

Adrienne Corti - Corti Designworks LLC

From: Adrienne Corti - Corti Designworks LLC <acorti@cortidesign.com>
Sent: Monday, September 12, 2011 10:14 PM
To: salliethor@aol.com
Cc: K2_ranger@yahoo.com; crenschon@rstarmail.com
Subject: Proposed 100'line amendment and response to yesterday's conversation
Attachments: HOA-amendment-proposal-to-BOD-2011-09-12.pdf

Sallie (Kim and Chris),

I would like to respond to some of our general discussions about community involvement, as well as the several proposals in front of us, including the 100 foot issue.

Elimination of the 100' rule for Lots with existing structures inside the 100' line.

First, let me address the 100 foot issue. Per your request, the attached documents address amending the Covenants to exempt any Lot, with existing structures constructed inside the 100' line, from the 100' restriction for either existing or new structures such as when building improvements to homes, or for constructing guest houses, garages, additions, and greenhouses.

The attached PDF file is two pages, with:

- Page 1: An introductory discussion and rationale for the amendment, similar to the ones the Board provided for the other two items, and introduces it as "The third issue". More importantly, the text of the proposed covenant amendment itself has been generalized to apply to all Lots that have existing buildings within the 100 foot line. So it applies to the entire community, though I have intentionally left Lot 26 specifically identified to be a clear, explicit example.

- Page 2: The actual voting signature sheet is a separate sheet in the same format as the BOD's first two. It is itemized as #3, to fit right after the first two you compiled. Those two sheets can be used as-is in your package of proposals to be distributed via email or hand delivered, and discussed with all homeowners.

However, I want to explain the reasons for this proposal for the board's sake, because it's not just my lot that potentially has such placement issues. In Article III, Section 3, p.6, the Declaration of Covenants state that:

"No building or similar structure will be allowed to be closer than 100 feet to any Lot line, except for existing structures, which may remain".

The document author clearly anticipated potential problems with the 100' rule by immediately stating that:

"A request for an exception to the 100-foot rule may be submitted to the ARB and judged on an individual basis".

This exception language appears only in this section of the Declaration of Covenants - in relation to building placement and height. My Lot has such an existing structure (the house) which is why I am proposing the amendment and requesting an exception for the location of my garage.

My garage siting problem is serious because:

- Placement according to the 100' rule causes a serious and unnecessary financial burden.
- The house was built nearly 10' inside the 100' line, and so doesn't logically warrant the 100' rule.
- The house was built at an angle to the property line making it impossible to align a garage with the existing building and still remain outside of the 100' line.
- The drain field is very close to the house, which also tightly constrains and limits garage placement.
- The gas tank is positioned at just over 100' from the property line and is located between the sump pump area and the drain field, further limiting site options.
- The land slopes in such a way that considerable build-up and grading are required, and the grading required becomes more serious the further one moves from the property line.
- The new building, if placed per the 100' rule, would block one entire side of my family room, which is aesthetically undesirable and would hurt my house value.

Regarding my lot, you said yesterday that I had other options for the garage. I once thought so but the answer is no, unless I pay a minimum of \$35-45+K more, site my garage at a strange angle to the existing house, move my septic and propane systems, and block one entire side of my family room.

All of the above reasons are why several builders have all given me similar estimates of between \$35-45K+ more to build at the 100' line, and all, including the architect, have recommended building opposite my existing garage in-line with the house and less than the 100' from the property line.

I even explored the idea of extending the existing garage to make it deeper. But two architects told me that was not viable.

I don't have other options for this garage. Therefore, I am requesting that the Board:

- 1) add my proposed amendment to the 100' rule for Lots with existing structures inside the 100' line to the BOD distributed amendment proposals, and
- 2) **independent of the above, reconsider and approve my request for an exception to the 100' rule, due to the circumstances noted in this section.**

Chickens and Other Livestock:

When creating community governing documents, both the short term and possible long term effects must be considered before a rule is imposed. Sallie, you and I would like to see 4H, but if we increase the possible number of horses by 1/3 and permit farm animals, the potential total number of animals scales up quickly.

I would like to have 4H livestock in the community. However, I would also like have limits on the **total** number of all animals permitted as well as detailed guidelines for housing, care, maintenance of coops, proper waste disposal, barns, pens, stables, etc., permissible building materials, building styles, lighting limitations, disposal of injured, dying or dead animals etc.

The current language proposed for vote on the Chicken Amendment does not give the community sufficient guidelines. For example: The Declaration of Covenants states in Article III, Section 3, p.6 that:

One small structure for the outdoor housing of not more than (3) household pets is permitted on each Lot, at least 35 feet from any Lot line.

- Does that mean that chicken coops may be placed 35 feet from a Lot line?
- If you can only have (6) chickens, would a coop be the same size and take up the same area as the "small outdoor housing for not more than (3) dogs"?
- How many square feet should represent a chicken coop?
- Is it required to register chickens with the County as pets (see below for rules on keeping pets)?
- The chicken coops I'm familiar with are two storied structures that can have elaborate ramps, high fencing, and, in the absence of roosters, usually have very bright lights that shine all night. Where are those issues addressed?
- If not properly cleaned and maintained, chicken coops are very stinky – much more so than any stable I've ever been in. Where are those maintenance concerns addressed?
- Unlike most household pets, chickens don't live very long. How many homeowners know how to butcher and dress a chicken? Chicken disposal is not addressed.
- Where is the inevitable situation involving the dispatch/disposal of dying or dead animals, or butchering addressed?

Covenant rules should define, in detail, the keeping of any farm animals, including chickens.

Boarding for Remuneration:

There is a difference between animal boarding (keeping, stabling, care and feeding) and boarding for remuneration because doing so for a fee is commerce. NOTE: remuneration is clearly and deliberately permitted only on the Residue according the Declaration of Covenants. The document states in Article III, Section 8(a) and (b) p.7, that:

The maintenance, keeping, boarding and raising of animals, livestock, birds and reptiles of any kind, regardless of number is prohibited on each Lot and within each dwelling, except as follows:

- (a) *The keeping of a reasonable number of common household pets is permitted, provided they are not kept, bred or maintained for commercial purposes, and are not a source of danger, annoyance or nuisance to the Owners, tenants or occupants of any other Lot; and provided, further, that such pets shall be registered, licensed, inoculated, confined and leashed as required by applicable law; and*
- (b) **Up to eight (8) horses may be kept or boarded (including boarding for remuneration) on the Residue, up to six (6) horses may be so kept or boarded on Lot 7, Willowin Farms, and up to four (4) horses may be so kept or boarded on each other Lot, subject to the following conditions:**
 - (1) *The keeping or boarding of horses shall be in strict conformity with all applicable law, ordinances and regulations;*
 - (2) *Horses shall at all times be adequately restrained, or adequately confined to fenced areas, stables or barns;*
 - (3) *Manure piles, straw and stable bedding shall be removed with reasonable frequency, so as to avoid an unsightly or malodorous condition.*

Note that the term “for remuneration” is only used in reference to the Residue. As I mentioned yesterday, the original developers and their lawyers, explained to the original ARB members (one of whom was a lawyer) that the reason the Residue Lot was permitted to board for remuneration was because:

- a) it is located off a State maintained road, and
- b) it was part of the original working farm from which this community was created. As such, it is zoned differently than the other Lots in the community.

The BOD proposal obfuscates one of this amendment’s key purposes and effects. ***It must be made very clear to all homeowners that the BOD is proposing the privilege to board for commerce on Lot 7 and Lot 25 and on no other lot.*** I suggest a counter proposal, that the opportunity for for-fee boarding should be available only to the Residue, or open to all Lots, not just hand-picked ones.

Home Businesses:

Sallie, to speak to our discussion on home-based businesses: the Declaration of Covenants in Article III, Section 3, p.6 regarding businesses on Lots states that:

*No Lot or building, or any part thereof, shall be used for the conduct of any business, commerce or profession, except provided in this Section 2 and in Section 8(b) of this Article, and except as follows: **professional use of a dwelling by its occupant is authorized provided that such use is in strict compliance with such ordinances and regulations, and provided further that medical and dental clinics are not permitted.***

Having had a home-based business for 4 years prior to moving here in 2003, my web development and graphic design business was discussed with all parties concerned prior to my purchasing my home. It was cleared prior to, and after I moved in. All of my contractors have the ability to work remotely (one lives in AZ). Such working conditions are not possible for businesses that require treating patients/ animals, boarding horses for a fee, operating heavy equipment, or running a construction business - like the one located off Watermill Road opposite Egypt Farm.

The above statement from the Declaration of Covenants was intended to prevent any of the original developers from turning a house into a business office, or a doctor/dentist from opening a business, because of the constant traffic that such enterprises would introduce into the community over private roads. The intent of the covenants seems pretty clear that a home-based business is acceptable, so long as it retains the residential character of the neighborhood and does not introduce commercial traffic.

The current horse amendment proposal does not clearly explain its intent to homeowners, especially, with regard to its selective designation of commercial use for only two Lots. That error must be corrected immediately prior to any voting with proper notification to all members.

Addressing Exceptions, Waivers and Board Responsibilities

One last important item to address is the matter of exceptions and waivers. As one of the original ARB members, I understand your frustration with the demonstrated lack of interest for the HOA and for forming a true community. It’s sad that many people are not even interested to know their neighbors, let alone care how a community should be democratically planned or run, including short term and long term considerations and/or ramifications of creating “rules” by which all homeowners must abide. Living through that experience was actually the reason I originally developed a website for the community – hoping that homeowner contributions to the site and forum participation would enable people to communicate without having to canvass the community, complain to the BOD, or wait for the one and only yearly HOA

meeting.

There are many of us who would like an entirely new set of HOA documents that address homeowners rather than builder/developers. I also know some who would like to eliminate all covenants and limit "HOA" powers and responsibilities to the assessment and collection of annual homeowner fees, road and trail maintenance - period.

I know there are homeowners who would be interested to join committees if they knew such opportunities existed. I'd like to suggest for the future, that a committee formation notice be emailed to the entire community offering the opportunity for participation to all interested parties. Apparently only a select few had the option to offer input, and opinions concerning the two proposals recently presented by the BOD. Homeowners at large didn't even know such committees had been formed or who was sitting on them to supposedly represent us without our knowledge. I know that I was unaware of those committees and would gladly have volunteered.

A more "community" focused action of sending an email and posting the information to the website would be more of an outreach to the community than homeowners receiving a demand for voting to change ruling documents with zero discussion and extremely limited notice.

I suspect that if most homeowners knew the situation with Bill (Lot 5) they would agree that the proposed owner of Lot 5 should be granted a waiver for the duration of ownership - provided Lot 5's neighbors agree.

As a past ARB member, I feel it is important to note that exceptions and waivers are one of ***the main jobs*** of the BOD. If this BOD opts to only apply the Declaration of Covenants, minus any ***required*** BOD decision-making stipulated in the Covenants, then the community is not being properly served by its leadership. Exceptions and waivers are a serious – and expected - responsibility the Board assumes. They should be addressed responsibly, logged and recorded in a manner that is available and transparent for all community members.

The present Board's strategy for handling or evading these issues should be raised at the upcoming October meeting. At the very least the members should be immediately notified that "No Waivers" is an explicit strategy and policy of the current BOD.

Please call me if you have any questions or would like to discuss alternative wording to my suggested elimination of the 100' rule for Lots with buildings inside the 100' line. You are welcome to visit the property and see my predicament if you don't feel that the plat adequately explains my house placement situation. This week the only day I will be unavailable is Friday. All I ask is that you please call (540-338-9822) before stopping by.

Thank you,
Adrienne

The price of greatness is responsibility. Winston Churchill



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