

SSCA ARB GUIDELINES, POLICIES AND PROCEDURES

1. BACKGROUND

Development within the community of Southern Shores has, since its inception by Kitty Hawk Land Company in 1947, been subject to compliance with deed restrictive covenants. This has ensured that all new and modified construction complied with deeded restrictive covenants and furthered the goal of sound community growth and preservation of individual property values.

Initially, the deeded covenants were recorded in the text of individual deeds, listing the Kitty Hawk Land Company as a party to the covenants. As new sections of the community were opened to development, deeded covenants were recorded to encompass entire blocks or groups of lots within blocks. As a result, the deed covenants include the lots within the group and Kitty Hawk Land Company.

In 1976, Kitty Hawk Land Company transferred the control of Southern Shores development to the Southern Shores Civic Association (SSCA) with compliance enforcement for the deeded restrictive covenants formally granted to the Architectural Review Board (ARB) via the 2011 SSCA By-laws:

“To establish an Architectural Review Board to control and maintain the character of building in the Town of Southern Shores, except for the subdivisions of Chicahawk, Pelican Watch, Ginguite Woods, Fairway Drive (Lots 1-20), Southern Shores Landing and Mallard Cove (the 'Excluded Properties').”

2. PHILOSOPHY

The purpose of the covenant review process is to preserve the character of the community and the integrity of the environment; to ensure compliance with the relevant restrictive covenants; to protect property values; and to foster a shared sense of commitment to maintaining and improving the community's high standard of building design and physical appearance.

The ARB review process considers the restrictive covenants for each survey block of property lots. As all survey blocks include covenants with regards to architecture, the ARB considers among other things: a home's location, design size, proportion and fencing in relation to both its site and to neighboring structures. While in no way attempting to dictate design or style, the ARB is nevertheless tasked with balancing the rights and expectations of property owners with the aesthetic concerns of their neighborhoods and the community.

3. ARCHITECTURAL REVIEW BOARD (ARB)

3.1 Membership

The ARB shall consist of five (5) members and each to serve for a term of (3) years and one (1) alternate member. No member shall serve more than two (2) consecutive terms. One voting member must be on the SSCA Board.

The ARB shall nominate candidates to fill all vacancies as they occur for final approval by the SSCA Board.

Following a vacancy in the chairperson's position, the ARB, at its first meeting after a replacement member has been appointed, shall by majority vote, appoint a new chairperson and assistant chairperson, as necessary.

If a member fails to perform their duties or attend meetings, the ARB may recommend their removal from the ARB to the SSCA Board.

The alternate's term does not officially begin until they become a voting/full-time member.

3.2 Qualifications:

ARB Board members need not have architectural experience, but they must be able to review and understand building plans and drawings. They must also be committed to enforcement of the applicable covenants and to a sound community development process.

All members of the ARB must be able to put aside individual biases and preferences in making their decisions. They should have access and be familiar with the governing covenant for each particular piece of property. Further, the governing covenant must be carefully read and any questions about the possible interpretation of specific sections must be discussed and resolved before a decision is made.

3.3 Positions:

a. Chairperson

Support assignments of other ARB members as required and reflect the decisions of the SSCA Board. Interacts with the SSCA Board of Directors, the Town Code Enforcement Administrators, the Town Manager, or others as required to ensure proper operations of the ARB. Coordinates and advises each applicant on the status of their application as outlined in the Submission Review Process section. Prepares and signs a letter for each applicant advising approval or rejection, and retains one copy for the SSCA files, as noted in the Review Process below. Be available to interact with any person seeking advice or information from the ARB or those having a covenant related grievance or concern.

b. Assistant Chairperson

Acts as Chair in the absence of the chairperson and be able to fulfill the duties of any other member who is unable to act on their own behalf (at some particular time.)

c. Recording Secretary

Takes notes of actions discussed and decisions made during ARB meetings. Prepares a typed report of these minutes and distributes them after approval to designated SSCA and Town personnel. Ensures that the SSCA keeps a historical file for record purposes and use in the event of any challenge of its actions.

d. Contract Liaison

Before each ARB meeting, reviews the list of permits issued by the Town's Code Enforcement Office to ensure that the ARB has received applications from contractors or property owners which require ARB approval; Contacts contractors or property owners who are proceeding without ARB approval and arrange for the necessary material to be delivered to the SSCA office; Reports findings to Board at each meeting. Maintains and updates a spread sheet list of applications approved or denied by the Board after each meeting.

e. Covenants Coordinator

Responsible to check all applications for compliance with the covenants of the specific block or lot. Be knowledgeable about all covenants. Alert other ARB members to covenant restrictions which might prohibit application approval.

Note: Any of these duties may be assigned to the SSCA Office staff when applicable.

4. MEETINGS

Meetings will be held on the 2nd and 4th Tuesday of each month or more frequently if necessary. Meetings may be held virtually via email exchange or video conferencing. Quarterly in person meetings are encouraged.

A minimum of three (3) members must review applications and vote electronically or in person for a decision on an application to be rendered at an ARB meeting.

Applications submitted by 12 noon on the Friday preceding a given meeting will be considered. Late submissions will be reviewed on or before the next meeting.

5. REVIEW PROCEDURES

5.1 When Submission Is Needed:

While the covenants for each block contain specific restrictions and requirements, actions requiring submission generally include but are not limited to:

- New home construction.

- Any alteration to the exterior of existing structures which increases the structure's footprint on the property.
- Additions of any outbuildings, cabanas, docks, solar panels, fences or other structures subject to covenant restrictions.

Prior to submission you should be familiar with the applicable Protective Covenants or deed restrictions pertaining to the covenants. The SSCA office can provide you with a copy of most of the covenants, however, if SSCA does not have a copy of the applicable covenant, it is your responsibility to obtain a copy of the deed or covenant from the Dare County Courthouse. A copy of the relevant covenant should be submitted with the application.

5.2 When a Submission Is NOT Needed:

Demolition; interior work that does not affect the exterior of the building; replacement of decking or siding - DO NOT require ARB review.

5.3 Pre-submission Review

The homeowner may schedule a "pre-submission" conference to be held at any regularly scheduled ARB meeting to discuss any questions about a proposed construction. The submission may be in rough form for a general review, with the understanding that a completed submission will still be required. Any such request should be made before the 12pm Friday application cutoff to be put on the agenda.

5.4 Submission Requirements, What Is Needed:

1. In addition to an application, each submission for new home construction should include a full set of plans including elevation views, floor plans with rooms, decks, and porches labeled and dimensions shown. Submissions for exterior alterations should include floor plans and elevations showing the relationship to the original structure.
2. All submissions should include a site plan showing boundaries and setbacks, all structures currently on the property or to be erected thereon, driveway with parking/turn areas, pools if any, septic field, and any fences.
3. Any changes to the project made after initial ARB approval require resubmission.

5.5 The Submission Review Process:

a. Review Policy:

The ARB's primary duty is to determine compliance with the deeded restrictive covenants. Applications will be considered with the project site's respective deeded restrictive covenants.

For consistency in terminology and clear definitions, the ARB will use the Town of Southern Shores (TOSS) Code definitions as described in Section 6.1 (TOSS Definitions).

When architecture is considered, the ARB must consider that architectural standards are always changing and strive for improvement. The consideration of aesthetic suitability of a structure is within the mandate of ARB review when the architecture is being considered. Although there are no requirements for a particular style of architecture, the construction should harmonize with the neighborhood and its sites. For example, whereas a log house may be suitable for wooded areas, if constructed on an oceanfront lot, it would look entirely out of place. Additionally, construction designed in a “whimsical” or “thematic” style or to make a confrontational statement is generally unacceptable

b. Process:

1. ARB submissions will be considered if the submission requirements listed above are met.
2. ARB will decide to approve, disapprove, or request additional information / clarification.
3. All ARB decisions are to be conveyed to the submitting owner/builder in writing immediately following the review meeting.

c. Approval:

Once an application is approved, one set of the plans will be stamped and signed by the ARB Chairman and the homeowner will receive the approval letter.

d. Disapproval:

The reason(s) for any disapproval must be specified in the letter. If a submission is not approved for a minor reason which can be corrected quickly, the chairperson may grant approval when the error/clarification is resolved as long as a quorum of the members agrees.

If a proposed structure is disapproved for aesthetic reasons, the ARB should provide the owner with specific reasons for the disapproval.

e. Request for additional information:

The ARB may make such a request and Applicant is required to respond promptly. The application will then be considered at the next meeting.

f. Non-responsive to request for information:

Failure of applicants to respond to the ARB's request for additional information or failing to file a proper submission for the ARB to assess compliance with the covenants while moving forward with a project can be referred to legal counsel for follow-up action. Prior to filing suit against an applicant for failure to respond, the ARB will make every effort to mitigate the non-compliant action with the homeowner/builder.

The ARB will present recommendations to the SSCA Board for its approval to seek formal legal action.

g. Applicant Appeal:

In the event of an adverse decision which cannot be resolved by discussion with the ARB, within 30 days of the date of the ARB letter to the applicant, the applicant must reapply with a corrected filing or appeal the decision to the SSCA Board.

h. Legal Enforcement:

The ARB's function is to review and approve or disapprove submissions. Ultimate responsibility for legal enforcement of the covenants on behalf the SSCA is the duty of the SSCA Board of Directors. The ARB will make recommendations to the SSCA Board of Directors for enforcement.

While the SSCA is named an interested party in all recorded deeded covenants, residents of the same block or linked lots retain the right to pursue legal enforcement independent of the SSCA as additional parties to the recorded deeded covenants.

6. Town Ordinances

The ARB does not enforce Town ordinances as this is the responsibility of the Town Building Inspector. If a possible Building Code or ordinance concern is noted, the homeowner will be advised to consult with the Building Inspector. A copy of the letter will be sent to the Building Inspector.

6.1 Town Code Definitions

The Town of Southern Shores (TOSS) Codes include clear descriptions of intent as well as definitions of terminology for all Code restrictions. The ARB, however, is bound by published Covenants which included limited, if any, descriptions of intent or any lexicon definitions of terminology. This leads to potentially conflicting decisions between approving (or denying) an SSCA ARB application and TOSS issuing a Building Permit for the same proposed structure.

Therefore, the ARB will use the TOSS Code definitions for the following terms when reviewing an ARB application: (Ref TOSS Code Sec 36-57)

Structure:

Means anything constructed or erected, the use of which requires location of the ground, or attachment to something having location on the ground

Building:

Means any Structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or public purposes.

Building Accessory:

Means a subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of the principal building on the same lot, even where the accessory

building is attached to the principal structure by breezeways, covered walkways, walkways, or other structures not constituting enclosed living space.

Note: Garages, carports and storage sheds are common urban accessory structures. There could be more than one accessory structure which would be limited by lot coverage. Sidenote: Building permits are not required for sheds that are 12' x 12' or less but zoning permits are required.

Dwelling, Single Family:

Means a detached Building designed for or occupied exclusively by one Family

Dwelling Unit:

Means one or more rooms or living spaces connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms, living spaces or dwelling units which may be in the same structure, and containing a stove or stoves and/or an oven or ovens and sleeping facilities for a single-family.

Living Spaces:

Means enclosed conditioned areas within a structure that are designed or constructed for human habitation. All conditioned areas within a structure are presumed to be constructed for human habitation unless affirmatively shown to be to the contrary in a manner such that the use of the area cannot be modified, i.e. a conditioned wine cellar or refrigerated storage area.

TOSS RS-1 (Residential) Zoning District:

Only one dwelling unit is allowed for each lot.

Accessory structures are allowed to have "living space" as long as it doesn't constitute a "dwelling unit." Such "living space" does count towards any living space for the principal building (limit 6000 SqFt).

7. ARB Records

The ARB should keep a copy of all submittals (e.g., copies of the building plans and survey plat) and approval/disapproval letter for a period of no longer than 2 years.

Note: Revisions in this version are underlined and all relate to the ARB use of TOSS Code definitions referenced in Sections 5.5a & 6.1.