

## Walnut Grove Homes Association

### Q and A's from the May 2020 Zoom Information Sessions regarding the potential Amendments to the Covenants

#### Question:

Do we want to have this change in the covenants focus just on the financial needs of the Association, which seems the paramount need right now, and not encompass wholesale changes to other aspects of the Covenants?

#### Answer:

Because of the way in which the covenants must currently be amended, with the need to secure a majority of the assessed value of lots in *each* separate plat approving any change to that individual plat's covenants, the Board felt we should do other things besides just resolve the current financial needs of the Association. So, we are adding a "definitions" section to the covenants for clarity of all the provisions of the Covenants. We added a section on membership primarily to make it clear how voting rights were to be exercised in the case of joint ownership of a lot. We are making the role and procedures of the Architectural Control Committee a major part of the new covenants to put new and existing owners on notice of the restrictions and approval procedure as to any future lot alterations or new construction. We decided to make uniform the existing restrictions on use of lots, as there were some differences as to the eight existing sets of Covenants. We added a new section making it clear that plat-by-plat approval of new Covenants will no longer be necessary, and the Covenants can be amended in the future by a majority of owners in separate ways. Finally, we are proposing to remove all caps from the assessment of annual fees and have the fees determined by the membership each year based on the presentation of an annual budget. If the budget is approved at the annual meeting, it will serve to be the basis for determining each lot's fee assessment for the following year.

#### Question:

We want the neighborhood to be a friendly cooperative place and I would want us to consider some way for a neighbor violating a covenant as to use restrictions to be given some leeway for certain personal financial hardships. Can this be spelled out in the Covenants?

#### Answer:

The Board does not want to cause any lot owner undue hardship because of some temporary financial hardship. Historically we have tried to work out concerns over use restrictions informally. The new Covenants give an owner felt to be out of compliance with a use restriction an opportunity to be heard on such things as: (a) why they are not in violation; (b) a way to come back into compliance as expeditiously and inexpensively as possible; and (c) why they should be granted some time leeway as to coming back into compliance. Thus, the new Covenants have a notice provision where the lot owner is informed in writing of concerns of their use being non-conforming, and a ten-day period for the lot owner to respond to the notice. Only after some consideration and possible negotiation would the Board elect to take more formal action to enforce a Covenant restriction. Unfortunately, that kind of potential leeway can't be spelled out in the Covenants themselves without rendering them

unenforceable as having no ascertainable standards. The use restrictions of the covenants, and the ACC provisions are in the Covenants specifically to protect all of our collective home values for future resale.

Question:

Given that in June 2019 the Association's Board made a rules enforcement decision to "grandfather" existing uses and structures into acceptable compliance with the Covenants as part of a survey of uses and ACC actions up to that specific point in time, why not "grandfather" into acceptable compliance any changes in use of lots that occur since that 2019 Board action and prior to the finalization of these new Covenants, which will presumably be at the end of this year, 2020?

Answer:

Nothing is really changing in the use restrictions of the Covenants between the existing and new proposed Covenants in the proposed Amendments. The "grandfathering" ruling in 2019 was primarily a result of most of the uses involved being fairly long-standing and the fact that the prior records of the ACC were not sufficiently maintained to determine if the use had: (a) actually been approved; or (b) submitted for approval and "deemed approved" because no action had been taken in a timely fashion by the ACC. (The existing Covenants read that any application for new construction, repair work or other use of lots is deemed approved if not denied by the ACC within fifteen (15) days of application submission.)

Question:

If we are talking about modernizing our restrictions and other Covenants, can we not have the fence restrictions reconsidered in the Covenants?

Answer:

We are not looking to change the fence restrictions found in the existing Covenants (from the 70's) in the new proposed Covenants, because some or many of our over 300 owners may have purchased in reliance on those restrictions. We have granted Architectural Control Committee approval for fences varying from those restrictions in special circumstances based on pool construction, back yards abutting major roadways (Gammon Road), yards abutting multi-family use and abutting commercial development. It is anticipated that in the process of updating our by-laws and rules of the ACC, which will also be accomplished by the end of this year, the considerations guiding the ACC is granting an exception from the three-foot height fence requirement will be articulated.

Question:

Why remove any cap on the ability of the Association to set annual dues? Why not just raise it again to produce the equivalent buying power of \$75 in 2005, when it was last raised? For example, why not set the cap at \$150.00 for ten years and then readdress it in ten years? I have a concern that a small group of members will be able to approve a significantly increased annual budget at the Association's annual meeting where attendance and participation has historically been low.

Answer:

The Board's intention was to give the Association membership the flexibility to set the level of dues for each lot by having an annual budget presented at the annual meeting, debated and voted upon by the

members, with one goal to be able to build into the budget a capacity to create a reasonable reserve for future expected infrastructure and landscaping improvements on the Greenways and to address any catastrophic losses of trees, lamps and walkways from storm damage or deterioration of existing trees. For example, we currently have a significant Emerald Ash Bore problem that needs addressing. We have major tree branches falling each year. The pathways need resealing and eventually replacement. (The Greenway and island upkeep constitute between 60 and 80 percent of our expenditures each year.) We also need to ensure the Association from liability if a tree were to fall on a structure or a person, or to remove a fallen tree from someone's yard.

Question:

If the concern is over having to raise the annual dues cap too often, why not set a reasonable cap in this year's Amendment of Covenants and then build in a multiplier for each year thereafter, say, tied to the Consumer Price Index (All Goods and Services) of the U.S. Bureau of Labor Statistics; or alternatively provide that the Board's recommendation for the next annual budget can only exceed the approved annual budget from the prior year by ten percent or less.

Answer:

The Board will consider this suggestion.

Question:

If the annual meeting is going to set the annual dues each year based on a proposed budget to be considered at the annual meeting, shouldn't the notice of the meeting and annual proposed budget be sent to every household by mail well in advance of the annual meeting?

Answer:

The Covenants provide that the owners of all the lots will get notice of the annual meeting, including the proposed budget, in advance of the annual meeting. Most of the members of the Association have made it clear that they desire not to be mailed notices and announcements. In fact, all but about thirty owners have opted for email notice. A mailing to 314 residences will cost well over \$300 in time, envelopes, and postage. The Board feels that notices should be delivered in the manner that each lot owner indicates they desire.