

Cedar Grove Board of Directors – Interpretations and Clarification of Governing Documents

Due to potentially controversial language contained in the Governing Documents of the Cedar Grove Homeowners Association, Inc. (CGHOA), the Cedar Grove Board of Directors (Board) reserves the authority to interpret any potentially controversial language. This attempt by the Board applies to the By-Laws of the Cedar Grove Homeowners Association, Inc. (By-laws), the Declaration of Covenants, Conditions and Restrictions of Cedar Grove Subdivision amended July 1, 2017 (C&Rs), and all seven (7) Supplemental Declaration of Covenants, Conditions and Restrictions of Cedar Grove Subdivision (SC&Rs).

This attempt to interpret any potentially controversial language included in the Governing Documents of the community is an attempt by the Board to ensure that the rules and guidelines of the community are applied fairly and equally to all residents.

In order for the Board to enforce these interpretations, each interpretation must be agreed upon by a majority of the Board seated at the time.

Article VI, Section 27 – Parking of Vehicles and Trailers – 03142018 – It is the agreement of the Board that the original C&Rs of the community did not permit boats to be stored on any lot in the community, except in a garage. It is the opinion of this Board that the attempt to amend the C&Rs added language which could be interpreted differently depending on the intent of the individual. However, the Board does not believe that the changed language does not dramatically change the intent of the Section from that of the original.

Regarding boats, the Board believes that the intent of the Section is made clear in the first sentence of the fourth paragraph. “All boats, trailers of all types, buses (defined as vehicles containing more than (4) rows of seats, ATVs and other recreational vehicles including motor homes must be kept parked in garages or at an offsite storage facility and not in driveways or streets” (C&Rs, 2017, p. 19). The Board believes that overall boats are not intended to be kept on any lot, except in a garage.

However, the Board recognizes the next sentence, and the ambiguity it can create. “Small vehicles, including boats on trailers, utility trailers, ATVs and campers can be parked behind the owner’s residence as long as it is screened from view and not visible from the street of surrounding lots when viewed from ground level” (C&Rs, 2017, p.19).

The Board believes that this wording has multiple points to be interpreted.

First, the Board believes the amended C&Rs had intended to mean adjacent lots, instead of surrounding lots. However, the Board will recognize surrounding lots as it is written.

Second, the Board recognizes that small vehicles can be subjective. This Board believes that the intent of this language was to allow for the storage of jon boats or canoes when referring specifically to boats. This intent is believed to be consistent with the boat classification system used by the State of South Carolina, Class A boats being small boats, Class 1 boats being medium, Class 2 boats being large boats, and Class 3 boats also being large boats (Classes of Boats, n.d.). According to Takemefishing.org, a Class A boat, “These classes of vessels have less than 16 feet in length” (Classes of Boats, n.d.). Any boats exceeding the Class A definition, would not meet the intention of the small vehicle requirement regarding boats in the community.

The third topic to distinguish is the phrasing “behind an owner’s residence” (C&Rs, 2017). Again, the Board is looking to define this wording quite literally. “Behind an owner’s residence” is believed to literally mean that any of these small vehicles need to be directly behind the house, within the boundaries established by the walls of the residence, screening the vehicle from being seen from the street. This does not mean to the side of the home, or even behind the back boundary of the residence. Instead, the vehicle is completely behind the house.

This brings us to the clarification of the “screened from view and not visible from the street of surrounding lots when viewed from ground level” wording of the Section (C&Rs, 2017)). The Board believes this should be defined in context with the rest of the section and interpreted as it is written. A comma added in certain spots would change the meaning of this wording. However, the comma does not exist. “Screened from view and not visible,” is interpreted to mean that whatever means of screening is used, neither the vehicle or the screening is visible from the, “street or surrounding lots at ground level from the street of surrounding lots when viewed from ground level” (C&Rs, 2017). The Board interprets screened from view as defined by the Code of Virginia from the State of Virginia according to Definedterm.com. “‘Shielded or screened from view’ means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located” (Shielded or Screened from View, n.d.). Quite simply, the vehicle and the item used to screen it cannot be visible from the street of surrounding lots.

In addition, the Board does not believe the Section allows for the construction of any type of structure to screen the vehicle from view, except for the construction of an approved garage or outdoor storage facility which meets the guidelines established by the Architectural Review Board (ARB) of the community.

However, the Board does believe that a fence, meeting the guidelines established by the ARB can be used to concealed Class A boats, or other recreational vehicles such as All-Terrain Vehicles (ATVs) or Personal Water Craft (PWC). To meet this requirement, the fence would have to be a privacy fence and be at least 6 feet tall to conceal the vehicles. A homeowner can conceal the vehicle with a shorter fence, as long as it is not visible from the street or surrounding lots. While a fence can be used to screen or shield a vehicle from view, the fence must not exceed the guidelines established by the ARB, such as the fence being taller than 6 feet tall from ground level, with due consideration being given to grades and hills within reason.

References

Classes of Boats. (n.d.). Takemefishing.org. Retrieved from <https://www.takemefishing.org/boating/choose-your-boat/classes-of-boats/>

Shielded or Screened from View. (n.d.). Definedterm.com. Retrieved from <https://definedterm.com/a/definition/107301>

This summary reflects the interpretation of the Board at the March 14, 2018 Board of Directors Monthly Meeting.