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**WATERS LANDING HOA MINUTES FROM 9/13/23 HEARING
ON AERC APPEAL for 20625 Neerwinder Street**

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Called to order at 6:00 P.M. via Zoom

Notation of Attendance: John Pesce, President (who also serves as Chairperson of the Waters Landing Architectural and Environmental Review Committee), Nic D' Ascoli, Vice President, Laura Magnuson, Treasurer, Anita Weinstein, Secretary, Mark Sagarin, At Large, Shelia Jenkins-Diaz, Executive Assistant to the General Manager. John Pesce is not voting as chairperson.

Members of Community Present: Courtney Egans, Don Wiggins, Suzanne Wiggins, Lynn Stone, Sharon Black, Steven Blum, Andy Williford as reported and provided by the office.

Applicant and Address: Timothy Johnson, 20625 Neerwinder Street, Lakeforest

1. Board Members 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 July 10, 2023 which minutes were approved by AERC on August 7, 2023
2. Evidence: The evidence which was made a part of this appeal file includes:
 - a. Application for 6-foot fence from Timothy Johnson, 20625 Neerwinder Street and approval letter
 - b. AERC Minutes from July 2023 meeting
 - c. AERC. Appeal. Blanchard
 - d. AERC.Appeal.Faupel
 - e. AERC.Appeal.Wikman
 - f. Notice of Appeal Hearing for 20625 Neerwinder Street
 - g. AERC Guidelines
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, changes the open design concept, and there are other ways to provide privacy.
 - b. Second letter from Frank Blanchard—asking for the Board to reconsider these decisions
 - c. Third Letter from Jessica Faupel—May 16, 2023—strong opposition to 6-foot fencing granted on July 10. 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 15 minutes to present): Timothy Johnson 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. Timothy Johnson shows backyard—all four surrounding houses have same fence. Shooting in next door house prompted him to want the fence and his Granddaughter lives in house. He contends all houses here have 6-foot fences. His Granddaughter less than 10 feet from shooting and the Security fence was installed for shooting. He further noted 8 lots around with 6-foot privacy fences. Also, he explained that his house is nearby a group home of young men between ages 16-19 with intellectual handicaps. Previously there was a 4-foot fence around the backyard. Johnson contends that if the Board holds the fences against him, that is discrimination, and he will sue. The fence is here for the protection of family and he claims many people agreed with him. He spent \$1800 on big bushes in front of fence so you can't see it. The submitters comments went until 6:14 p.m. (10 minutes)
 - b. Lynn Stone—witness for Johnson's case. Johnson's neighbor said she is within his rights to speak on this situation and lives at 20616 Neerwinder Street and that Johnson wanted to put fence up for security. She also explained that the nearby group home is not being kept up...it needs to be maintained and is not currently being maintained. She said the house is falling apart and young men yell at kids coming off the school buses. It is an Influx of bad actors, and we need protection from it. This needs to stop and goes way beyond a fence. She said during the shooting bullets went through house and shell casings found under the car.
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. Nic asked if Johnson got a county permit and Johnson explained that the fence people pulled the permits from county; Johnson told the AERC the same thing; He said he contacted the HOA about physical damage of property from the shooting; damage to fence, door on fire, and there should be records on this. Also went to county. Nic asks for the Association records on this incident.
 - b. Anita—asked about fence installation. Johnson said the fence installed Jan/Feb. of 2023 but ordered before. He didn't think it was a big deal because all properties around have the same fence. He said he was not aware that needed HOA approval. The fence in back goes across 4 houses. Johnson said they got county permits through the fence company..... Tri County Deck and Fence.
 - c. Laura—asked if they are on News Ashore—which is how we get information to the community; Agreed to be signed up for News Ashore; Laura noted we were all traumatized by the shooting. She said that Johnson and Stone expressed 3 concerns—the first is about renters that were bad actors and who traumatized the community, but they moved. Johnson said he had already ordered the fence although it was not yet installed; Magnuson noted the board was responsible for getting politicians out about this situation. The second concern is about failure to keep house next door in good repair. She asked when property was bought by group home owner. Johnson said it has been about 6 months and that he was told the owner bought 3 houses in the neighborhood. Magnuson asked if there have been letters of complaint filed with HOA but no complaints have been filed about this new property owner. Johnson said he feels safer with fence and he

said the group home is not properly maintained. Laura said he believes there are laws which say an HOA cannot discriminate against group homes and we may need to speak with counsel, but we cannot prohibit group homes. Divine Care Inc owns 20 Neerwinder Court bought in March of 2023.

- d. John suggested residents contact the office via email and come to a board meeting if there are issues. Complaints should be in writing. If you disagree with vote of board can go to CCOC.
 - e. Mark—Thanked Johnson and Stone and said the HOA will do what it can legally. The Office and HOA immediately did everything it could to get responsiveness from the county. He was walked this neighborhood and we are trying to do what we can. Fence company should know better that they need prior HOA approval.
 - f. Nic—We are volunteers and your neighbors—we are elected to do job. Lynn’s questions require a lot of answers, and we need to get you answers and follow rules of community.
8. Decision to be announced 6 p.m. via Zoom on September 26 . Anita made motion/Laura seconded Motion to reconvene at 6 p.m. on September 26. – all four voted yes. Motion to Adjourn made by Laura/Mark seconded at 6:52 p.m. to adjourned until September 26 at 6 p.m.. and reconvene on *by Zoom*

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**WATERS LANDING HOA MINUTES FROM 9/13/23 RECONVENED HEARING
ON AERC APPEAL for 20625 Neerwinder Street**

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Called to order at 6:00 p.m. via Zoom.

Notation of Attendance: President John Pesce (who also serves as Chairperson of the Waters Landing Architectural and Environmental Review Committee), Vice President Nic D’ Ascoli, Treasurer Laura Magnuson, Secretary Anita Weinstein, At Large Representative Mark Sagarin, Shelia Jenkins-Diaz, Executive Assistant. John Pesce has indicated he will not be voting as chairperson.

Members of Community Present: Courtney Egans, Don Wiggins, Suzanne Wiggins, Sharon Black, Steven Blum, Andy Williford, Kate Snyder, Joseph Thume, Timothy Johnson, John Cancalosi, John Degroff, Karen Keizer as reported and provided by the office.

Motion Made at the Start of the Hearing: Laura Magnuson made a motion/seconded by Mark Sagarin to record the meeting. Nic D’Ascoli objected on the basis that he thought it was improper for the board to be recording meetings and that is further could stifle community input. Anita responded that it was not improper according to counsel as long as we keep independent minutes and do not retain the recordings. Motion approved 3 (Magnuson, Sagarin, Weinstein) to 1 (D’Ascoli).

Applicant and Address: Timothy Johnson, 20625 Neerwinder Street, Lakeforest

- 1. John Pesce—Chairperson. No open floor.
- 2. Purpose of meeting: To vote on whether to affirm, reverse, modify or remand the AERC approval for the 6’ fence application at 20625 Neerwinder Street, Lakeforest
- 3. Questions for Johnson:
- 4. Board Discussion: None

- a. **President John Pesce:** No comments
- b. **Vice-President Nic D'Ascoli:** No statement
- c. **Secretary Anita Weinstein:**
 - i. Described Johnson application and described procedure before AERC and that the 6-foot fence application was approved by AERC
 - ii. Went through 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. Privacy screens of 61 inches may be used in short segments immediately adjacent to a house or patio.
 - 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.
 - xii. A 2016 survey about fences in single family neighborhoods is not dispositive as fence guidelines have not changed.
- d. **Treasurer Laura Magnuson:**
 - i. Procedural issues: this fence was built first before applying. There is no signature of immediate neighbor nor did the office send notice. Laura asked the staff and AERC to monitor each application to confirm that

each of the requirements is met and all necessary information is supplied and considered.

- ii. There is nothing that allows for the idea that a non-compliant exception does not convey—nothing that allows for that under guidelines. This is like giving a free pass...the community can do the construction and apply after its complete. She said she was not aware of any cases where the sale of a property was stopped due to a non-convey clause.
 - iii. Staff did a neighborhood inspection and that is how this fence was discovered.
 - iv. The bottom line is that the basis for this is concern about safety. Concern ended about 1 year ago—house where there was a shooting was sold so there has been a new buyer and fence had not been built at the time that home was sold but was built afterward. She said she heard fear of group home but there have not been any complaints or problems and it is important to separate out emotional fear with the objective reality. New residents caused no problems.
 - v. She looked at the picture and neighbors had 6-foot fences... stockade fence that cut up yards; The stockade fences are ugly. We are going to enforce guidelines before the entire community changes and unless there is a reason to grant an exception that cannot be addressed by other means. The security concern is gone; there are other ways to address the privacy issue.
- e. At-Large Mark Sagarin: covered all points well.
 - f. Vice-President Nic D'Ascoli: none
 - g. Board Questions and Comment---- none

5. **Voting:**

a. **Remand: Remand --none**

- i. John Pesce – not voting
- ii. Nic D'Ascoli
- iii. Anita Weinstein
- iv. Laura Magnuson
- v. Mark Sagarin

b. **Modify—Modification ---**

- i. John Pesce -not voting
- ii. Nic D'Ascoli – no
- iii. Anita Weinstein -no
- iv. Laura Magnuson -no
- v. Mark Sagarin – no

Affirm/Reverse—There are

- i. John Pesce – no vote
- ii. Nic D'Ascoli – reverse
- iii. Anita Weinstein - reverse
- iv. Laura Magnuson - reverse
- v. Mark Sagarin – reverse

John reports out vote: —Four members voted to reverse the AERC decision to approve the 6 foot fence with a do not convey provision. Notice will be given to applicant, and they will be advised on their right to resubmit or appeal to CCOC.

Motion to Adjourn made by D'Ascoli/seconded by Magnuson at 6:38 p.m. -- all in favor