

## Vista Lakes Community Association

### Procedure for Consideration of Variances for Architectural Control Guidelines Adopted September 21, 2006

**Background:** Article IV, Section 4.5 of the Declaration of Master Covenants, Conditions and Restrictions of the Association authorizes the granting of “variances from compliance with any of the guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted Rules and Regulations.”

The Board of Directors hereby adopts the following procedure to grant variances for any of the guidelines currently in effect at the time of the request.

#### **Procedure:**

A. Application: A homeowner may initiate a request for a variance from the Architectural Review Committee (ARC). All variance requests must be submitted in writing to the ARC explaining the circumstances that would support the granting of a variance from an architectural guideline. Supporting documentation, i.e. property survey, brochure describing the project, and photos if appropriate are required.

B. Notice: Upon receipt of a written variance request with complete information and supporting documentation, the ARC shall set a hearing date/time no more than 30 days from the receipt date and advise the applicant and all owners of lots that abut and adjoin the lot in question by first class mail.

C. Time for Hearing: The ARC shall hear the variance request at the regularly scheduled ARC meeting that falls no more than 30 days from the receipt of the completed variance request.

D. Hearing: The variance hearing shall be conducted according to due process standards and the ARC shall have full discretion regarding the scope, presentation and admissibility of evidence and the testimony of witnesses at the hearing.

E. Decision: The ARC shall have fifteen (15) days after the close of the variance hearing to render its decision. The ARC will decide when the hearing is closed. This time period may be extended with the approval of the applicant.

**General Variance Standards:**

1. The variance approved is the minimum variance that will make possible the request.
2. Approval of the variance will be in harmony with the general intent and purpose of the Declaration and such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. All variances should be based upon circumstances such as topography, natural obstructions, hardships, aesthetic and environmental considerations.

**Variance Conditions:**

1. That in addition to the Covenants, all construction is subject to governmental restrictions.
2. That, at such time as it may be determined that the variance violates any provision contained in the Declaration, the owner shall remove the improvement at the owner's sole expense.
3. That, the owner shall hold the Association harmless against any loss, injury or damage which might occur to the owner and any third party as a result of the granting of the variance.
4. That, it is understood that the Association may not be in the final legal authority as it relates to the variance therefore, the owner will hold the Association harmless from any loss or damage that may arise from the granting of the variance
5. No variance can be contrary to any provision of the Declaration.
6. All variance requests must be in writing.
7. No variance request shall have the effect of prohibiting the Association from denying similar variances based upon other circumstances.

Adopted on September 21, 2006

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