

NOTICE TO OWNERS OF PROPERTY WITHIN THE LARKSPUR COMMUNITY OF PROPOSED ACTION TO AMEND THE DESIGN GUIDELINES:

DATED OCTOBER 8, 2024

DATE OF PUBLIC HEARING FOR BOARD ACTION ON THE AMENDMENTS: OCTOBER 29, 2024, 5:30PM. The location of the meeting: the meeting will be held virtually by Zoom by using the link for Larkspur Board of Directors meetings on the Toad Property Management website.

Written comment may be submitted to: erind@toadpropertymanagement.com

The Board of Directors proposes the following amendments to the Design Guidelines for the Larkspur Community Association.

Article II, Definitions

26. **Variances**. A request to the DRC or the Board of Directors from an Owner, contractor or architect/designer for permission to deviate from these Guidelines with regard to a construction project.

Article III, Review Process, 2. Submission and Decision Procedure.

D. Variances.

- i. For a good cause shown and special circumstances not caused by and out of the control of an Owner, an Owner may apply for a variance from these Guidelines. A variance shall only be granted upon a finding of "undue hardship." The Owner shall bear the burden of establishing undue hardship in order for the DRC to recommend approval of the variance or Board of Directors to grant the variance application. An Owner's or architect/designer's disagreement with the Guidelines does not qualify as undue hardship. The expense of an Owner's project does not qualify as undue hardship.
- ii. The application for a variance shall contain a detailed explanation of the reasons, as well as any supporting documentation.
- iii. On a new project, the Owner shall submit the request for variance during the Plan Review process, unless the need for a variance arises during the construction process in which case, subsection (v) below shall apply.
- iv. Along with the posting of the notice and agenda on the Association's website, as part of the variance request, the Association shall send notice thereof to all owners via electronic mail. The notice shall include the address of the property, the variance request at issue, date and time of the DRC or Board meeting, as applicable, to consider the variance request. Owners shall be provided with a 20-day comment period, identified in the notice, Owners may submit written comment to the Board for the Board's consideration. In no event shall the Board hear the variance request prior to the expiration of the 20-day comment period. Owners may also submit their comments at the Board meeting set for consideration of the variance matter.
- v. The DRC will hear the variance request as soon as reasonably possible, for approval or denial, dependent on the nature of the variance being requested. The DRC may request from the Owner, contractor or architect/designer additional

information from a third party regarding the variance request at the Owner's expense.

- vi. For variances requested during construction, the DRC shall hear the request as soon as reasonably possible, prior to the installation/execution of the variance as if it were requested at Plan Review. The DRC may require that work installed or completed prior to the approval or denial of the variance be removed and relocated, and the Owner may be subject to a deposit retention. An Owner assumes this risk when an Owner acts on plans or an element of plans that have not been approved.
- v. Additional review fees may apply for variance requests applied for during a construction project.
- vi. Criteria for Approval: In granting a variance, the DRC shall find all of the following:
 - There are special circumstances or conditions with respect to the land, lot, topography, natural features, vegetation, or other matters on the subject lot or for the subject project which would render strict compliance with these Guidelines impracticable if not impossible;
 - That such special circumstances or conditions are unique to the particular use for which the Owner requests a variance and does not generally apply to all uses;
 - That such special circumstances or conditions were not created by the Owner and are out of control by the Owner;
 - That the granting of the variance is in general harmony with the purpose of these Guidelines and will not be materially detrimental to the subdivision as a whole; and
 - That the variance does not depart from these Guidelines and/or Declaration any more than necessary.
- vii. All variance requests are made on a case-by-case basis.
- viii. If the DRC approves the variance application, it shall forward the variance application with all supporting documentation and information to the Board of Directors, which shall also carefully consider the variance application and vote thereon. Any variance recommended for approval by the DRC or granted by the Board of Directors shall not set any precedent for any future decisions. If the DRC denies the variance application, the Owner may submit the request to the Board of Directors.
- ix. Any variance decision rendered by the DRC may be appealed to the Board of Directors by the owner of the subject property, or other owners. Such owner shall file a request to review the variance decision with the Board of Directors within 15 days of the date the DRC met and acted on the variance request. Appeals submitted after 15 days shall be deemed untimely. The owner may delegate such appeal process to an agent, its builder or designer.

Article IV, (3)(a)(iv), Plan Submission Requirements, Fee. Design Review fee, residential (S & E lots) -- \$1400.00.