

# Houghton Falls Easement Rights

## Platted Easement

The platted easement is adjacent to the former railroad right-of-way and is conveyed to each lot owner in the Houghton Falls Subdivision. The platted right-of-way is open and actively used south of the preserve from Gary Road to Dr. Lien's property.

On the Town's property, the platted easement is somewhat graded but has not been maintained over the years. The easement then runs into the ravine. North of the ravine, the platted easement has never been opened between the preserve and Houghton Falls Road.

"Each Landowner is allowed to use the easement to cross other properties along the Platted Easement, including the Town's property, to reach his or her respective lot. Such use is in connection with the ownership of each Landowner's property. The Landowners may not, however, travel to properties to which they do not have access via the Platted Easement." Landowner refers to those who own lots in the subdivision. It does NOT include off those who do not own lots within the subdivision.

## 1992 Easement

The 1992 easement runs from the north line of Kasiske's Lot 15 (not Lot 14) past Bouchard's property into the preserve to the south line of Lot 20. The 1992 easement is on the east half of the former railroad right of way (50' wide).

With respect to the 1992 Easement, the "Landowners cannot use that easement to cross the Town's property to access their own properties. The Landowners' use of the 1992 Easement to cross the Town's property to access their own properties would enlarge the Kasiskes' property's beneficiary status to include the other Landowners' properties."

"As the owners of a portion of lot 15, however, the Kasiskes can allow the Landowners to use the 1992 Easement on their property. Although the language of the 1992 Easement prevents the Kasiskes from allowing invitees to use other portions of the easement, such as the Town's portion, there is nothing in the language of the grant prohibiting the Kasiskes from allowing invitees to use *their portion* of the easement *on their land*."

## 1995 Easement

1995 Easement runs from Houghton Falls Road to the south line of Lot 16 and is 33 feet wide centered on the railroad right of way.

"As with the 1992 Easement, the plain language of the 1995 Easement is clear that it was intended to benefit only the owners of the southern half of lot 7 and lots 8 [Houghton Fall

Road] through 16, given that the former owners granted and conveyed the easement only to each other and their successors. Here, those successors include the Kasiskes, the Eggleasons, and the Town.” “[T]he 1995 Easement similarly contains no language mentioning the ravine or any intent to allow travel past the ravine. Given the plain language of the easement and the application of *Grygiel*, only the Kasiskes and the Eggleasons have the right to use the 1995 Easement to access their properties by crossing the Town’s property, but they have **no right to allow the other Landowners to use the 1995 Easement to cross the Town’s property to access their properties.**”

### **Summary of Easement Rights**

- All subdivision lot owners may use the platted easement. Casey, Suerth, and Wall have rights only to the platted easement. They may enter the preserve via the platted easement but may not leave the easement area.
- Only the Kasiskes and the Bouchards may use the 1992 easement. The Kasiskes and the Bouchards are the only property owners who may move between the 1995, 1992, and platted easements in order to travel from Gary Road to their respective properties.
- The Eggleasons and other beneficiaries of the 1995 easement may enter the preserve using the 1995 easement but may not leave the 33-foot-wide easement area.

