

Georgetown East Association, Inc.

March 9th, 2021 Board of Directors Meeting

Board Members via webinar: Gerard Bribiescas, Tom Geraci, Sam Gray, Alison Thompson, and Sheila Goodwin. JP is absent due to being a municipal election volunteer at the polls.

Ameri-Tech Community Management Present: Robert Kelly, LCAM

Gerard Bribiescas called the Board Meeting to order at 6:30 pm: A quorum established with Sheila and Tom on the webinar and Sam, Alison, and Gerard at the Ameritech office conference room. Proof of Notice was posted on March 6th on the message board in accordance with Florida statute.

Attorney Stephen C. Nikoloff:

1. Alison motions to accommodate our attorney, Stephan Nickoloff, by moving him to the first agenda item. Sam seconds. All in favor.
2. Gerard: welcome Stephan and thank you for taking the time to be with us. Thank you for helping us move through the litigation on 515 Georgetown Place and getting that finalized and closed.
3. Perimeter Walls - the wood and fence structures (does NOT include the ditches)
 - a. Stephen: Very rarely does the developer have the foresight to reserve a strip of land around the community for building a perimeter wall. So often it ends up on the lot owners' lots. The ultimate issue is one of ownership vs responsibility. Your documents don't really address the perimeter walls or fencing at all. In the absence of something in the deed restrictions that would shift ownership to the HOA, they remain the property of the lot owner. Anything that is located on your lot is your own property. Right now as it stands, the owners have quite a bit of responsibility for those perimeters and that's not good for the association as a whole. Obviously one lot owner, you don't want them affecting other people on their lots. So what we need to do is burden or maintenance shifting, particularly in terms of the exterior of the wall. Exterior in terms of facing away from the dwelling/community. Also the structural integrity of the wall and fence. It can be cumbersome for a lot owner to get to the exterior of their wall and do maintenance, in some cases. It's more cost effective for the association to contract for that work to be done. The amendments address how everyone is responsible for the maintenance of these perimeter barriers. No matter what we craft 75% of the owners need to approve to adopt. The amendments need to be approvable: should not be overly complicated. The proposal is that owners would have responsible for the interior lot-side of any perimeter barriers which would

include but not be limited to pressure washing, removing vegetation away from it. The HOA should not trespass to do interior maintenance. For the exterior, the association would be responsible for the exterior or street-facing side. As it relates to structural repairs or replacement, the proposal is that lot owners would bare the cost equally with the association. The HOA will do the work and then bill the owners for 50% of the cost so we don't have multiple contractors involved. This is what a lot of communities do; it's the most effective; everyone understands it, and it keeps the HOA in charge. What we don't want to have is a situation where the wall isn't getting fixed because lot owners can't coordinate and agree. I propose one amendment where the people affected are the people on whose wall or fence we are working on, regardless of which perimeter and wall. Uniformity is important to avoid arbitrariness. If you choose to live on a lot with a piece of the wall on it, you take on that responsibility. But currently there is no framework for these lot owners for exactly how this will work. The amendment will make clear how this will work and the association will bear about $\frac{2}{3}$ of the responsibility considering that everyone does benefit from the perimeter not just the lot owners on the perimeter. Two amendments is a harder sell and could confuse people, so one amendment is simpler and more enforceable.

- b. Sheila: The attorney's advice is very clear. I like the idea of one amendment and making it concise and clear.
- c. Sam: Good presentation. I live on a lot with an interior wall. As an owner, I take care of the wall. I take responsibility and pride of ownership. I don't have a problem with the proposal.
- d. Tom: Good presentation. I agree one amendment is simpler.
- e. Alison: I agree with all comments. No questions.
- f. Gerard: I am the sole person who thinks we should have two amendments. I can sell Beacon and Marshall street drive perimeter wall because most people believe those are our exterior walls representing our community to greater Safety Harbor. But I know people who are opposed to supporting the fences and walls on the ditch and north to Yorktown. My husband included. A lot of people with interior fences and walls say, well, why isn't my fence included then too? I'm trying to make sure we don't divide the community of this and we unite. With two amendments they can be both accepted.
- g. Stephen: my concern is that if the wall amendment passes and the fence amendment does not, it can create a problem with a selective or arbitrary enforcement issue. Why are we treating an exterior or perimeter fence different from a perimeter wall? It could hold up in court but it could be a potential issue down the road when one lot owner complains that other lot owners are being treated differently. My first thought after our initial discussion was, why are we treating these differently?
- h. Gerard: one on the City sidewalk and one that is not on the sidewalk.
- i. Stephen: but what is good for the goose is good for the gander. A uniform method is always more enforceable. But I don't have to sell it. So it's up to the

Board to ensure it can be approved by 75% of the members, not just the people affected. If we go with two amendments and one passes but the other does not, then it will create legal questions the Board may not have an easy time dealing with.

- j. Chat question: is there a difference between a wall on the street and along the ditch?
 - k. Stephen: The standard is that it is a wall on the border of the community. As long as the lot is at the exterior of the community, that is a wall addressed in the amendment.
 - l. Gerard: one difference is that the people with a wall on the ditch own not just the wall but also the land on the otherside up to the flow line and in some cases the otherside of the ditch. That is an easement. In some cases the HOA owns both sides of the ditch..
 - m. Stephen: legally that doesn't make a difference. When we start talking about the ditches, there is a difference but in terms of exterior perimeter walls, it makes no difference.
 - n. Tom: what if we don't get 75% approval from the community?
 - o. Stephen: then everything falls on the homeowner. Inside and outside. The HOA has no rights and responsibilities.
 - p. Tom: I hope everyone understands that when they pick up the vote. My other question is, what about the lot owner that says, wait, I bought this lot but I was told it was not my responsibility.
 - q. Stephen: without trying to sound coarse, unfortunately ignorance of the law is no excuse. The reason we record documents in the public record is for the benefit of everyone else. Public documents like your deed and platt are to put everyone in the world on record notice of the documents. So if someone did not inform them or misinformed them that is not a defense of a failure to do what they are supposed to do under the governing documents and general law. Easements are not property rights, they are usage rights. The easement doesn't create a situation where someone owns that property. When there is an easement in favor of the association on a owner's lot, it doesn't make the HOA the owner of that easement nor responsible for the land. It gives the association use rights of that land. Same is true of the utility company.
 - r. Gerard: as an HOA do we have some say for how those perimeters on an owner's lot, can we define standards for the type and color of wall, etc?
 - s. Stephen: yes and no. The association can't tell someone to change something that already exists. But if modifications are made, the association does have architectural standards to maintain a common aesthetic of the community. We could deny changes that are not in conformance with the community's aesthetics. The lot owner's rights are limited by the architectural standards of the HOA.
4. Ditch
- a. Gerard: as a background, in Aug 2019, the attorney's office provided a letter to the Board guiding us on the erosion scenario on the ditch. In Sept 2019, the

Board mailed a letter to 19 lot owners along the ditch. The consensus was that the matter was resolved. However, we now have several lot owners with erosion issues and neighbors adjacent to our community planting things effectively on our lots and affecting the flow of the water, creating stagnant water. The current Board is investigating whether to retain engineers to assess the condition and our obligations. What are our legal obligation to the lot owners who live along the ditch?

- b. Stephen: your existing documents fail to address in a meaningful way. First and foremost, this begins with lot ownership and easements. It's not too different from the walls. The responsibility for the ditch is incumbent on the owner of the property.
- c. Gerard: there is a section of the ditch that the HOA is responsible for.
- d. Stephen: yes, the ditch is the responsibility of whoever owns the property upon which it is located. There is nothing in the documents that shifts the burden from the lot owner.
- e. Tom: presentation is common sense: if it's your property, you should maintain it. I've walked the ditch after a rain and you can see that it sits for several months. It stinks and attracts rodents. If the management walks the property once a month, they should walk the ditch. If there is erosion or a tree has fallen, then management should send the property owner a letter to address it. The fear with some of the homeowners is that if we get a big storm, it will backup, and there will be a real problem for those lot owners.
- f. Stephen: if the association does something, then it could take liability. So it's better if the association stays out.
- g. Alison: Is the City of Safety Harbor responsible for the flow in that ditch?
- h. Stephen: No, unless the Association has an agreement with the City I'm not aware of it. The City has responsibility for the water in the canals but not for the erosion of the land - that is the lot owner's responsibility.
- i. Roth: There was discussion with the City because there is water from other neighborhoods coming into our canals and then flowing into other neighborhoods. When we asked the City, they did not answer due to Covid.
- j. Stephen: the City does maintain the flow of the water. That is also why the City can put boil water alerts or restrict fertilizer. They are responsibility for the quality of the water not so much the flow of the water.
- k. Roth: can someone build a dam to prevent the flow?
- l. Stephen: No, because you can't interfere with Riparian water rights. That would be a violation of City code. It would create a drainage problem. The embankment and erosion issues are the responsibility of the lot owner. Per flow, we would have to engage the City for more information.
- m. Karen Bartoszek: previous manager did reach out to the City and believe we did get in writing that the City did agree to some responsibility.
- n. Alison: it would be helpful to get that agreement clarified because we will have issues in the summers.

- o. Stephen: the association does have enforcement rights for lot maintenance. If someone is not taking care of their ditch, we can vote to enter the ditch and clean out the lot at their costs. We have options. We are not powerless. It's just not our first hand responsibility. We have authority, but not necessarily responsibility.
 - p. Bob: if a lot owner is not maintaining their ditch. We send a letter. What do we use as a standard for the maintenance?
 - q. Stephen: whatever needs to be done so it's not negatively impacting another property owner. If it's creating a mosquito or rodent or odor problem: whatever it is that is somehow affecting other lot owners. The Board of directors determines the standard. Deed restriction requires lot owners to maintain the property more restrictive than what even the City allows. If we have a standard, then put it in writing. Do a Board resolution. The Association has that authority to tell people how we will enforce our governing documents.
 - r. Gerard: You've said the lot is the lot, the front and back yard.
 - s. Stephen: These are deed restrictions for the lot, not front or back lot restrictions. The restrictions and Boards authority can apply to the entire lot.
5. Non-compliant homeowners
- a. Gerard: We just sent out five notices to non-compliant lot owners. First notice was in October. We focused on gutters and roofs that need to be cleaned. We gave second notices about 30 days later. Then last Friday sent 5 final notices. They were given until April 15th. Can we motion to give the attorney permission to send certified letters?
 - b. Stephen: My recommendation is that the certified letters from our office include statutorily defined pre-condition letter.
 - c. Tom: why on the fourth letter are we sending something certified. Shouldn't we get to that point sooner like 2nd or 3rd? We try to work with everyone but there are some lot owners where it's been a year now.
 - d. Gerard: yes, the problem has been a year but the first letter was only in October.
 - e. Tom: it's frustrating that it takes this amount of time and energy to get lot owners to do something? They agree to the deed restrictions when they buy here. Why aren't we sending out the certified letter sooner?
 - f. Bob: does the letter really need to be certified? We get certified letters back all the time undelivered. Management has found that a letter from the attorney holds more weight, even if it costs more.
 - g. Tom: can we send the attorney letter earlier?
 - h. Bob: you can change your procedure any time you want. You just need to be consistent and let owners know about your changes.
 - i. Stephen: sending certified doesn't necessarily get you anything. Most people return certified mail because they know it's bad news. The law does not require that people receive certified mail but it does require that we send it. It's up to the association to decide how many letters to send.
 - j. Chat question: can the board address satellite dishes?

- k. Stephen: the federal communication act from blanket prohibit dishes but what the Board can do is dictate to some extent where it is located. Some architectural guidelines can be given. Can decide location as long as the location is conducive to receiving the satellite signal.
 - l. Gerard: we only enforce that the dishes are not visible from the street.
6. Rentals
- a. Recently Zillow purchased a property in our community with intent to rent. People are concerned our community will become a rental community. What can the Board do to limit how many rentals or length of time the homeowner must live in the house before they can rent?
 - b. Stephen: The Board can't do anything. You need an amendment. The leasing restrictions must flow from the governing documents. If the amendment is made by 75% approval then that becomes the community's will. You can make someone own a property for 2 years before they rent it. We can also make it percentage based. We can also make it application based, so the Board can approve the tenants. Board can restrict the duration of the lease: require year-long leases.
 - c. Sheila: I would like to pursue that so we are not a rental community.
 - d. Roth: In 2018 we tried to reduce the supermajority requirement so we could approve a rental restriction. We have a hard time getting people to vote by proxy. We need a huge promotion to make it happen.
 - e. Stephen: it's often true that it's a participation problem not that people actually are against it. Note, you don't have to be neutral. You can go door-to-door to promote an agenda.
 - f. Bob: If you want to get these amendments passed, you will need to knock on doors and make phone calls. Put a proxy in their face and have them sign it. You cannot just put an amendment out there and hope it will pass.
 - g. Sheila: I would go door-to-door but I think we need a script so that we say the right thing consistently.
 - h. Bob: proxies are good for 90 days. If you fail to get supermajority in the initial meeting, you can schedule a new meeting and get more votes in the meantime before the 90 days expires.

Treasurer's Report - JP: sent out via email.

- Gerard: my biggest concern is the negative balance we are showing in Lake Maintenance because the aerator installation occurred in January of this year. And we voted for \$15k for beautification projects and that is also showing a negative. I'll talk to JP about if we can assign it to a GL so we can see what is in the regular Operating budget versus utilized from the surplus. I looked at the owners who are behind. One just prefers to pay quarterly. Two of the properties I believe is an oversight on their part; I am certain they will pay before the next Treasurer report.

Report of Directors & Committees:

1. **Architectural Standards Committee - Sam:** sent a report via email.
 - a. 513 and 511 Haverhill are going to remove stucco and wood walls and replace them with vinyl.
2. **Communication Committee - JP:** No update.
3. **Grounds - Landscaping - Sheila:** We almost completed the tree trimming. One more bottle brush to trim; will be done soon.
 - a. I've been reading landscaping books; learning a lot. Look forward to the garden club.
4. **Ground - Contracts - Tom:** No update.
5. **Social Committee - Rose:** Planning for a social on April 17th.
6. **Roxbury & Kensington Ponds - Alison:** No update.
7. **New Member Welcome Committee - Ashley:** No update.
8. **Governing Documents Task Force - Mary:** No update.

President's Report - Gerard: Sent out his report via email.

Property Manager's Report - David: Sent his report to the Board via email.

1. Bob: contacted Andy of Solitude regarding the Dartmouth fountain repair. He mentioned we aren't using them because we terminated the contract. But I responded that it is still under warranty. They still need to honor the warranty.
2. Gerard: it's very frustrating.
3. Bob: I did get another lawn care quote but higher than other quotes. We need an elevation survey done before we can get a dredging estimate. I assisted Gerard with the compliance letters. And I informed Larouse of the seal coating timeline.
4. Sheila motions to approve Bob's report. Alison second. All in favor.

Follow-Up Business

Property Updates and Compliance Letters:

1. Gerard: for 516 Georgetown place, the lot owner got the permit approved. They are waiting for a start date from the contractor. Thinking they will start next week some time.
2. Gerard: I hear what Tom is saying about the compliance letters. We should decide on how we are going to send out the letters and communicate that with the owners. I think first and second notice, then we send the attorney letter.
3. Sam motions to have Ameritech to send out the letters from the attorney with the statutorily defined pre-condition letter. Tom seconds. All in favor.

Community Tree Analysis:

1. Gerard: I will send a list of questions I've received from people to ask John Snow.

Retention Pond Dredging:

1. Gerard: we have to get an elevation survey done before Gator dredging can give us a quote.
2. Bob: I've contacted both companies. I don't have any history with either one. Engineer came from Gator Dredging. We need a survey so the engineer can determine the scope of work for a contractor. ServeTech was more detail orientated than Suncoast, although \$2k more. The survey needs to go into the pond more than 10 ft to get to the bottom.
3. Sheila: the point of the survey is that it is required for the dredging. We should know what the dredging company needs and just fulfill that. I'd rather go with the lower quote if it fulfills what the dredger needs. I'd prefer to spend \$2800 instead of \$4k.
4. Bob: the dredge company needs to know how much muck it needs to remove. They need to know the water level and how steep the bank is, the muck level, will tell the dredging company how much needs to come out.
5. Tom: we should talk to the dredging company and ask if we should go out further and if it's going to be an added cost.
6. Bob: dredging company recommended Woods consulting but they don't do the topographical survey. I reached out to surveying companies with the details from Woods consulting. Suncoast came back with a one pager without asking for clarification. ServeTech asked for clarification.
7. Bob: you are going to need a permit for this. To pull a permit, you need an engineer. Engineer said we need a survey.
8. Sheila: do we have in writing from Suncoast that this will fulfill the dredge requirement?
9. Bob: yes, I will get it in writing that their survey will fulfill what the engineer and dredging needs.
10. Sheila motioned to proceed with the survey for \$2800 with confirmation in writing that they can fulfill what we need. Sam seconds. All in favor.
11. Sam: can we specify how many feet we want it?
12. Gerard: when they dredge they will go to the original levels that SwiftMud established.

New Business

Chimney Stacks and Chimney Caps:

1. Sam: some homes have chimneys and some don't. Chimney caps are starting to rust. The way to stop that is to paint them. I motion to revise the instructions in the paint books that the chimney body should be painted the body color regardless of the design. The cap should be painted the trim color so there will be consistency throughout the neighborhood and prevent rust. This will not apply retroactively; just going forward. Alison seconds. All in favor.

New Aerator/Fountain for Dartmouth Pond:

1. Gerard: we will not be able to make a decision tonight because Bob gave us information from another company to give us a better price. I got input from homeowners about what type of spray they prefer. Colored lights is a more costly option than the white lights.

2. Alison: I love the fountains that have the aerator. We should cap it at a certain cost. I prefer the white light.
3. Sheila: I prefer the white light; it looks classy. Kathy and Melissa want white. Everyone I've talked to prefers white.
4. Tom: I prefer the color lights so we can satisfy everyone: white and color.
5. Sam: I prefer white.
6. Gerard motions to not exceed \$6500 for an aerator fountain for Westborough/Dartmouth pond; that will allow us to ask more neighbors what they want. Sam seconds. All in favor.

General Comments and Questions

- Steve Jolliffe: I prefer colored lights.
- Karen Bartoszek: what problem are we trying to solve by dredging? Since we live in a sink hole prone area, what assurances do you have that dredging will not cause settlement issues for lot owners near a pond?
 - Gerard: we will ask the question.
- Jacquelyn: I vote for white.
- Joe Mallozzi: there is a lot of spending on these ponds. They are really for storm drain water. Seems like we are spending a lot of money just for aesthetics. We need to balance wants for needs. I vote for white fountain color.
- Carolyn Smith: I'm grateful for the colored lights we have on Roxbury.

Motion to adjourn: Sam motioned to adjourn. Seconded by Alison. All in favor.