlandtrust.org](mailto:swadman@walthamlandtrust.org), with the subject header "Electronic *Journal*" if you'd like the next *Journal* emailed to you. **Please remember that receiving *The Journal* is a privilege of membership.** Be sure you are up-to-date with your dues so you don't miss the Spring 2019 *Journal*!

(a project of WLT), stewardship of the many trails throughout the city including the Western Greenway, and activities for youth in Waltham.

**WLT: What advice do you have for those looking to experience Waltham's trails and open spaces?**

I would suggest people go to the WLT website <https://walthamlandtrust.org> and click on the trails page. There you will find maps for the Western Greenway, Prospect Hill Park and Waltham City Walks. Find a friend and explore these areas or join up with the WLT walks that are run throughout the year. All of the trails are well marked and well maintained by WLT stewards.

**WLT: Do you have a favorite natural place in Waltham that you can share with our readers?**

I really like taking people for walks on the Western Greenway trails. It is amazing that you can walk through Waltham, Lexington and Belmont on one trail and only cross 2 roads from Falzone Park to Rock Meadows (4 if you go to the end by the Habitat). Whenever I take people for walks in this area I do a loop that visits the MetFern Cemetery to talk about the cemetery and its relationship to our community.

**WLT: Why do you support the Waltham Land Trust?**

I support the Waltham Land Trust because of the work that it does for our community protecting and helping to acquire Open Space. Every time I walk on a local trail I think about the work that went into developing the trail, taking care of the trail on a daily basis, and preserving it for future generations.



MINDY SCHERR

*Barbara after a hike in Boulder, CO.*



ERICA ZISSMAN

*Male hooded merganser*

## Upcoming Events with the Waltham Land Trust

### **Don't Dump Storm Drain Decal Installation Event**

Saturday, September 22, 10 a.m. – noon

Park/meet at First Parish, 50 Church Street

Celebrate *National Public Lands Day* by installing “Don't Dump, Drains to River” decals above storm drains in the neighborhood around the church and towards the Charles River. Instructions and supplies provided. Thanks to the Jones Partnership Fund for partially funding this program.

### **Pollution Solution: Community Action for a Cleaner Charles River**

Tuesday, September 25, 7 – 8:30 p.m.

Chapel, First Parish Church, 50 Church Street

Join the Waltham Land Trust for a presentation by the Charles River Watershed Association on the history of the Charles River, its current state, and ways members of the community can help improve its health. The one-hour lecture will be followed by 30 minutes of smaller group talk and interaction. Come learn how you can part of the pollution solution! Thanks to the Jones Partnership Fund for partially funding this program.

### **Fall Foliage Group Paddle**

Saturday, September 29, 2 – 5 p.m.

Charles River Canoe & Kayak, 195 Moody Street

Paddle the river and enjoy the start of turning leaf color with fellow nature lovers! Folks from the Waltham Land Trust will share information about the history and ecology of the mighty Charles River as they led the tour. Price is \$40 for WLT members. Sign-up at [walthamlandtrust.org](http://walthamlandtrust.org) today to reserve space in a two-person canoe. Thanks to Charles River Canoe and Kayak for loaning us the watercraft!

### **Hardy Pond Cleanup**

Saturday, October 20, 10 a.m. – 12:30 p.m.

Sign-in and get supplies by the shore at Lazzzero Park, corner of Princeton and Hiawatha streets one block off Lake Street

Help remove trash from the wetlands and shoreline of Waltham's only Great Pond (publicly-owned, greater than 10 acres in size). Be prepared to get wet and possibly dirty! Long pants and sleeves, plus boots or sturdy shoes that can get wet, are recommended. Tools, trash bags, gloves, and water will be provided. Bring an empty water bottle. All ages welcome (kids under 12 must be accompanied by an adult).

### **Farm Day**

Saturday, October 20, 1 – 4 p.m.

Waltham Fields Community Farm, Waltham Field Station, 240 Beaver Street

Learn about and celebrate Waltham's only community-supported-agriculture (CSA) and our last operating produce farm. Enjoy agricultural demonstrations, fun activities and games for all ages. Meet the chickens, find out about beekeeping, and enjoy live music while strolling through the farm fields and visiting outreach tables from groups like the WLT. We want everyone to know about this very important piece of Waltham's agrarian history and future!

### **Waltham Land Trust 19th Annual Meeting**

Tuesday, October 23, 7 – 9 p.m.

First Parish Church in Waltham, 50 Church Street

Attend our annual meeting to hear about specific strategies for saving land, including a discussion about Conservation Restrictions. We'll provide updates on all the projects we're tackling, celebrate our *Inge Uhlir Environmentalist of the Year*, and vote on returning WLT Directors. Come over and mingle with other open space supporters!

### **Western Greenway 5K Trail Run/Walk**

Sunday, October 28, noon start time

Start/end at McLaughlin Building, Metropolitan Parkway, off Trapelo Road opposite Forest Street

Be part of our fifth annual fall *Race for Open Space* fundraiser as a walker, runner, or sponsor! Following the same course since 2013, except this time with a new start/finish line and staging area at the very atmospheric McLaughlin Building, the route travels through various habitats in Beaver Brook North Reservation and Rock Meadow along the Western Greenway and other trails. Registration fees (\$25 before October 26) and race sponsorships help raise money to keep building this community path. Walkers will begin shortly after the runners depart.

### **Bertucci's Dining for Dollars**

Tuesday, November 13, 11 a.m. – 10 p.m.

Bertucci's Italian Restaurant, 475 Winter Street

Thank Bertucci's for donating pizza to the *Western Greenway 5K* and help earn the Waltham Land Trust a little cash. Use the enclosed certificate when you eat in, order take-out, or get delivery, and we get up to 25% of the sale.

### **#GIVING TUESDAY**

Tuesday, November 27, all day

Online at [www.walthamlandtrust.org](http://www.walthamlandtrust.org)

Reclaim the true meaning of “the giving season” by joining people worldwide donating online to local charities like the WLT on the Tuesday after Black Friday and Cyber Monday. Give through our website: [walthamlandtrust.org](http://walthamlandtrust.org).

WALTHAM



**Waltham Land Trust**  
**PO Box 541120**  
**Waltham MA 02454-1120**  
**www.walthamlandtrust.org**  
***Protecting Waltham's land...***  
***forever.***

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An electronic file (pdf) of this newsletter is available on our web site, <[www.walthamlandtrust.org](http://www.walthamlandtrust.org)>.

*Officers:* Nadene Stein (President), Maureen Bagge Fowler (Vice Pres.), David Kehs (Clerk), Marc Rudnick (Treasurer)

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*Published material represents the views of the authors and not necessarily those of the Waltham Land Trust. Interested in submitting an article, photo, or poem? Please send to WLT at P. O. Box 541120, Waltham MA 02454 or to [info@walthamlandtrust.org](mailto:info@walthamlandtrust.org)*

### **Waltham Land Trust's Mission**

To create a legacy of land conservation in Waltham by promoting, protecting, restoring, and acquiring open space.

We envision growth in public appreciation of natural resources, preservation and restoration of native habitat, and increased biodiversity to foster a healthier environment.

### **• SPECIAL GIFT MEMBERSHIP •**


Have a friend, neighbor, or relative you think would enjoy being part of the Waltham Land Trust? Why not give them a gift membership? **We are offering a special promotion for a limited time: 6 months for only \$10!** (The normal price of an individual membership is 12 months for \$25). **Support open space for a birthday, special occasion, or the holidays!**

To renew or join, visit our web site:  
[walthamlandtrust.org](http://walthamlandtrust.org)  
or call 781-893-3355

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Please send any comments to the return address, or email to <[info@walthamlandtrust.org](mailto:info@walthamlandtrust.org)>.

*If you're not already a WLT member and have received this complimentary copy, please consider joining today!*

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When you present this flyer, up to 25% of what you spend will be donated to the **Waltham Land Trust**

**Tuesday, November 13, 2018. 11:00 am - 10:00 pm**

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