

**The Springs at Mariana
Board Meeting Minutes**

April 28, 2014

363 Meadowsweet Circle, Loveland, CO 80537



1.0 Opening of Meeting

Board President, Chuck Cavanagh, called the meeting to order at 7:05 p.m. Board members present were Chuck Cavanagh, Trisha Coberly, Lisa Eddy, Mike Eddy, Ron Korngiebel, and Paul Matthews. The board welcomed the following guests: AJ and Carol Riser, Ed Beck, Stephanie Lane with ReMax Alliance, Fred Garcia, Carol Barrow, Bonnie Rowland, Karen Crookshank, Andrea Dunn, Bryce and Barb Giesey, Adam Morgan, John Tregenza, Nathan Hinkle, Marlene Cavanagh, Greg Muhonen, and Ginette Korngiebel. Tim Volek joined the meeting in progress.

2.0 Stucco Color at 120 Alpine Laurel

Mr. Cavanagh reviewed the events leading up to the meeting. He indicated that the stucco color for 120 Alpine Laurel was submitted to the Design Review Committee (DRC), and the color was subsequently reviewed and approved by the committee. When complaints from home owners were submitted, the DRC confirmed that the committee-approved color was the same color that was applied to house. Neighbors then requested that the home owners association investigate the issue further.

After the events were reviewed, Mr. Cavanagh indicated that he contacted the lot owners of 120 Alpine Laurel. The future residents stated that they were open to changing the color; however, they were not willing to incur any additional cost. Mr. Cavanagh consulted the builder, who estimated the color change at a cost of \$5,500 to \$6,700.

After the events were summarized, it was asked whether the Board could and should impose a neighborhood-wide special assessment or allocate funds from the HOA budget. The proposed funds would total \$5,500 and would be paid to the builder of the home at 120 Alpine Laurel to change the color of the exterior stucco of the home.

Mr. Korngiebel stated that Section 11.07 (special assessments) states that special assessments must be used for common area repairs. He cited the following "... any extraordinary maintenance repair or restoration work on fewer than all of the lots shall be borne by the owners of those affected lots."

He clarified that special assessments applies if the board wanted to make a one-time assessment to lot owners, specifically for *common* uses rather than an expense specific to a

particular lot. The association may levy if permitted by law for the purposes of defraying expenses within common areas. Therefore, Mr. Korngiebel said that the board could not require a special assessment. He further stated that though the covenants did not support a special assessment in this case, they could be amended, which requires two-thirds of the lot owners to approve any amendment. He clarified that in the event that the covenants were amended, current law that governs home owner associations includes additional restrictions and therefore, any amendment to the current covenants still may not be used to require a color change. The Board expressed that they read the guidelines in the same way.

Mr. Cavanagh opened the meeting to other lot owners in attendance. Mrs. Eddy clarified that the Board can't move forward with an assessment and could only change the covenants. Mr. Cavanagh clarified that other lot owners were welcomed to speak should anyone have a different interpretation of the covenants. Mr. Korngiebel again stated that Colorado law still does not allow an HOA to use common money for individual expenses.

Mrs. Giesey asked for clarification in identifying whether the bylaws or the covenants are the overriding governing document. She then followed with a second question, requesting details as to holding the DRC accountable to uphold the association's rules.

Mr. Cavanagh indicated that there were four DRC members, all of whom approved the stucco color. Members from the committee then verified that the approved color was used on the house. Mr. Cavanagh stated that the Board can't overrule the DRC's decision. He also indicated that there didn't seem to be a monetary workaround to change the color.

Several lot owners in attendance asked whether the covenants override over the bylaws. Concern was expressed that the color does not fit within the DRC guidelines. Mr. Muhonen conceded that the committee should have approved the color in person rather than an e-mailed version of the color.

Ms. Rowland stated that the process failed. Mr. Beck asked how the blue color fit into the earth tones required of all other lot owners. He also stated that he had to submit a bigger color sample than a one inch square and that his sample had to be tangible rather than electronic.

Mr. Muhonen disagreed, stating that the process did not fail nor was the color a mistake. He stated that the application was a one-page form, which had since been modified to a two-page form allowing the applicant to add their colors. He said that there was nothing in the guidelines or covenants to require a tangible sample. He stated that there were no rules for color in this subdivision; however, earth tone is a color that occurs naturally in the earth.

Mrs. Riser said that she was worried about the integrity of our community. She said only earth tones are allowed in the neighborhood, and some [lot owners] have gone to great lengths to abide by the rules, including the right trees, landscaping, and so forth.

Mr. Riser questioned the precedence being set relative to the color zone. Mr. Cavanagh said that the colors are still open to the discretion of the DRC.

Mr. Muhonen stated that this event has caused the DRC to have a heightened sensitivity to grays and would be more likely to carefully consider future colors and possibly request a larger sample, if necessary. He also clarified that Marvin Morganti is still part of the DRC. Mr. Morganti is the architect for this neighborhood.

Mrs. Barrow asked to keep the event in perspective. She stated that the color was initially shocking, but the stone and roof has toned down the color. She said that the architecture in the Springs at Mariana is very diverse and that's what makes the neighborhood great.

Mrs. Riser said that she was disappointed. She wouldn't have left her previous city if she wanted great diversity. She considered her home an investment and feared a lack of integrity in the neighborhood.

Mrs. Giesey stated that she joined Mr. Morganti and Mrs. Barrow in meeting with the future home owners. She said that the lot owners didn't really expect the stucco to be as blue as it is now and said it should have been grayer.

Mrs. Cavanagh stated that she didn't just want a neighborhood but one that is a community and expressed concern regarding the first impression the new neighbors were getting of the area. Ms. Lane of ReMax Alliance represented the homeowners and stated that they felt attacked.

Mr. Giesey asked for the price to change the stucco color. Mr. Cavanagh stated that he was quoted \$1,200 for soffits but didn't know the cost for changing the trim. He said it would be \$5,500 and another \$1,500 as an estimate.

Mr. Korngiebel said that if the homeowners all offered to pay an equal share, the stucco could be changed; however, Mr. Cavanagh stated that the Board can't impose an assessment.

Mr. Muhonen said that the same goal could be met by going an alternate route. He suggested since the lot owners were open to a color change, other lot owners requesting the change could pay for it without involving the Board. Mr. Cavanagh asked if the homeowners were still willing to change the color.

Mr. Garcia said that he didn't notice the color and welcomed different colors in the neighborhood. Mrs. Coberly summarized the discussion to that point, stating that the Board couldn't do anything to change the color. She also stated that the process of approving colors should be improved upon in the future to avoid a similar situation and also said she got the impression that further discussion would have ensued amongst the DRC members had a larger and tangible color sample been provided.

Ms. Lane asked the group to see the human side of the situation. She said that this community is where her clients are retiring, and they are great people. She said that the lot owners plan to landscape, which will make the color less bright and that they are sorry the color is not exactly within the boundaries of some community members' expectations.

Several lot owners in attendance said that there are no hard feelings around the new homeowners though several said that the color was and still is a shock. Mrs. Barrow said that the DRC met with the homeowners and adjustments were made to the stone and the shingle color in an effort to tone down the color.

Mr. Korngiebel motioned that the board conclude that general funds and special assessment funds could not be used to change a stucco color. The vote was unanimous among those present. Mr. Cavanagh thanked the DRC for their work.

Mr. Giesey asked what the cost would be if just half the lot owners contributed. Ms. Lane stated that because further construction had been completed, the latest estimate she had received was for \$8,700.

Mrs. Giesey said that this neighborhood is still a great place to live and she thanked the Board for considering the issue.

3.0 Adjournment

Upon motion by Mr. Cavanaugh, seconded by Mr. Korniebel, the meeting was adjourned at 8:02 p.m.