

=====

**WATERS LANDING HOA MINUTES FROM 6/27/23 HEARING
ON AERC APPEAL for 20801 Amber Hill Court (Karl Vilbig)**

=====

Called to order at 6:03 P.M. via Zoom

Notation of Attendance: John Pesce, President (who also serves as Chairperson of the Waters Landing Architectural and Environmental Review Committee and voted in favor of the application), Nic D' Ascoli, Vice President, Laura Magnuson, Treasurer, Anita Weinstein, Secretary, Mark Sagarin, At Large, Kristin Czarick, General Manager, Shelia Jenkins-Diaz

Members of Community Present: Anita Duvall, Suzanne Wiggins, Don Wiggins, Stephen Tise, Sharon Black, Karl Vilbig, Kim Schwalm as reported and provided by the office.

Applicant and Address: Karl Vilbig, 20801 Amber Hill Court, Woodlands

1. Kristin Czarick introduced board members; stated there are two (2) applications pending for this evening's hearing, this one at 6:00 p.m. and the second at 7:00 p.m. referred to the AERC minutes from May 5, 2023 approved by AERC on June 1, 2023
2. Evidence: The evidence which was made a part of this appeal file includes:
 - a. Map showing of 6-foot fences in Single Family Homes
 - b. Application for 6-foot fence from Karl Vilbig for 20801 Amber Hill Court
 - c. AERC Minutes from May 2023 meeting
 - d. AERC. Appeal. Blanchard
 - e. AERC.Appeal.Faupel
 - f. AERC.Appeal.Wikman
 - g. Notice of Appeal Hearing for 20801 Amber Hill Court
3. Appellants Comments: Read letter from Appellants into the record.
 - a. Letter May 13, 2023, from Chris and Jane Wikman—strongly opposes 6-foot fences that are prohibited in Waters Landing. Negatively impact visual aesthetics.
 - b. Second letter from Frank Blanchard—appeal of AERC decision from May 1—protect integrity of neighborhood and integrity of architectural covenants. Not continue to allow exceptions...exceptions becoming the rule. Granting waivers to anyone that asks.
 - c. Third Letter from Jessica Faupel—May 16, 2023—strong opposition to 6-foot fencing granted on May 1. Want AERC to adhere to guidelines of the community; documents and guidelines given to buyers; opportunity to review guidelines and should not purchase if cannot agree to guidelines. Not understand why making exceptions to guidelines. Not about individuals but about adhering to guidelines. No 6-foot fencing exception granted where impact larger community; obligation to those who purchased with expectations that guidelines will be followed; exceptions haphazard; there is an obligation to those who expected the 6-foot guidelines prohibition to be followed.
4. Submitter's Comments (given 20 minutes to present): Karl Vilbig presented the following comments to the Waters Landing Board of Directors serving as an appeal body pursuant to the Waters Landing Declaration and Architectural Guidelines:

- a. Yard is along Waters Landing Drive but no intention of putting fence along Waters Landing Drive. Want to enclose a small garden.
- b. Not standing out like a sore thumb
- c. Showed photos with fence area drawn in
- d. Deck is behind the house.
- e. Wants to fence in garden area to prevent deer from getting in.

The submitters comments went until _6:14 p.m. (20 minutes)

- 5. Rebuttal Comments from Appellants: None appeared
- 6. Final Comments from Submitter: Rebuttal from Applicants—since no comments from appellants, there were no further comments allowed.
- 7. Questions/Comments from Board: Board Responses:
 - a. Laura—No plat or dimensions so we can see size and dimensions and where lies on property line. Vilbig responded that the fence is on property line
 - b. Larger wooden green shed had approval—been there for long time.
 - c. Laura—property line fences are not to be 6 foot fences and be closed. Split rail there now with weed overgrowth. Neighbor and Vilbig both want privacy. Wants to keep Deer out of garden. Deer jump 4 foot fence and the height would provide additional privacy. Weeds are located now where the proposed fence would be. Laura—deer will get into that area.
 - d. About 10 feet from neighbor to proposed fence
 - e. Nic—you wanted tan vinyl fence to match siding of house but it is supposed to be natural color.
 - f. What type of fence? Vilbig said he was hoping tan would match the house color. Laura—Vinyl wood tone fencing available—fake wood grain.
 - g. Vilbig gave notice to 2 neighbors. Association sent off notifications to property owners behind Burnt Woods Court. Laura said we need better maps so we can see the complete picture.
 - h. Why did you decide recently that you need a 6-foot fence? Vilbig: Doing a lot of clean-up in the yard.
 - i. What is length of proposed fence...about 3 panels of the fencing...about 24 feet.
 - j. Distance from back fence to where fence ends—40 feet. My neighbor who is most impacted signed.
 - k. Mark asked if Vilbig was open to more natural color so would not stand out.
 - l. How big is the shed? Karl 7 feet by 4 feet vinyl shed and it is Rubbermaid type and is movable.
 - m. Laura noted that with sheds.... even if do not require structural approval , it does require county permit.
 - n. Nic—concerns about color; Karl thinks white will stand out. Screening with bushes would soften it.
 - o. 6 Foot fence prohibition--- the reasons—deer and weeds are things that lots of people could use as rationale.
 - p. John—one of previous applicants and an appellant was approved for 6-foot fence for deer.
- 8. Decision to be announced 7 p.m. via Zoom on July 6. Motion to reconvene---John/Laura and all approved. Motion to Adjourn made by John/seconded by Laura at 6:40 p.m. Adjourned until July 6 at 7 p.m. and reconvene on *by Zoom*

=====

**WATERS LANDING HOA MINUTES FROM 7/6/23 RECONVENED HEARING
ON AERC APPEAL for 20801 Amber Hill Court (Karl Vilbig)**

=====

Called to order at 7:01 P.M. via Zoom started at 8 p.m.

Notation of Attendance: President John Pesce (who also serves as Chairperson of the Waters Landing Architectural and Environmental Review Committee and voted in favor of the application below), Vice President Nic D’ Ascoli, Treasurer Laura Magnuson, Secretary Anita Weinstein, At Large Representative Mark Sagarin, Kristin Czarick, General Manager, Shelia Jenkins-Diaz, Executive Assistant

Members of Community Present: Sebastian Palacio, Karl Vilbig, Sharon Black, Andy Williford, Steve Blum, Gavin Green, Courtney Eagen

1. Kristin Czarick—Chairperson. No open floor.
2. Purpose of meeting: To vote on whether to affirm or reverse the AERC approval for the 6' fence application at 20801 Amber Hill Court, Woodlands
3. Questions for Vilbig: None
4. Board Discussion:
 - a. **President John Pesce:** None
 - b. **Vice-President Nic D’Ascoli** (asked to be heard later in the order):
 - c. **Secretary Anita Weinstein:**
 - i. Described Vilbig application and described procedure before AERC and that the 6-foot fence application was approved by AERC with no specific reason for the exception
 - ii. Went through Vilbig’s testimony in the Appeal before the Board of Directors.
 - iii. Reviewed the provisions in Declaration for appeal of an AERC decision and criteria for appealing AERC decision.
 - iv. Explained that appellants can be anyone impacted by the AERC decision, as long as they appeal within 15 days.
 - v. Prior to April of this year, fences were approved with NO notice to the public either before the application was heard or after decision...so impacted or affected parties could never appeal because more than the allowable 15 days for appeal had passed once the fences were constructed and visible to the community.
 - vi. All time requirements were met for hearing and for notice.
 - vii. Reviewed standard in Declaration for AERC Committee which is safety, harmony of external design, color, and location in relation to surrounding structures and topography by an Architectural and Environmental Review Committee designated by the Board of Directors.”
 - viii. As stated in the Guidelines: “Fundamental to Waters Landing is plan is the concept of common open space. The preservation of green space and natural features, as well as a feeling of openness, contributes significantly to Waters Landing' s difference from typical subdivisions. The purpose of this community open space is to provide each residential

- lot with the atmosphere of a larger open area. Fencing, if it is carelessly used or placed, encroaches upon open space and can even destroy it.”
- ix. Guidelines further provide: “Six (6) foot high property-line fences will be disapproved except for townhomes.” “Property line fencing must be an "open" type (either split rail or open space picket) and may not exceed 4' in height.
 - x. Guidelines recognize the need for six foot fencing along four-land highways such as Crystal Rock and Father Hurley Boulevard but that does not apply in this case.
 - xi. The fence guidelines have not been changed, or modified, nor do the previously granted exceptions by the AERC serve to supersede the written guiding principles of Waters Landing.
- d. **Treasurer Laura Magnuson:**
- i. Six foot fences along borders prohibited—little discretion to allow for changing this. There are few situations that exist but we need to make sure design concept is upheld.
 - ii. These exceptions creates death by thousand paper cuts and eliminates open concept.
 - iii. De novo—sit in shoes of AERC. 3 prong approach in guidelines—concerns about proper procedure addressed to office/AERC. All that guidelines require be provided. Here there was no plat and no dimensions. Important to have all the required documents because how can determine if improvement was build according to application if there is no idea what was approved.
 - iv. At beginning, the HOA needs to make sure details provided, including type of fence. Suggest that AERC start looking at the types and design of fences. Stockade fences are warping, deteriorating and coming apart. Guidelines say no stockade fences.
 - v. Another problem is the guidelines are specific and require 4 neighbor signatures. In middle of this application, staff changed the rules and allowed for 2 but that is not sufficient.
 - vi. Also Regular mail to residents of other impacted properties is not sufficient notice. We need an alternative. This case reversed/remanded based on procedure.
 - vii. Other standard is whether the decision was reasoned or arbitrary. Arbitrary means not reasoned—nothing from AERC to see compelling reason. Vilbig wanted deer out of his garden and wanted to clean up weeds. Is there another way to address this without going against guidelines. Appreciate that Karl was upfront about purposes but not heard basis for overturning clear prohibition. There will be a case that will justify overturning the prohibition but deer and weeds is not a basis.
 - viii. I feel like I owe apology for those handling their improvements the right way. I have seen 6 foot fences go up but I feel it has gotten out of control and we need as an Association to start pulling back
- e. At-Large Mark Sagarin

- i. Would be open to some kind of modifications?
 - f. Vice-President Nic D'Ascoli:
 - i. This would be only solid side yard fence in neighborhood with the purpose to create a box and enclose a small area. You can within the guidelines enclose patio/garden but it must be within the yard, not on the boundary lines.
 - ii. No tall fences in neighborhood
 - iii. Is there another option in a more open fashion?
 - iv. Not crazy about white fences
 - g. Karl Vilbig and Board Questions and Comment---- amenable to some modifications; color not white—if you prefer darker—amendable; Also only have a piece of fencing along property line—afford privacy between me and neighbor.
 - i. Nic noted that the section on property line is offensive. Karl is amenable to use 4 foot fence with mesh at the gate.
 - ii. Laura stated there is a 6 foot prohibition—why should we provide it here for privacy—can't say yes to one and no to others
 - iii. Karl—not encroach on openness of neighborhood; privacy when on decks is also involved
 - iv. Magnuson—reason why prohibited—Fences have impact unlike changing door color; 6 foot fences have impact as they are not harmonious to way community designed; we are bound by guidelines until changed
- 5. **Voting:**
 - a. **Remand: Remand is voted down 5-0**
 - i. John Pesce no
 - ii. Nic D'Ascoli no
 - iii. Anita Weinstein no
 - iv. Laura Magnuson no
 - v. Mark Sagarin no
 - b. **Modify—Modification is voted down 3-2**
 - i. John Pesce -no
 - ii. Nic D'Ascoli – yes—6 foot property line fence is concern but modification to accommodate visual from street view and from path since the fence is well inside property line; Entertain changing front so not look like privacy fence. Privacy fence on property line could be covered with greenery
 - iii. Anita Weinstein -no
 - iv. Laura Magnuson -no
 - v. Mark Sagarin – yes to modify for front part—but need alternative for property line fence--greenery

Affirm/Reverse—There are 4 votes for reversal which prevails

- i. John Pesce -affirm
- ii. Nic D'Ascoli – reverse
- iii. Anita Weinstein -reverse
- iv. Laura Magnuson -reverse
- v. Mark Sagarin – reverse

Kristin reports out vote: —Notice will be given to applicant, and they will be advised on their right to resubmit or appeal to CCOC.

Adjourn to Adjourn at 8:31 p.m. made by Magnuson/seconded by D'Ascoli —all in favor