

Discussion & Proposal on the Affairs of Silver Oaks Phase I, Owners Association, Inc., Day-To-Day Business

A Board of nine directors manages the affairs of Silver Oaks Phase I, Owners' Association, Inc. The powers and duties of the Board of Directors are found in the By-Laws of Silver Oaks Phase I, Owner's Association, Inc., Article VII.

The guidelines used by the Board of Directors to manage the affairs of Silver Oaks Phase I are found in Declaration of Covenants, Conditions, and Restrictions of Silver Oaks Subdivision, Phase I, dated September 15, 1998. These Covenants, Conditions, and Restrictions are in effect for the term of 20 years from the date the Declaration is recorded (September 25, 1998, File #1651880, Okaloosa County, FL). The Declaration may be amended during the first 20 year period by an instrument signed by not less than 90% of the Lot Owners. The Amendment must also be recorded within Okaloosa County records.

The guidelines with the Covenants and Restrictions are not unreasonable and in the vast majority of cases, problems are not encountered enforcing them. Nevertheless, there are situations whereas the requirements do not allow for reasonable discretion on the part of the Board of Directors. Examples:

Under Article V, Architectural Control, Section 2, the fee architectural review is \$50.00 plus the cost of review personnel, if any.

Under Article IX, Use Restrictions, Section 9, no signs shall be displayed on the property except signs identifying the property name and address as specified by the developer.

Under Article IV, Use Restrictions, Section 17, set backs will be as follows: right and left setbacks shall be 10' from the respective lot line. Front setback shall be 35' from the right of way. Rear setback shall be 25' from the rear lot line.

DISCUSSION:

There could be cases whereas the cost of the item under review would not cost \$50.00. For example, painting of a door. Is it reasonable to charge the Lot Owner \$50.00 for such a review? Yet, for the Board of Directors to not charge at least \$50.00 would be a violation of the requirements.

There was recently some discussion over a Lot Owner having a 40 days of purpose sign in their yard and another sign saying they were a focal point for the 40 days of purpose program. Is the temporary existence of such a sign detrimental to good order and discipline with Silver Oaks, Phase I? Yet, for the Board of Directors to allow such a sign would be a violation of the requirements.

Since the "regular" lots of Silver Oaks, Phase I, have been sold and built upon, there may be cases whereas a proposed house will not be able to "fit" within the setback requirements. Does the Board of Directors deny a Lot Owner the ability to build a house on his/her land due to the house not meeting one or more of the setback requirements? Is a vacant lot progress?

PROPOSAL:

The Silver Oaks, Phase I, Home Owners' Association Board of Directors be granted variance authority for the requirements within Declaration of Covenants, Conditions, and Restrictions of Silver Oaks Subdivision, Phase I, dated September 15, 1998. This authority would not allow the Board of Directors to grant a variance on something required by law or code. Variances may be temporary or permanent. Justification for a variance would be upon the Lot Owner. Variances would be reviewed and approved or disapproved on a case-by-case basis using the best interests of the community and whether or not approving the variance would be consistent or contrary to good order and discipline within Silver Oaks, Phase I.

For purposes of discussion, according to Webster's Dictionary, a variance is: "A license to do some act that is contrary to the usual rule or (a zoning.)"

RECOMMENDATIONS REFERENCE: Declaration of Covenants, Conditions, and Restrictions of Silver Oaks Subdivision, Phase I, dated September 15, 1998.

Under ARTICLE I, DEFINITIONS, insert, "Section 7. Variance. A license to do some act that is contrary to the usual rule or requirement.)"

Under ARTICLE XII, GENERAL PROVISIONS, insert, "Section 5. The Silver Oaks, Phase I, Home Owners' Association Board of Directors has the authority to grant temporary or permanent variances to the requirements of Declaration of Covenants, Conditions, and Restrictions of Silver Oaks Subdivision, Phase I, dated September 15, 1998, providing granting such variance is consistent with law or code in existence at the time of approval."