

**Woodmont County Club  
Membership Meeting Minutes  
October 25, 2007**

**Board Members Present:** Brian Jacobson            Kelli Devitte  
   Carlotta Smith            Evan Sorby  
   Nancy Kennedy            Edie Staiger  
   Eileen Clemans            David Babbitt

**Board Members Absent:**            Adrienne Worah

Brian Jacobson called the meeting to order at 7:10 P.M. The meeting was held at Woodmont Elementary School.

**Roll Call:** There were 29 families represented. A quorum is 25; Brian declared that a quorum was present.

**Approval of Agenda:** There was no printed agenda since it was a special meeting called to discuss the one topic of the Northbeach property issue.

**Approval of Minutes:** Minutes were provided to all attendees. It was moved and seconded to approve the printed minutes with the attachment of the May 23, 2007 meeting.

**Northbeach Property Issue:**

Brian read the statement from the board that was sent out in letter form to the membership. (See attachment.)

Donna Dascenzo was given 5 minutes to respond to the statement. In response to the issues that Brian raised she referred to a letter that had been sent to the board through our lawyers stating that they had complied with most of the club requests to remove personal items from club property. They had received no official response through their lawyer as of 3:00 PM on Tuesday. They were willing to help pay for an appraisal to determine the value of the property. They were also willing to jointly pay for a survey. If the fence is on WCC property it will be removed. The Dascenzos paid to have a survey done on May 5, 2001. The survey markers on the east and north corners subsequently disappeared. The actual encroachment of their deck/storage area is a very small triangle. She showed a picture that showed where the markers had been that someone later removed. Donna also showed a picture with the triangle highlighted. The triangle is 22" at the widest point, and 58' long to the point. It is less than 60 square feet total. The retaining wall has been there for 35 years. What can really be the value of this small amount of property to the club?

Donna related that Brian had called her to let her know that there would be a special meeting to get money approved to spend to deal with the problem. They have waited for a response from the board for 2 months. She reminded the group that they are "your neighbors and club members." All improvements have been made in the footprint of old concrete. Woodmont lot lines were laid out in 1916. They thought the lots were square but they aren't. There have been other encroachment problems throughout the City of Des Moines. Donna stated that Shroeter Surveying called her in the fall of 2006. She said that they told her that they would only work for one client and not both the WCC and the Dascenzo's.

The steps to the beach were put in when the sewer was put in. The steps were put in for "us" as well as for other neighbors. She talked to Corky (then WCC president) about how they didn't

know where the property line is. Corky said it was fine. They offered to share the stairs with the club. Corky was on site every day. Gordon Rodland gave permission to build the steps with salvaged wood from the beach. It was all approved by the club at that time.

The watering system issue was one that Brian talked to her husband about. They thought the problem was with the risers. They took them down. They had health problems and quit maintaining the area. So many people told them that they enjoyed the flowers that had been planted. The system has now been completely removed.

The decking and patio existed on the spot for many years. "We are looking for a response. We want to move forward." Last week they became aware of a problem with the title insurance because it didn't include a complete description of the property. The problem was with the legal description. They researched way back and looked at a court case from 1972. She stuck a survey in her file from 1970. The line was set by decree. The original property line went through their houses. It was a common problem. The City of Des Moines can give an aerial view with white lines off assessor's map. This can be off by a couple of feet. The map that she had of the Northbeach area showed the line touching most roofs. There are no 5' setbacks. 7 of the 11 houses pictured have the line on their roofs. "We replaced the deck in the same footprint."

Brian made a motion from the Board that was read by Eileen Clemans. Motion: "The club will pay to have a survey to locate the three corners that it shares with the Dascenzo property and hire an appraiser for consultation regarding the value of a minimum easement where improvements to their house and deck encroach on club property. The total cost of the survey and appraisal is not to exceed \$3500." The motion was seconded by Bill Kennedy.

Brian said that the cost of a full appraisal would be from \$5000-\$7000. The appraiser recommended that we hire him for a "consultation" instead. This would cost about \$1200. A bid for a survey was about \$1700 and a small fee for recording.

Discussion:

Question: Is this the first time you've seen the legal description from Donna?

Answer: This is the first time we've seen the new legal description. The issue that we're discussing is mostly about the south property line.

Carol Belland asked if the Board thought of not spending money to do an appraisal. Maybe just make an offer to ask for an amount of money?

A: The board is nervous about making a decision on behalf of the club without doing research. The board would welcome ideas for an offer. We want to be careful to clarify that an outside wall was moved.

Matt Small asked if moving the wall to the south broke the plane of the previously existing deck. Donna answered saying that it's an area under the deck and is not accessible through the house. There was a lattice there in the past making a storage area that got wet during storms. This area does not increase living space but is just a storage area that has been enclosed.

Tom Schacht said that the entrance was always on the south side and was always an encroachment. The wall in the back has always been there. There is an easement for the trail. City ordinance says that there needs to be a wall to protect from walking off the edge of the trail. "We all have bits and pieces of our houses encroaching." Last survey shows 6" of Tom's house on adjacent property. The original property line went through all the houses at Northbeach. It needed to be extended to the east.

Pam: Is the house different now than when they bought it? Is it more on club property now?

The board position is yes. The deck and stairs have been enlarged to the south and there is now an enclosed storage area. It is a new design.

Pam proposed that we stay on this issue, not be talking about 20 years ago.

Brian noted that the issues of the fence will be resolved when the survey is done showing whether it is on WCC property.

Donna: The steps are over the same footprint. The deck and stairs are where they were originally.

Response: The term of "footprint" is different between the Dascenzo's and the board. We are referring to the actual structure.

The survey stake aligned with the middle of a stair going up to the deck.

Janet Sorby called for the question. We should only be addressing the motion. Closing discussion would require a 2/3rds vote. A vote was called for and closing the discussion did not pass.

Q: Did the Dascenzo's offer to pay?

A: The board felt that WCC should get an independent survey. There was an offer from the Dascenzo's to share in the cost of a survey. The motion on the floor includes both a survey and an appraisal.

Sven Kalve: He said that he has 2 serious problems with the motion. First, the Dascenzo's have made modifications to their deck and space that intrudes into club property. It is surprising to him that there would be a note from the planning committee saying that a permit is not required. He believes that the only way they would do that is if they did not have all the information. Second, the club property has been deeded to the club for common use. In the past the club has protected this and has given only common use easements. WCC has not yielded any property rights for individuals. We should do option #1 ["The club could ask that all improvements be removed to respect the existing property lines."] This may cause legal issues. In the 80's and 90's, he was part of the group that appealed property taxes for the club. We eventually won and haven't paid them. The point was made that the property benefited all home owners and therefore the taxes are paid for in our regular property taxes. This argument was used based on the president of another organization's successful strategy at that time. That club subsequently changed how they used the property and lost their tax exemption. We could be in the same predicament if we give an individual specific property easement.

There was a motion to suspend discussion. A vote was taken and over two thirds were in favor. Discussion was suspended.

There was a request for a paper ballot to vote on the motion. A paper ballot was taken. There were 13 yes votes and 16 no votes. The motion did not pass.

Matt Small made a motion. I propose that the survey and appraisal costs are split between WCC and the Dacenzo's with a limit of \$3500 for the total cost. The motion was seconded by Tom.

Matt: We all need to know where the line is so we can move forward.

Donna said that the survey is recorded in reference to the property from which the request for the survey came. She suggested that we may decide that it be the club who makes the official request for the survey and therefore have it be the club property under which it is recorded.

There was a motion to amend the motion so that it would cover costs for a survey only and not an appraisal.

There was the concern that getting an appraisal and selling an easement or changing the property line would affect our tax status.

The amendment to the motion was seconded by Matt.

Tom: We need to know the lines, and then we can find the square footage. Maybe the value can be assessed by using the square foot value.

Sven again suggested that we shouldn't even discuss having private use of property. We need to vote down this motion. The deck needs to be removed.

Pam: With either option 1 or option 2, we need a survey. The pictures don't seem give compelling evidence for either side.

Dwayne: The only way to know if there's an infringement is with a survey. Then we need to discuss if we have the right to sell an easement.

Janet Sorby: My understanding is that we have information from the survey that has already been done. Why not access these survey results?

A: The marker was placed there. Then it was removed and the cement was poured. Then it was replaced. It was disturbed during construction and therefore is not fully reliable.

Donna: The surveyor came out this May. He measured the area for an easement. The surveyor said that the marker in the steps is in the correct spot. Markers are gone from the corners but he did a drawing showing the lines.

The amendment to the motion changing it to include only a survey splitting the costs with the Dascenzo's was put up to vote on. All were in favor and it passed.

A friendly amendment changed the dollar amount from \$3500 to \$2000. Bill Kennedy move to amend the motion to allow the board to choose their own surveyor. He commented that he would prefer an independent surveyor. Brian explained that it was not necessary and no vote was taken regarding the survey company chosen.

The motion: "I propose that the survey cost be split evenly between the Dascenzo's and the club with a limit of \$2000 total." This motion was voted on and passed with no dissention.

Sven expressed concern that the board is not responding to the Dascenzo attorney. Brian responded by saying that the response was provided to our attorney several weeks ago but for some reason has not been conveyed to the Dascenzo attorney. This will be followed up on.

The meeting was adjourned at 8:35.

Respectfully submitted,

Eileen Clemans  
Secretary

## **ATTACHMENT:**

*The board has been working for several months with neighbors Lou and Donna Dascenzo who live at 26431 7<sup>th</sup> Ave. S., the southern most home at Northbeach, to resolve a number of issues related to encroachments on club property. The most important of these issues is an encroachment caused by a recent addition to their house and deck that may lead to an easement sold by the club. It is our intent through this letter to provide a thorough explanation of this situation and the rationale for the direction of the board's work to date and to involve our community to ensure that the end result represents the best solution for all involved. We recognize that this can be a very sensitive issue, as it involves neighbors with whom we live, as well as property most of us consider to be very valuable to the club. We hope we can be respectful of each other as we proceed, understand that our actions must best reflect the majority opinion of the club and respect opinions and decisions made by our membership that may differ from our individual position.*

*The board has become very concerned about a pattern we see that has developed over the years the Dascenzos have lived at this property. There have been numerous examples of encroaching on club property without notification or approval. It is the board's belief that the Dascenzos have not been forthcoming in regard to questions about property lines, and in some cases, they have not cooperated with requests made by the board. Over the years, examples of encroachments include the building of a deck above the beach and steps to the beach just south of their property, construction of steps and a pathway from the club parking area leading to the rear of their home, a raised planting bed alongside their house, garden areas with watering systems extending over a hundred feet onto club property and the storage of building materials and personal items on club property. To our knowledge, the club has not taken issue with these examples in the past. Two years ago, however, the Dascenzos were asked by the board to remove the watering system, and they refused to fully comply.*

*Since then, they have erected a fence along the trail behind their home that appears to encroach on club property and re-built their deck to include an enlarged living space below that appears to violate set-back requirements and appears to encroach on our property. At both the eastern and southern property lines shared with the club, they encroach up to approximately 3 feet. They have provided a notification to the club from the City of Des Moines that no permit is required for the replacement of their deck.*

*Shortly before any of these projects were started, the Dascenzos had a survey done showing the boundaries of their property. They continued with their improvement plans, while they appeared to be fully aware of these encroachments. When questioned about existing survey markers they replied there were no markers visible, yet weeks later, they revealed a marker under a door mat. When the club sought out the same survey company to conduct another survey, the company would not perform the survey without the Dascenzos permission, which was not granted. Weeks later, the Dascenzos shared with us the survey marker under the door mat.*

*Recently, the board has asked the Dascenzos to remove all improvements, plantings and personal items from club property. They have complied with our requests, including the*

*removal of the deck and watering system, and have plans to close off the steps and pathway leading behind their home.*

*There may be several options available to the club to deal with the existing encroachment. The two most obvious are:*

- 1) The club could ask that all improvements be removed to respect the existing property lines.*
- 2) The club could sell the Dascenzos an easement to permanently allow use of a defined portion of our property.*

*The board is recommending the second option to sell an easement to the Dascenzos for the use of the small piece of property along the south side of their home where the deck and living space were enlarged. The Dascenzos have been asked to remove any portion of the fence along the east and south sides of their home that encroaches on Woodmont Club property.*

*It is difficult to assess the monetary value of an easement such as this and there are many considerations to keep in mind. There is already a parking easement granted to the Northbeach Homeowners Association for parking in this area, so the easement would lie on top of an existing easement. It should also be noted that because of the encroachment, the prior parking easement granted to Northbeach may have been slightly reduced, which could lead to complications with the Northbeach Homeowners Association.*

*An appraiser may consider an easement for 100-200 square feet to be of little value, however, we as a board would not want to set a precedent that encourages similar actions in the future. We also recognize the value this brought to the Dascenzos converting what was an awkward entry to their house into a larger entry. Therefore, while we believe it is necessary to provide an appraisal to the membership, it is possible a recommendation from the board would not consider the appraised value. The goal is to respect and protect the integrity of the WCC property lines.*