

We were asking for advice from the board about an issue that we have with a homeowner. We had asked for a meeting several weeks ago and were told that we could not request a meeting on such short notice, so we are raising the issue now. Notably, our HOA guidelines do allow for emergency meetings to be called, but that was not honored for this request.

The following is a timeline and facts about what took place with the homeowner.

I have been on the ARC 5 plus years, and this is the first time a situation like this has occurred. Previously, all members of the community who have submitted applications to build a home, shed, addition, hardscape, even driveways have done so at least 60 days prior to construction, as is required by our HOA guidelines.

We became aware that a shed had been built without any application made to the ARC. When we learned about it, we asked the homeowner to submit an application with a plot plan. It was submitted several weeks later. We conducted 2 inspections, which were difficult to measure. Just the way the lot is, not the problem of homeowner. It appears that it is within the 10' setbacks, but is in the side front yard. We approved the shed with reservations because it is in the side front yard and application was submitted after construction was completed. However, it is behind the garage and can't be seen from the road.

While we were conducting the inspection on the shed, we also noticed a temporary structure on lot 98. Temporary structures are not allowed in Merrymount according to HOA guidelines. We discussed this with homeowner and were advised that it would be moved in a couple of months (this is recollection of the conversation). In hindsight, it was our mistake to not document the discussion and agreed upon resolution at the time. Later, the homeowner advised that they could not find anything in guidelines that prohibited the temporary structure. We sent back an email, documenting the specific guideline in the covenants, which is Article VI under construction and use limitations section 1 F, which states that no temporary structures of any nature shall be erected, located, occupied, used or maintained on any residential lot except for port-a-johns when used in connection with construction of an on-site single family residence and then only so long as such residence is under construction. The homeowner indicated that it did not pertain to them because there is no construction on the property, which appears to be a misunderstanding of the guidelines. In order to seek a resolution that conformed to the HOA guidelines, we sent an email on November 13th indicating that they had 30 days to remove the temporary structure, or to appeal this decision. The Homeowner indicated that they would not appeal, but would bring it up on Jan. 11th meeting. This would clearly be a violation of the timeline allowed for both appeal (which needed to occur on or before November 28th) and removal (which should have been conducted prior to December 13th). We have subsequently sent an email indicating that we would work with the lot owner and the structure would come down Feb. 28. and not be erected anywhere else in community. We have not received a reply to this email.

We then received an application to build a home on lot 97 that the same home owner owns. It was received the day footers were poured, which is again not the 60 day notice that is required by our guidelines. Had there been a problem with the plans, we would have had no time to respond. ARC members look at all properties that have submitted applications prior to construction starting, and after the house has been staked out. Not all members had been

available to see the lot during the first inspection and second inspection of the construction was conducting with the remaining members on a Sunday while other inspections were being made and as not to interfere with the builders. We don't always notify a homeowner when it is a new home build, and are not required to by our HOA guidelines. We didn't disturb the construction going on, merely took measurements and left. We then received an email from homeowner threatening us that if we came back again before the final inspection that the sheriff would be called. We are obligated to monitor the construction as it goes along, making sure that there is port a john, silt fence, trash receptacle, etc. Again, this has never been a problem with any previous homeowner, as they understand it is part of the HOA guidelines and approval process.

Everyone that buys property or a home in Merrymount has a copy of all paperwork involved with building, covenants, guidelines, disclosure packet and phone #s if there are any questions. We have never had anyone start to build before submitting an application for such build. It is the responsibility of all homeowners, but especially anyone serving on the board or committee, to stay current on any requirements and have sufficient knowledge of the regulations in the community.

This situation must be addressed and resolved with the board's advisement, so as not to set a dangerous precedence for future builds. We, as a community, have agreed to abide by these HOA guidelines in order to ensure an environment that we all wish to live in without argument. The ARC recommends that the homeowner acknowledge that the temporary structure violates HOA guidelines and ensures its removal prior to February 28th, as previously requested, and will abide by all HOA guidelines for any future changes or improvements to their properties. It is imperative that the community see that all members are held to the same standard on these issues, so as not to create an environment of animosity in our community.

We have no way to stop anyone from building anything we haven't approved, or starting a build before an application has been made. We have no provisions for this contingency. The covenants do say in Section 11 under violations, that the board shall have the right to assess any owner a fine for a violation of the covenants or association rules and regulations, including ARC guidelines. Any such assessment shall be a lien against the residential lot. Collectible as any other assessment set forth.

For future reference, what are the options for calling an emergency meeting for assistance from the board?