

Tonto Hills Improvement Association

President: Robyn Baker
Vice President: Nancy Nelson
Treasurer: Kathy Kuchta
Secretary: Chris Prentice

BOARD OF DIRECTORS MEETING MINUTES - APPROVED

March 11, 2025 – 6:30 PM Zoom only

Board Members – Sandra Abbey, Robyn Baker, Don Belousek, Kathy Kuchta, Nancy Nelson, Paul O'Connor, Chris Prentice, Brian Richard, David Tappe

- I. Call to Order 6:32
- II. Roll Call
 - A. Present - Sandra Abbey, Robyn Baker, Don Belousek, Nancy Nelson, Paul O'Connor, Chris Prentice, Brian Richard, David Tappe
 - B. Guests - Sam Brandt, Sammy Brandt, Charlie Civer, Paulie Fabian, Keith Heiman, Raelene Milne, Brian Milne, Deb Pagel, Nick Tilley, Amber Tilley, Lot 17's representative
- III. Open Forum – No Comments
- IV. New Business
 - A. Review of ACC declination for construction of walls for sliding driveway gate within the front setback on Lot 17
 - i. Lot 17 received approval from the ACC for the gate, but not the walls. They are considering a swing gate instead.
 - ii. Lot 17's representative stated the DoR's don't specifically address this type of construction. Section 9 refers to no buildings within 50' of front setback, but he doesn't believe a wall should be considered a building.
 - iii. Robyn Baker stated the ACC decided the gate on lot 17 was acceptable as it was part of the driveway; however, the attached walls were not approved because they were within the 50' front setback. The front/side/rear setbacks are the one thing in the DoR's that has clearly stood up over time. ACC looks to precedents – they review previous meeting minutes, what has been approved before, and how the DoR's have been interpreted in the past. ACC and Board membership changes over time, but we want to have a fair and consistent application of the DoR's across time. ACC meeting minutes from past 8 to 10 years show the terms building and structure have been used synonymously consistent with Maricopa County Building Code. Retaining walls are allowed within the setbacks; otherwise, precedent shows there is no approval for man-made elements within the setbacks.
 - iv. Nancy Nelson commented that the THIA website includes ACC Meeting minutes going back to 2013 and THIA Meeting Minutes back to 2008. About 1.5 years ago, the ACC did not approve a lot owner's request to add a fence within the setback. There are numerous mentions of plans needing to be revised to meet setbacks and there were no instances where approval was given to build within the setback.
 - v. David Tappe stated he appreciates the confusion regarding structure vs. building, but precedence is important. It's clear to him that walls shouldn't be within the 50' setback and he supports the ACC's decision.
 - vi. Chris Prentice commented that our DoR's are not as precise as we'd like them to be, but due to current AZ law, it's almost impossible to update them. Sometimes

the wording in the DoR's isn't clear, but we've consistently enforced them the same way. Setback issues have come up at least 3 times in the past 4 years and it's not fair to change now.

- vii. Lot 17's representative suggested DoR's should have updates to sections 9, 10, 11, and 15 with respects to "building" and "structure" wording. Chris Prentice reiterated it would be difficult to update the DoR's.
- viii. In response to a comment, Robyn Baker stated that the use of precedent is to avoid the use of personal opinion in decisions.
- ix. Brian Milne commented the DoR's can be interpreted differently by different people. He defines a building as an occupied structure that has a roof. We want to do things that make the community a better place and he feels it's a fight to get approval for property improvements. If a homeowner is improving their property, then the ACC should allow it. Precedents means nothing. The wall that lot 17 wants to install won't adversely affect the community and isn't a building. He interprets the 50' front setback as meaning "don't build your house in the setback".
- x. Discussion about installing swinging gates instead of sliding gate. Robyn Baker asked if Lot 17's representative will be submitting an updated request to the ACC for approval of the swinging gates. Another option would be to build the wall outside the setback. Lot 17's representative advised he has applied for a permit for the walls. Robyn advised Maricopa Code anything over 3'6" in height has to be transparent. The lot owner is not sure how he'll proceed with the gate.
- xi. Lot 17's representative expressed his disappointment in the situation. He will be taking pictures of all violations he finds in the neighborhood and will involve Maricopa County if needed to resolve. He feels there's been selective enforcement of the DoR's.
- xii. Sandra Abbey shared the Maricopa County definition of a building is a structure with a roof and walls. Robyn Baker asked if she saw where it says they are used synonymously. Charlie Civer agreed it doesn't include a roof and walls and later advised Chapter 6 of the Maricopa County Zoning Ordinances for Residential Development contains definitions.
- xiii. Robyn Baker stated some homes were built before the Association was formed in the 1980's. Chris Prentice asked for clarification about the definition of Building. Robyn reiterated the DoR is a contract between lot owners and their neighbors so we know what will happen next to us.
- xiv. Paulie Fabian commented that even the U. S. Supreme Court overturns precedent. Just because we've been following it all along, doesn't mean it's right.
- xv. Charlie Civer stated he's been in the community since 2000 and has served on the Board and ACC. He believes the original owners wanted a community with open natural desert and only allowed fences in the back of the property. Precedent is the commanding issue and he doesn't recall any exceptions to anything being built within the setback. He also noted there are several homes built prior to the formation of the ACC that are not in compliance with the DoR's.
- xvi. David Tappe motioned to uphold the ACC's decision; Nancy Nelson 2nd. 7 for; 1 against. Motion passed.

- xvii. David Tappe commented the DoR's have very few restrictions and the main issues at ACC meetings over the past 2 years have been setbacks and wall heights. Robyn agreed and added maintenance of views as part of the wall heights issue.

B. Other Issues

- i. Lot 17's representative alleged a Board member is currently building a driveway with a parallel wall within the 50' front setback. He is unsure if it's a retaining wall. Per Robyn Baker, retaining walls are generally less than 4 feet tall and are designed to retain earth.
- ii. Lot 17's representative stated he was unaware the THIA was being sued and this wasn't disclosed when he purchased his home. He feels he was not treated well by the ACC and the Board and that his emails have gone unanswered.

Robyn Baker advised that a litigation update is provided at every meeting and the Board sends an email to the community after each meeting. Meeting minutes are posted online. Robyn noted that most of Lot 17's representative's questions can be answered by reviewing the meeting minutes posted on the Tonto Hills website.

Lot 17's representative asked if the Board will have financial obligations if the THIA loses the lawsuit. Per Robyn Baker, the main issue was resolved at trial last year and was recently finalized by the Court. THIA got involved in the case because there was an allegation that our governing documents had been abandoned and weren't effective. The Association must defend and prosecute our deed restrictions, according to the governing documents. A counterclaim was filed, which has been submitted to our insurance carrier and they are handling our defense.

- iii. The Raven's View parking issue is related to the litigation. There are designated parking tracts in the commercial district for parking use by the commercial lots, including Raven's View. When the litigation is resolved, the parking issue will be resolved. The Board contacted MCDOT and they installed one-way signs.
- iv. Lot 17's representative asked if the container behind Raven's View was a violation.

V. Adjournment

- A. Robyn Baker motioned to adjourn at 7:26 pm; Chris Prentice 2nd. All in favor.

Approved 04/02/2025
Chris Prentice, Board Secretary