

MINUTES OF
REGULAR MEETING OF
BOARD OF DIRECTORS
CRESTMoor PARK (2ND FILING) HOMES ASSOCIATION
(Date: April 25, 2023)

The regular meeting of the Board of Directors of Crestmoor Park (2nd Filing) Homes Association was held on April 25, 2023, at 230 Jersey Street, Denver, CO and was called to order by Andy Draper, President of the Board, at 5:35 p.m.

1. **Directors in Attendance.** Tom Deline, Cecilia Retelle Zywicki, Mariette Bell, Andy Draper, Jeff Burnside and Robert Brown.
2. **Architectural Review Report.** Mr. Deline reported on the following addresses and projects:
 - a. **5801 E. Third Avenue.** Mr. Deline reported that this was the lot that required stored dirt to be removed which was completed in January. The initial plans for a new home were rejected by the ACC. The owner has hired a new architect and the new architect has been in contact with the ACC and Mr. Hickman. No replacement or updated plans have been submitted.
 - b. **125 Southmoor Drive.** The prior owner sold the property about one year ago and the new owner has been renting it until now. The ARC is waiting on a resubmittal of plans following an earlier rejection.
 - c. **155 Southmoor Drive.** Plans for adding solar panels have been submitted. The ARC is waiting to receive evidence of neighbor notification. The installing contractor is located in Texas and has not yet submitted final plans and there appears to be little consistency on the contractor's side in the submission process.
 - d. **20 Ivanhoe.** This is a landscape submission and Mr. Hickman is still awaiting additional documentation. The home is on an inside curve on Ivanhoe Street and may be requesting a fence in a portion of the front yard that is behind the front setback which might be permitted by the Covenants. A survey may be required to locate the setback line..
 - e. **33 Ivanhoe.** Mr. Deline reported plans had been approved some months ago. The owner has recently requested placement of a storage pod in the street. Mr. Deline has advised of the Design Guidelines' recommendation to put storage pods, port-a-potties, and the like in driveways where possible.
 - f. **Kearney Street.** Two properties in the 400 block of Kearney Street are surrounded by chain link fences and are awaiting plan approval and commencement of

construction. One neighbor has complained at the lack of progress. Mr. Deline contacted both owners. He was advised by the owner of the property on the east side of Kearney that family issues had arisen delaying construction. He contacted the developer on the west side, Roger Simmermon, and has not received information regarding a planned commencement date.

g. **235 Locust Lane.** A neighbor has raised issues concerning the height of a new fence being constructed by the rear neighbor at 235 Locust Lane. The issue relates to adjusting the height of the new fence to match that of the complaining neighbor's fence. Mr. Deline received an email from the landscape architect that a settlement has been agreed upon between the neighbors accommodating the existing vertical fence that follows the change in grade and the new horizontal fence that steps down with the grade.

h. **Summary.** Mr. Deline noted that although the preceding reflects multiple properties being on hold and no current construction, nonetheless about one dozen new plans for various improvements in the Subdivision have been received and acted on by the ACC since January 1.

3. **Board Enforcement Powers.** Several neighbors have mentioned to Mr. Draper at various times the seeming inability of the Association to enforce the Covenants, Design Guidelines, and other rules. The Board discussed generally the limited powers provided to it in the Covenants. Generally, the Board's responsibilities are limited to matters of architectural compliance by homeowners with the Covenants. There are no specific powers in the Covenants authorizing the Board to issue fines. Mr. Brown explained the Board did have the power to secure court orders enjoining homeowners from violating the Covenants, including, building improvements without Board approval. However, the general position of the Board for several decades has been to rely on the goodwill of homeowners and not to be heavy handed or commence legal action which has proven to be a successful strategy, especially with owner occupied homes as opposed to spec builders.

4. **Design Guidelines.** Mr. Deline began the discussion of revisions to the Design Guidelines focusing on text prepared by Mr. Brown who had at the request of a subcommittee of the Board proposed a multizone approach to various types of walls in the front setback, an updated draft of which was circulated to the Directors prior to this meeting, a copy of which is attached. Mr. Deline expressed the strong opinion that the Board ought to be constrained by, and follow the limitations contained in, the Declaration of Covenants for the Association which does absolutely prevent what are described as "Accent Walls." Mr. Deline believes that the so-called Garden Walls ought to be integrated into landscape planning as permissible "features" under specified and limited circumstances generally not having significant foundations and therefore not being "structures" within the meaning of the Declaration.

Mrs. Retelle Zywicki noted that several homes in Crestmoor appeared to have walls located in the front setback which were prohibited by the Declaration. Mr. Deline recounted the history of 101 Kearney where the Board after an on-site meeting with the developer approved proposed Garden Walls which were to function completely below the surface and not be visible from the street. The owner/developer agreed but then did not follow through completely on that agreement. Mr. Deline also pointed out 475 Kearney where Retaining Walls were installed in violation of the Covenants for aesthetic purposes and not landscaping retention purposes. No

one identified situations where owners constructed walls several feet high creating courtyards or enclosing patios

Mr. Burnside recounted his experience where Retaining Walls that would function as “bollards” were required by Denver on account of the location of his lot on the outside of a curve with the idea of protecting his home from automobiles that missed the turn.

Mrs. Retelle Zywicki again mentioned multiple illegal walls in the Subdivision. She and other Directors noted the home on Southmoor Drive that had a long, covered porch with a significant railing in front. Mr. Deline pointed out that when those plans were submitted, approval was denied because the porch and railings/balustrade were in the front setback. The owner was completely cooperative and moved the footprint of the house 10 feet further back from the setback boundary so that the front porch did not intrude into the front setback.

Mrs. Retelle Zywicki reiterated a previously stated request to permit uncovered porches to have a short enclosure made of glass or other transparent material to maintain the look of openness while restraining pets and toddlers.

Mr. Deline volunteered to review the revised Design Guidelines as circulated prior to the meeting and make suggestions, in particular related to Garden Walls, Retaining Walls, balustrades, and the like.

The Board generally approved the revised “Submittal Requirements” (part 4 of the Design Guidelines) as prepared by Mr. Hickman. Mr. Brown made a motion that the Board act to review and, if appropriate, approve Mr. Deline’s revised Design Guidelines (other than provisions related to Garden Walls) later this week. Mr. Deline seconded the motion and the Board approved it unanimously.

5. **Little Libraries**. After brief discussion clarifying setbacks and the lack of Board jurisdiction with respect to the property in the City right-of-way, on a motion made by Mr. Brown and seconded, the Board approved the language related to Little Libraries in the Design Guidelines. *[Mr. Deline left the meeting to attend a prior engagement.]*

6. **Mailing List/Database Report**. Mrs. Retelle Zywicki reported on the results of the postcard mailings to all addresses in Crestmoor Filing 2 as identified with the assistance of the local joint title plant. Approximately 25 to 30 postcards were returned as undeliverable with no further explanation, improbable given the development of the address list with the research of the local title plant. Mrs. Retelle Zywicki believed the Board has good email contact information for approximately 90% of the homes in the Subdivision.

7. **Annual Meeting**. The Board discussed the mechanics of holding the Annual Meeting. After extensive discussion of holding the Annual Meeting only online as opposed to a hybrid meeting both in person and online, the Board agreed to hold the 2023 Annual Meeting on-line only at a date to be determined in early June. Most of the agenda items will be reports to the Members. The Members will need to elect three Directors to fill the expiring term of Ms. Mariette Bell and fill two open seats. The Board will support Ms. Bell for another three-year term. The Board has received interest from two prospective new Board Members, Ted Martin, and Rebecca Kennedy. Both have continued their interest, submitted biographical information,

and will be recommended for election, along with Ms. Bell as the Board's slate to be submitted to Members.

Ms. Bell made the motion to hold the Annual Meeting in June solely online to elect new Directors submitting the slate described above. Mr. Brown seconded the motion, and it passed unanimously.

8. **Security Services.** Mr. Draper noted changes in management and contact at Securitas, the company providing security patrols to the Crestmoor community. He expressed some optimism that the newly appointed local representative, Mike Pollard, would improve this communication deficit. Mr. Draper noted that Crestmoor Filing 1 participated in the security services and shared in the expense with Filing 2. Mr. Draper described the voluntary homeowners association in Hilltop wanting to participate in the security services but does not, apparently, have a convenient way to collect funds from homeowners to pay for the service.

Mr. Draper reported that he was hopeful that Mr. Pollard would improve regular reporting services from Securitas and he looked forward to working with Mr. Pollard to create an improved relationship.

9. **Islands Landscaping.** Mr. Draper reported that Sundown had been hired by the Association to work with the City of Denver to improve the maintenance and appearance of the entry islands. Apparently, Denver and Sundown are working on a new agreement that the City continues to promise but that has not yet been drafted. Mr. Draper reported that the City was anxious to revise its practices to minimize water usage beginning in 2024, a goal shared by the Crestmoor Board.

10. **Adjournment.** There being no further business to come before the meeting, the meeting adjourned at approximately 7:10 p.m.

Respectfully submitted,


Robert L. Brown, Secretary

Approved by Board of Directors:

Email approval
November 28, 2023

Attachments:

Revised Retaining Wall/Garden Wall Design Guidelines Policy revised April 22, 2023

MEMORANDUM

TO: Andy Draper, John Derungs, Tom Deline, Cecilia Retelle Zywicki, Mariette Bell, and Jeff Burnside

CC: Bob Hickman

FROM: Robert L. Brown

DATE: November 25, 2022 Revised April 22, 2023

RE: Revised Retaining Wall/Garden Wall Design Guideline Policy

MATTER: 007341.001

NOTE: This Memorandum is a substantially revised and updated version of the Memorandum on the same topic sent to Board Members dated April 26, 2022. It is intended to incorporate suggestions made at a meeting of the Board of Directors on April 28, 2022, extensive oral comments from Bob Hickman on April 29, 2022, and further written and oral communications with Mr. Hickman and the Board from time to time thereafter.

The 2018 Design Guidelines (still in draft) contain two sections, 1.14.4 and 1.14.5, dealing with Retaining and Garden Walls (“Walls”) located in the front setback of homes. The 2011 Guidelines are silent on walls in the front set back. Homeowners, both verbally and through action, have indicated the Declaration and the ARC’s Design Guideline rules on such Walls are overly restrictive. The Board of Directors, informally, has come to agree with this position and recognized a change in design sensibility. With this in mind, the Board has discussed, notably at the September 14, 2021 Board of Directors meeting, the need to modernize these rules. The following is a brief Statement of Basis and Purpose followed by a working draft of suggested revisions to the Design Guidelines. These are my suggestions only and are not intended to have any precedential value.

DRAFT: STATEMENT OF BASIS AND PURPOSE

The current Covenants of the HOA (Amendment to Declaration and Covenants recorded in 1997) provides certain guidance. Section 3.A. requires that no fence, wall, or other structure shall be constructed or maintained without approval by the Association or the Architectural Committee (the “ARC”). Section 3.D. permits the Board to establish and modify from time to time Design Guidelines to implement the architectural requirements of the Declaration. Section 6 prohibits terraces and porches from extending beyond the front building limit line toward the street more than 10 feet. Most critically, Section 13 provides, in part, that “no fence, wall or hedge, nor any pergola or other detached structure for ornamental purposes shall be erected or maintained on any part of any lot in front of the front building limit line”

The Board has frequently and consistently described one of its roles as maintaining a wide-open, “park-like” visual landscape within Crestmoor 2nd Filing consistent with its generous side and front setbacks in contrast to nearby residential subdivisions having a more crowded look. Notably, Section 3.A. of the Declaration informs the Board that in reviewing submitted plans for buildings, fences, walls, or other structures that the Board

may take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built, to the site upon which it is proposed to erect same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from adjacent or neighboring property.

In consideration of the preceding, the Board desires to adopt a revised policy to be embodied in the Design Guidelines in place of Sections 1.14.4 and 1.14.5 of the 2018 draft Design Guidelines. I will be circulating a revised draft of the proposed Design Guideline with Tom’s and my comments very shortly.

DISCUSSION DRAFT LANGUAGE FOR DESIGN GUIDELINES

1. Definitions.

a. “Retaining Wall” means a masonry wall with a suitable foundation designed for lots having a significant elevation change designed to hold back soil and to improve the usability of the lot area in front of the building limit line.

b. “Garden Wall” means a low wall utilized to accent and contain fully or partially planting areas for flower beds, shrubbery, trees, and other vegetation that is primarily decorative and not required by significant topography changes.

c. “Accent Wall” means a masonry wall with a suitable foundation having a primarily decorative purpose that accents one or more other aspects of landscaping without enclosing any space or acting as a visual barrier or a central design element.

d. “Patio Balustrade” means an open appearing balustrade no higher than 36 inches above the lower of ground level or the main level of the residence permitting a generally clear view of the residence and installed to retain pets and young children.

e. “Walls” means any of Retaining Walls, Garden Walls, or Accent Walls (or a combination thereof) as the context requires.

f. "Zone" means particular areas of space between the front setback line of the home and the abutting gutter pan of the roadway on which the home fronts and includes "Zone 1," "Zone 2," and "Zone 3."

g. "Zone 1" means the portion of the Lot abutting the gutter pan of the roadway fronting the home and extending to a line parallel to the front Lot line that is 10 feet from such front Lot line.

h. "Zone 2" means that portion of the Lot between Zone 1 and Zone 3.

i. "Zone 3" means the 10-foot-wide strip of land immediately adjacent to the front setback line and extending 10 feet toward the street.

2. **Provisions Applicable to Walls Generally.** All Walls shall be well integrated into the site in terms of size, location, materials, and overall appearance to be non-obtrusive and consistent with the architecture of the home. The design and location of Walls should appear welcoming and open rather than a barrier separating the home from the street.

a. The surface of the ground, turf, or other planting medium located closer to the home than the street shall be no lower than four inches (4") below the level of the applicable Retaining Wall or Garden Wall.

b. No Wall for any purpose shall have a height greater than the lower of the front stoop of the home or its first floor, except with special approval of the ARC for minimal exceedances of Accent Walls and except for Patio Balustrades.

c. No Retaining Wall or Accent Wall shall be erected within Zone 1.

d. All Walls (other than Patio Balustrades) shall be constructed with due consideration of reasonable slope and grade requirements and all Walls shall be well integrated into the overall appearance of the home and its landscaping.

e. Walls (other than Patio Balustrades) shall be generally constructed of natural rock, brick or stone, or other material having a natural, organic, and textured appearance and that is compatible with the materials of which the home is constructed. Walls shall not have a visible surface of concrete, cinderblock, or wood.

3. **Retaining Walls.**

a. A homeowner proposing a Retaining Wall shall provide to the ARC a topographic site plan prepared by an architect or engineer demonstrating the need for and the functionality of the proposed Retaining Wall(s).

b. Retaining Walls shall have an adequate concrete or cinderblock foundation set deep enough to avoid frost heaving.

c. Absent special circumstances as approved by the ARC or Board and except as provided immediately below, no Retaining Wall shall be longer than 25 feet or higher than 16 inches. As necessary, multiple Retaining Walls may be required to accommodate topographic conditions.

d. Within Zone 3, the maximum height of a Retaining Wall may be 24 inches, but not higher than the top of the front stoop of the home.

e. The ARC will consider small Retaining Walls adjacent to one or both sides of stair steps that are integrated into a front walk, provided the top of such Retaining Wall shall not be taller than the top of the front stoop of the home or ___ inches higher than the walk at the head of the stairs..

f. Retaining Walls may be constructed along the side property line of a home provided the existing grade cannot be modified to permit creation of a higher Retaining Wall. The top of such a side property line Retaining Wall must not exceed the adjacent grade on the higher side. Specific written approval of such proposed Wall must be obtained from the adjacent neighbor and provided to the Board.

4. **Garden Walls.**

a. The maximum height of a Garden Wall absent special circumstances as approved by the Board shall be less than 6 inches in Zone 1, 12 inches in Zone 2, and 18 inches in Zone 3 (but not higher than the top of the front stoop of the home) which height shall integrate into the size of the planting bed or similar landscaping improvement retained or surrounded by such Garden Wall.

b. The maximum length of any Garden Wall shall be tailored to the type of planting bed and landscape retained which shall mean, absent extraordinary circumstances, less than 15 feet in length or 8 feet in diameter.

5. **Accent Walls.**

a. Accent Walls shall be used sparingly in order to maintain the wide-open, “park-like,” visual landscape that is Crestmoor 2nd Filing’s hallmark.

b. In connection with any request to construct an Accent Wall, the homeowner’s architect shall submit a “Design Intent” statement as described in Section 1.9, above.

c. Accent Walls may not be used to enclose any space or present a material interruption to the view of the home from the roadway. Absent special circumstances and special approval by the ARC and the Board, individual Accent Walls may not exceed 10 square feet when viewed from the abutting roadway.

6. **Patio Balustrades.** A Patio Balustrade shall only be located in Zone 3. A Patio Balustrade shall be well integrated into a hardscaped patio. A Patio Balustrade shall be no wider than ___ feet. The ARC shall consult with Owners of corner Lots which may have special requirements. The Balustrade shall generally be constructed of metal spindles and be at least 75% open (for example, 2” spindles and 6” open spacing). The Patio Balustrade may be constructed of glass, provided the overall appearance is not contemporary.

7. **Exceptions.** The ARC may consider and approve small walls used to accent plantings or are decorative if the ARC determines the proposed small wall is consistent with the overall principles and purposes of the preceding provisions of this Section.