

Architectural Control Committee

Minutes

Date: Tuesday, November 16th, 2021

Time: 9:30am in the Clubhouse

- 1)Call to Order
- 2)Pledge of Allegiance
- 3)Roll Call, Ron Foote, Harry Turcotte, Bob Burns, Bill Linhares, Howard Weigle, Sheree Morris and Trustee Terry Steimer
- 4)Applications for Review
- 5)Suggestions, Issues or Concerns
- 6)Public Comments
- 7)ACC Board Member Comments
- 8)Adjournment

Applicant: James & Mary Quirk
Address: 379 Holiday Park Blvd
Application: Putting crushed stone and pavers in back of home between mobile and property line
Contractor: Home Owner
Action: Jim Quirk was present at the meeting, Harry made a motion to approve the application, Bob seconded, all were in favor.

Applicant: Scott & Barbara Barnier
Address: 1241 Caber Court
Application: Adding brick pavers to right of carport for golfcart, moving mailbox from right side of driveway to left side of driveway and adding rocks/bark for plants.
Contractor: Home Owner
Action: Scott and Barbara were at the meeting, Howard made motion to approve the application, Bill seconded, all were in favor.

Applicant: William Perron
Address: 312 Holiday Park Blvd.
Application: Remove old roof shingles and replace with new shingles
Contractor: Ralph Carpenter Roofing Insurance and License attached to original application.
Action: William was at the meeting, Harry made a motion to approve the application, Bob seconded, All in favor.

Applicant: Michael Johnson
Address: 166 Holiday Park Blvd., NE
Application: New roof over Mobile
Contractor: Heart Roofing
Action: Mike Kight was at the meeting from Heart Roofing, Howard made a motion to approve the application, Bob seconded, all were in favor.

Applicant: Bronislaus Kazmierczak
Address: 1110 Seminole Ct., NE
Application: New roof over Mobile
Contractor: Superior Roofing
Action: Bronislaus was at the meeting, Harry made a motion to approve the application, Bill seconded, all were in favor. Ron told applicant that before the roof gets replaced, we need a copy of the contractor's license and proof of insurance.

Pending Applications:

357 Holiday Park Blvd.	Waiting on new installation of mobile
1170 Keystone Court	Waiting on final inspection
487 Neighborly Ct.	Waiting for installation of new home, received request to extend Date of new install due to covid etc. Ext till Jan 2022
220 Blossom	Waiting on new home
1042 Moonlight	Waiting on City of Palm Bay re: easements owner working on this
288 Holiday Park Blvd	No City of Palm Bay Permit for the deck as of today

We received TWO letters of intent for the Alternate Seats on the ACC Board:

David Curtis came to our meeting and Chairman Ron Foote read his letter, Bill made a motion to accept his application and Howard seconded it all were in favor of presenting his letter to the Board of Trustee's for approval.

Michael Johnson could not attend our meeting but he did send in a letter which Chairman Ron Foote read, Hoard made a motion to accept his application and Bob seconded it, all were in favor of presenting his letter to the Board of Trustee's for approval.

Notes: _____

Discuss carport on 486 Neighborly Court, Sheree reached out to Karl Bohne the parks atty, homes preexisting prior to 1984 are grandfathered, homes installed after 1984 should be required to have carport unless 5-year statute of limitations expired or the District approved such homes without carports, regardless of year installed any home which has been destroyed or replaced and 5 year statute of limitations has not expired must have a approved carport. (Letter from attorney attached). So 486 Neighborly Court does not have to put on a carport per Atty Karl Bohne Jr. Motion was made by Harry and seconded by Bob that we will follow the attorney's recommendation all were in favor.

Update on Violations: Second letter will be going out within the next two weeks. Final inspections will start after this meeting.

Chairman Ron Foote sent an email to Sue Chandler at the City of Palm Bay Planning Specialist Palm Bay Building Division, asking that they please look for our ACC application before approving any permits in Holiday Park, she responded that she will forward this message to Cesar who is ahead of the building permits.

Sheree read a letter from the City of Palm Bay re: our violations, see attached, The ACC board will still be sending a second 30-day notice letter to the City, motion made by Bill seconded by Harry all were in favor. Sheree did state that the City reduced the prices on these properties.

Ron had a call re: 442 Holiday Park Blvd, owner Anita, he turned over the violations to Sheree to handle.

Sign In for Meeting:

Karen Foote
Jim Quirk
Dave Curtis
Bill Perron
Bronislaus Kazmierczak
David Peck
Patty Peck
Scott Barnier
Barb Barnier
Sherry Moore

SCHILLINGER & COLEMAN, P.A.

ATTORNEYS AT LAW,

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November 16, 2021

Sheree Morris, District Manager
215 Holiday Park Blvd.
Palm Bay, FL 32907

Dear Ms. Morris:

Recently you asked me for an opinion regarding the current DOR requirement for homes to have an approved carport on an owner's lots. Below is my analysis and opinion regarding the carport requirement.

The original DORs dated February 18, 1970 provided that "No mobile home...shall be placed upon any lot unless there is also affixed thereto either an approved carport or a covered patio which may or may not be enclosed." So there was the option for a carport or patio. Carports were not mandatory. That provision remained in place until about 1984 when carports were required. *See Ordinance 84-1*. So as best as I can determine, carports became mandatory in 1984. When the DORs were amended and restated the restated DORs deferred to ACC rules as they relate to carports.

So those homes which have been in existence since 1970 without carports are "grandfathered". However, should any home in existence since 1970 be destroyed or removed after 1984, then such new homes would be required to have a carport. The issue then becomes whether the statute of limitations has run regarding enforcement of the DOPs with respect to those homes required to have a carport after the effective date of Ordinance 84-1.

DORs are considered a "contract" between the enforcing entity, here the District, and the property owners, here the lot owners. *Kilgore v. Killearn Homes Ass'n, Inc.*, 676 So.2d 4 (Fla. DCA 1996) (Restrictive covenants "are private promises or agreements creating negative easements or equitable servitudes which are enforceable as rights arising out of contract."). As such there is a 5 year statute of limitations applicable to the

Ms. Sheree Morris
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enforcement of a contract. *See F.S. 95.11(2) (b)*. So if the District was aware that a current home did not have the required and approved carport for greater than 5 years from when the District knew or should have known, then the 5 year statute of limitation would bar enforcement. However, even where the 5 years statute of limitations is implicated, should the existing home be destroyed or replaced then the District could enforce the DORs unless again the 5 year limitation period has expired since the destruction and/or replacement.

Another consideration is the concept of waiver and estoppel. Both of these theories are similar in application. Basically, if the District approved a home without a carport the District cannot go back and say put one up. However, the rule regarding destruction and replacement would apply to those homes which the District approved without a carport.

To sum up, here are the situations we could face:

- homes preexisting prior to 1984 are grandfathered;
- homes installed after 1984 should be required to have carports unless 5 year statute of limitations expired or the District approved such homes without a carport;
- regardless of year installed any home which has been destroyed or replaced and 5 year statute of limitations has not expired must have an approved carport.

Should you need anything further in this regard, please do not hesitate to contact me.

Respectfully,

/s/ Karl W. Bohne, Jr

Karl W. Bohne, Jr



ACC Board, Port Malabar Holiday Park
215 Holiday Park Boulevard NE
Palm Bay, Florida 32907-2196

November 12, 2021

To whom it may concern,

On October 4, 2021, the City received a notice from Port Malabar Holiday Park's ACC Board regarding violations of five (5) properties in Port Malabar Holiday Park, specifically properties located at 1285 Dove Court, and 146, 171, 254, 340 and 194 Holiday Park Blvd., which are currently owned by the City of Palm Bay. The City came to own the land for which the mobile homes are situated through escheatment by Brevard County. It is important to note that while the City has clear title to the land, it does not have clear title to the mobile homes. Therefore, the City does not have the right to make any improvements to the structure as requested in the notice.

Since the properties were escheated to the City, staff has been working in coordination with the District Manager of Holiday Park, Sheree Morris, towards the goal of successfully selling the properties to eligible prospective residents. In April 2021, the City contracted a real estate broker, Ellingson Properties, LLC., to assist with the marketing and sale of these properties. In July 2021, the City and Port Malabar Holiday Park, specifically Ms. Morris and the Park's attorney Karl Boehne, drafted a Purchase Addendum regarding the ownership and condition of the mobile home. To date, the City has successfully sold three (3) properties with several more under contract for sale.

The City is respectfully asking that the ACC Board continue to allow the City and Port Malabar Holiday Park to work in coordination towards the sale of all City-owned properties in the Park. If you have any question or concerns, please don't hesitate to contact me at (321) 616-5065.

Sincerely,

Joan Junkala-Brown
Deputy City Manager

Cc: Suzanne Sherman, City Manager
Rodney Edwards, Deputy City Attorney
Nancy Bunt, Community & Economic Development Director
Jenny Walker, Ellingson Properties, LLC
Sheree Morris, Port Malabar Holiday Park District Manager

