

Palmetto Point Association Deed of Restrictions Architectural Review Committee Protocol and Procedures

The fiduciary duty of directors extends to their application of rules. The enforcement of these rules must be strict and consistent because the rules are there to protect the quality of life of the member residences and/or their property values. If there is a violation, on behalf of all the members, the board must follow the prescribed procedure expressly made in the governing documents to encourage compliance, whether through voluntary compliance by the violating homeowner or the more extreme option of bringing legal action against the homeowner. In addition, the interpretation of the rules by the directors must be reasonable and uniform. It is impossible to draft rules so that there is absolutely no scenario where the text will be seen as ambiguous. In cases where the rules are subject to interpretation, the directors have adopted a consistent process of consideration, in writing, that all members can consult. The final and definitive answer will come from the Association's attorney when necessary to settle a dispute. The Palmetto Point Deed of Restrictions, Revised 16 April, 2008 has been in force since that time. The Palmetto Point Association (PPA) Declaration of Covenants, Conditions and Restrictions provide for an Architectural Review Committee. The following protocol and procedure document directs the activities of that committee as the Board may dictate in accordance with the by-laws and Deeds of Restriction.

The Board of Directors shall establish a separate Architectural Review Committee ("ARC") for the purpose of reviewing and approving plans and specifications.

Committee Members: The Board of Directors shall appoint a PPA member to serve as Chairman and that individual shall be responsible for the actions of the committee. The Chair shall have at least one or more members that may be a Board member, but not a Broad of Director, or an owner in the community that is current in their paid dues and has a construction, development or otherwise appropriate experience or background as deemed by the Board. The term of the

Chair and or committee members is not set or limited but determined by the Board.

The committee shall be made up of a least five (5) and no more than seven (7) persons. All members of the ARC serve at the pleasure of the Board. The ARC is authorized to and shall establish specifications, procedures and guidelines regarding exterior features of structures including but not limited to location, size, type, appearance, color, style, material and other components for use in considering and approving plans. The ARC shall approve or disapprove all plans within thirty (30) days of receipt of a complete application. If the ARC fails to act within thirty (30) days, the application shall be deemed approved. Any decision of the ARC may be appealed to the Board of Directors within twenty (20) calendar days of the issuance of the written ARC decision. In order to be valid an appeal must be in writing (e-mail is not allowed) and physically received by an officer of the Association within the twenty (20) day period. Upon receipt of an appeal, the Board shall convene a Board meeting, within twenty (20) days. At the Board meeting the appellant shall have a reasonable opportunity to present his or her case to the Board and the ARC shall be afforded a reasonable opportunity to present a rebuttal. After the presentations of each party the Board shall vote to uphold, overrule, or modify the ARC decision. The decision of the Board shall be final. Neither the ARC nor the Board nor any member thereof, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the ARC's duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore. The ARC shall review and approve or disapprove all plans submitted to it for any proposed improvements, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Subdivision. The ARC shall take into consideration the aesthetic aspects of the architectural designs, placement or buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

All buildings erected, constructed or remodeled in PALMETTO POINT shall conform in area, setback and height limitations as follows: Note: all non-conforming structures in existence on the day this Declaration is recorded, **(Which was April 16, 2008)**, in the Public Records of Lee County, Florida shall be allowed to remain ("grandfathered") until such time as the structure is more than 50% destroyed (as determined by the Board of Directors in its sole discretion), at which time the structure shall only be rebuilt in conformance with all of the provisions of this Declaration including but not limited to the requirements in this paragraph. The foregoing notwithstanding, any home on the South side of Conover Court that may become more than 50% destroyed shall be allowed to rebuild on its original footprint without regard to the following setbacks.

Minimum square footage of living area – 2000'

Setback requirements for the house and garage proper:

Front – 25'

Sides – 12'6"

Rear and Canal – 25'

These set-backs are to be measured from the foundation block or foundation wall of the house and garage proper. A maximum of a 3' roof overhang will be permitted to extend into the front and side Lot line set-back areas. Any cantilevered construction must be within the set-back lines. All elevated construction, with the exception of the roof overhang (as stipulated heretofore), must be within the set-back lines.

Set-back requirements for an open pool, enclosed pool cage, and pool deck are:

Canal or back – 20'

Sides – 12'6"

All stairs, retaining walls and landscape walls must be within the setbacks and approved by the ARC or Board.

These set-backs are to be measured from the closest point of the accessory structure or slab to the Lot line or inside edge of the seawall cap.

Building Height. No structure shall exceed two stories in height with a maximum of thirty five feet (35'). The height of a structure shall mean the

vertical distance to the highest point of the roof surface of a flat roof or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Where minimum floor elevations in flood prone areas have been established by law, the height shall be measured from such required minimum floor elevations.

The first floor shall be no higher than 12' NGVD above sea level.

The space above the second floor ceiling of a home cannot be used for any purpose other than inactive storage or mechanical equipment (mechanical equipment is that equipment which is actually a part of the home and required for the operation of the home) and can be accessed only by a retractable folding stairway or an access panel. A plywood or plank floor may be installed in the attic to accommodate storage or mechanical equipment, but the total area of this attic flooring cannot exceed an area equal to 15% of the inside living space (air conditioned).

The driveways within the property cannot exceed a slope of 1/4" per foot, and the elevation of the garage slab cannot be higher than 1" above the driveway at the point where the driveway meets the garage slab.

In general, homes on both sides of a common property line shall slope their property to the common property line, and then so graded that the runoff will go to the canal or the street.

Where two or more Lots are acquired and used as a single building site, the side Lot lines shall refer only to the lines bordering on the adjoining owner.

Prior to the commencement of any construction, the property owner shall apply for and secure a permit from the Palmetto Point Association, Inc. The property owner shall secure applications for a building permit from the Association, and shall submit such form in duplicate along with two complete sets of WORKING DRAWINGS. If the drawings comply with the provisions of the Deed of Restrictions, the Board of Directors of the Association shall return one set of the drawings marked "Approved by the Palmetto Point Association" along with one copy of the Application, duly signed and giving authorization to proceed with construction in accordance with the approved plans. The owner understands that if he deviates from the approved plans without first securing written approval from the

Association, the permit is automatically rescinded and all work on the site must cease until the revision is either approved by the Association, or the work reverts back to that as shown on the approved drawings.

The Association Permit must be prominently displayed in the same fashion as the Municipal Permit is displayed.

The square footage of proposed buildings and structures or additions and enlargements thereto shall be measured from the outside of the exterior walls of the living area of the building or structure, at each floor level. Living area does not include garages, roofed screen porches and the like.

No garage shall be erected which is separated from the main building. Each home shall include, as a minimum, one attached two (2) car enclosed garage. Carports are prohibited.

In summary concerning the Construction and/or Renovations Compliance with Deeds of Restriction:

The Committee shall:

1. Provide guidance to owners, contractors, realtors and other party's seeking information for any such project within the existing and applicable Deed of Restriction (DOR).
2. Review any and all plans as required by applicable DOR's prior to the commencement of any construction or renovation project within the DOR.
3. Seek to be as prompt as possible and work to minimize any delays in response to an owner seeking to commence a project. Formal approvals and communication must be via Board archived webmail.
4. Communicate any and all requests for approval of any project to the other members of the committee as promptly as possible. The chair shall oversee any discussion and ensure all members are communicated with. The chair shall be responsible for providing the owner/contractor or other interested party with the committee's decision including requests for further information and/or consultation with the committee.

The following Guiding Principles will be used as necessary when reviewing plans.

**Palmetto Point Association Board of Directors Guiding Principles' on Approving
a Variance**

**Amended Deed of Restrictions, Renamed Declaration of Covenants, Conditions
and Restrictions for Palmetto Point and Palmetto Point Unit 2, hereinafter
"Declaration". Recorded April 16, 2008**

The Declaration provides for the Board to authorize variances from compliance with any architectural provisions when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require such variance from compliance.

The granting of a variance may be subject to special conditions imposed by the Board and shall not create a precedence requiring the Board to grant variances in the future for the same Lot Owner or other Lot Owners.

There are one hundred and forty Lots in Palmetto Point. Three of these Lots had been combined with another Lot, which results in having one hundred and thirty-seven Lots available to build a residence upon. Of these lots, ten are not on water, leaving one hundred and twenty-seven lots with dock space. Of these docks, there are eight on the end of a canal near a culvert and one at the end of the only T shaped canal. There are 20 Lots which are on the end of cul- de- sac that are pie shaped, with the frontage much less than the rear of the Lot. There are fourteen lots on corners Lots on Griffin that are reverse pie shaped. The remaining eighty-four Lots are basically rectangle in shape and should not qualify for a Variance.

Guiding Principle Number One: Side Set Backs

No variances will ever be issued for the require distance of twelve and a half feet

(12 ½'), for all side set-backs.

Guiding Principle Number Two: Building Height

No variances will ever be issued that exceeds the maximum height of thirty-five feet (35').

Guiding Principle Number Three: Front and Rear Set-backs for Pie Shape Lots

On pie shaped Lots a Variance of normally not more than three feet can be granted to recognize the fact that the shape of the Lot can cause the home to be moved forward or back from the street to comply with the side set-back of twelve and a half feet. It can also adversely affect the pool area set-backs.

Guiding Principle Number Four: End of Canal and T Shape Canal Lots - Docks

Due to the fact that the seawall is parallel to the canal only for the first fifty feet of the owners Lot, versus the normal one hundred feet, it is necessary to provide the Lot Owner a Variance to accommodate the curve at the end of the canal. The Variance allows the dock to be built to within five feet of the property line. This would create a ten foot wide space between the adjacent docks at the canal ends. This is room enough for an eight foot barge to provide any needed culvert maintenance at the end of the canal.

Guiding Principle Number Five: Items Concerned When Approving All Docks

1. The dock and boat must not interfere with the neighbor's navigation of the canal.
2. The dock and boat must allow the neighbors a clear view of the canal.
3. Docks perpendicular to the seawall would only be considered at the very end of the Griffin Ave – Sherry Lane and Sherry Lane – Laurel Lane canals.

Guiding Principle Number Six: Construction and Repair of Seawalls

Seawalls can be constructed using concrete or vinyl. The new seawall will be no more the 12" higher than the old seawall. When possible a five foot return will be constructed on the property line on each end of the new seawall.

Guiding Principle Number Seven: Driveway Slope

Due to a legal change in the additional required flood height on new construction sites, the $\frac{1}{4}$ " per foot slope requirement is waived for all new construction of driveways.

**It is the intent of the Board to treat all Lot Owners fairly and to provide
Variances that will protect every owner's ability to enjoy this boating community
to the maximum.**