

Belden Woods Homeowners Association

Meeting of the Board of Directors – July 25, 2018 – Notice to residents via e-mail July 12<sup>th</sup>

Agenda:

- Board discussion and vote on house plans for Lot 32 submitted by Steve Duri and Jennifer Schneider, owners of Lot 32
- Board vacancy of the Vice President position due to resignation of Fred Hall from this position on July 9<sup>th</sup>

15 lot owners registered to make comments or have someone comment on their behalf (list attached).

- David Tucker HOA Board President called the meeting to order at 6:00 pm. David explained that this Board meeting is for the Board to provide a decision vote on the Duri-Schneider house plans, and to consider any who are interested for appointment to the Board- VP vacancy.
- Bob Olsen, Chairman of our Architectural Review Committee (ARC) gave history of the development on Lot 32. Property was initially staked with the foundation footprint in September 2016. Initial plans first proposed were of a flat roof design which Bob explained to owners/representative would not likely be approved. Subsequently (around March 2017) we learned that the owners had changed architects. With a change in the design, foundation plans were provided with a request for an exception for the front build line (August 2017). After review of other existing homes it was determined that one other homeowner had been granted a 5 foot exception on the front build line several years ago. The construction engineer provided a schematic of the foundation and Bob met with him on the lot. The exception requested was for a 3 foot corner of the house and this exception was approved. In an effort to help keep this project moving forward to completion the ARC and the Board gave approval for installation of the foundation. Bob admitted that this was a mistake, and it would not happen again. Bob also addressed concerns that had been expressed with the amount of trees removed on lot 32. Bob said that several years ago, previous ARC members had given the OK to remove all trees behind homes where there was an opportunity for a view. For this reason Bob advised the owners of Lot 32 that clearing their lot of all trees behind the footprint of their house was acceptable.

Revised final house plans were provided to Bob in April 2018. There were definite concerns by the ARC with the plans as submitted. The house plan design being very contemporary was of some concern, but more so were the proposed materials, aluminum siding, and large fiber cement panels. The ARC and Board members met with Steve Duri, the construction engineer, Aaron Eanes, and architect, John Fulton on April 16<sup>th</sup>. After seeing the aluminum siding material and understanding the quality and wood look of the material the ARC and Board were accepting of this material. A sample of the proposed real stone veneer to be used was also provided which the ARC and Board had no issue with. However, the ARC and Board did not agree with the use of the large, approximately 6' x 12', light gray fiber cement panels proposed for a section on the front of the house and requested the plans with regard to this to be changed. Subsequent to this meeting the ARC and Board met to discuss preparation of our written rejection of the plans as submitted and our requested changes. Our letter to the Duri-Schneiders of this decision was sent April 24<sup>th</sup> (copy attached). Ultimately attorneys on both sides were consulted and some correspondence exchanged. In a conference call between the Board and our BW HOA attorney, Mr. Steve Moriarty, Mr. Moriarty recommended that we meet with the Duri-Schneiders to try and negotiate a solution. The Board met with Steve Duri and Jennifer

Schneider on July 9<sup>th</sup> and came to agreement on the outstanding issues (copy attached). Subsequently, on July 16<sup>th</sup>, revised house plans with the agreed upon changes were submitted to David Tucker for review by the ARC and the Board.

- Homeowners, or those their behalf were given 3 minutes each to make comments.
  - Several homeowners expressed concern over several aspects of the house plans and actions by the ARC committee and Board. This included:
    - Contemporary design of the house and it not being of similar design of others in the neighborhood
    - Some of the materials to be used in construction of the house
    - Decision by the ARC to provide approval of foundation installation without final house plans
    - Excessive tree cutting beyond what is stated as acceptable in the covenants allowed by the ARC chairman
  - Jennifer Schneider commented on the frustrations and challenges they had faced in the process of designing, and constructing their home, including changing architects. She explained that she had received the HOA covenants and had read them prior to their beginning the process of designing their home, and they had tried to comply with the covenants. She was appreciative of the support of the BW HOA ARC and Board to help keep their project moving forward.
  - Some homeowners questioned that since some of our covenants are somewhat vague and subjective to varying opinions, could we actually refuse to allow a lot owner to build a home in the style of their choosing.
- Comments were made by Pennye Epperly, current Board secretary, about the difficulties for the Board with their responsibilities as elected representatives of the homeowners association to act in the best interest of all homeowners. While in the case of Lot 32, mistakes may have been made, the ARC and the Board did diligently work to keep those interests in mind.
- David Tucker provided closing remarks saying that some may believe that over the years the covenants have always been expressly followed as written, but this is not the case. Various exceptions have been granted by prior ARCs and Boards, but again, all with individual consideration of the situation at the time. David also explained that the Board has a fiduciary responsibility to the HOA. While we were forced to spend some HOA funds on legal counsel, we could not spend money we did not have, nor did it seem necessary, to take legal action against the Duri-Schneiders to stop construction of their home. In fact, counsel had advised that we would not likely win such a case, due to the lack of specific requirements in our covenants around house design. Our costs in attempting to do so could be as much as \$10k or more, and if we did not prevail we would also have to pay the legal costs of the Duri-Schneiders to defend their position. However, this does not preclude any individual homeowner or group of homeowners from taking legal action if they so choose.

David then called for the ARC chairman's recommendation of the approval of the Duri-Schneider house plans. Bob Olsen gave his recommendation to approve the plans submitted on July 16<sup>th</sup>. David then called for a vote of the Board. Board members Brian Taylor, Treasurer; Pennye Epperly, Secretary; and David Tucker, President all voted to approve the plans. At this point the meeting was adjourned.