

Walden Woods Conservancy, Inc.
Board of Director's Meeting
Wednesday, May 29, 2013
Agenda, Item 6. Old Business, b. Boundaries

SUMMARY OF COUNCIL AREA BOUNDARIES STATUS

By Director Warren Johnson

In a memorandum dated 9/16/08 to Frank Goeckler (then Elite Property Management's Walden Woods assigned manager) Attorney Perlstein addressed an issue regarding repair of a stone wall in the rear of 24 Ivy Lane. It concludes that the wall is a responsibility of the Conservancy unless it is within the "Village Council Area" as shown on the "Survey". Both the quoted phrase "Village Council Area" and the word "Survey" are defined in article II of the restated Walden Woods Declaration of 2005. An exhaustive review of all the Surveys and recorded maps revealed that no Council Areas are shown on any Survey, nor are they shown on any other maps or plans filed in the Town Clerk's Office since the original Walden Woods Declaration was filed in 1990. The repairs at the stone wall at the rear of 24 Ivy Lane have never been made and the issue of responsibility has never been resolved.

At a Conservancy Board meeting in September or October of 2008, Elite advised the 2008 Board that the entire landscaping budget was being paid by the Village Council (82%) and the Conservancy (18%). CWD, LLC was apparently paying landscaping expenses in the Duplex and Townhome Councils while it was in the process of building and declaring units in those Councils. The Woodmoor and Ridge Councils were apparently not paying separate landscaping expenses. The anticipated need to allocate landscaping and snow removal expenses as CWD, LLC progressively stopped paying any of those expenses and ongoing controversy over the equitable allocation of expenses among the Councils and the Conservancy highlighted the need to establish Council Area Boundaries.

In an email dated 10/22/08 to Deborah Giampolo, then President of Walden Woods Conservancy, and Frank Goeckler, Attorney Perlstein stated that Surveys describing the Council Area Boundaries will have to be prepared and filed on the Windsor Land Records as part of Schedule A-3 to the Walden Woods Declaration. He stated: "It will not be sufficient just to prepare some sketches and keep them in the association records." Attorney Perlstein stated further that the Conservancy is free to place the Council Area Boundaries where it wants. The Conservancy Boards have made considerable efforts over the years since 2008 to come up with a Council Area proposal that it could recommend for adoption by unit owners. The Boards sometimes met as a Council Area Boundaries committee of the whole Board and sometimes conducted unit owner meetings on the subject.

In a 4/16/12 letter addressed to Dale Herrick, Walden Woods Conservancy President, and Jeffrey Byers, of Elite Property Management, Attorney Perlstein set out the steps needed to proceed with the establishment of Council Area Boundaries along with a draft fifty-ninth amendment of our 2005 amended and restated Declaration. This letter requires us to secure a supplemental Survey for Walden

Woods by a licensed surveyor or engineer showing Council Area Boundaries that can be added to the Declaration as a supplemental exhibit A-3.

The 2012 Conservancy Board held a Special Meeting on the issue of Council Areas on 9/18/12 that was well attended by unit owners and directors. During that meeting tentative Council Area Boundaries were presented and discussed by both unit owners and directors. At a Board meeting held the following evening, 9/19/12, the tentative Council Area Boundaries discussed the previous evening were modified slightly and approved along with ten clarifications and recommendations by the Board.

Subsequently the 2012 Conservancy Board recommended and in December 2012 the Unit Owners ratified a budget item increase in the Conservancy legal fees category for 2013 to \$20,000. The increase was intended to be used for anticipated Survey and legal expenses in 2013 to proceed with the amendment adding a supplemental Survey to the Walden Woods declaration that would establish Council Area Boundaries. President Herrick reported to the Conservancy Board at its 2/27/13 meeting and again at its 3/27/13 meeting that he would meet with surveyors on 4/8/13 to determine the scope of the survey work needed and to request a proposal. The meeting for 4/8/13 was announced as an meeting open to directors and unit owners scheduled for 4:00 p.m. at 22 Ivy Lane in Walden Woods. The meeting was held as scheduled and the preliminary maps showing the tentative Council Area Boundaries were loaned to Fuss & O'Neill for their use in making a preliminary draft Survey for review by the Board.

On 4/15/13 Fuss & O'Neill submitted a written proposal to the Board care of Director Johnson to complete the necessary survey work including a preliminary draft for Conservancy Board review, modification and approval and a final draft for inclusion in the proposed amendment to the Walden Woods declaration at an estimated cost of \$6,200. Director Johnson summarized the survey work proposal by Fuss & O'Neill to the Board at its regular meeting on 4/24/13. The Board accepted the Fuss and O'Neill proposal dated 4/15/13 and is now awaiting a preliminary draft of the Survey for its review.

The practical need to allocate costs among the Conservancy and Council budgets has resulted in much controversy and some acrimony over the years. Assuming a majority of the current Conservancy Board approves the Declaration amendment to be prepared by Attorney Perlstein and based on a Survey by Fuss & O'Neil, unit owners will have an opportunity to approve or reject the amendment.