

Ada Moorings Condo Association
Meeting Minutes for June 30, 2021
AMCA Board Meeting – 8:00 PM, front gatehouse

I. Attendance:

A. Board members

1. Present: Lewis, Yost, Lopofsky, Mulchay, Rottschafer, Bowman,
2. Not present: Wartko, Said - Villas Representative

B. Others:

1. Lori and Brad Marthens
2. Diane and Tony Payne
3. Craig Young - arrived at 8:33pm

II. Approval of Minutes:

A. March 11, 2021 minutes approved

1. Lopofsky confirmed minutes were NOT posted, plans to post by end of day.

III. Treasurer's Report and Related Items

A. Balance Sheet - Yost

1. Checking: \$49,370.46
2. Savings: \$16,151.76
3. TOTAL: \$65,522.22
 - a. Savings still meets 10% reserve requirement

B. Budget v. Actual – Yost

1. Better to budget by \$11,187.73.
 - a. Road repair came in (-\$5,298) under
 - b. Front entrance came in (-\$2,835) under
 - c. Waiting on Lawn Maintenance Bill

C. Dues collection – Yost

1. All but 1 homeowners are paid in full
2. 2 (two) homeowners are on a payment plan and paying as scheduled
3. 1 (one) homeowners are delinquent
 - a. Notices have been emailed and hand delivered, yet no response
 - b. Per bylaws,
 - a. Start lien process
 - b. Notification re termination of services
 - i. Trash service

IV. Pending and Completed Sales

A. Completed

1. 935 Thornapple Club Ct SE (offered at \$430,000)

- a. Seller: Omar Zarou
 - b. Buyer: Victoria M. Gonda
 - c. Closing scheduled for 6/18/2021
 - d. Welcome email sent 6/18/2021
2. 1289 Dogwood Meadows Drive (offered at \$419,900)
- a. Buyer: Patrick and Karen Lonsway
 - b. Seller: Bob Ayars
 - c. Closing date: 5/5/2021
 - d. Welcome email sent: 5/7/2021
3. 1153 Spice Bush Drive
- a. Seller: Christopher M. DeBano
 - b. Buyer: Michael Joseph Smith and Alicia Ann Smith
 - c. Closing scheduled for 4/1/2021
 - d. Welcome email sent 3/2/2021
4. 1157 Spice Bush
- a. Seller: Michael & Danette Vanderploeg
 - b. Buyer: Tyler and Julianne Michael
 - c. Date of closing: 6/22/2021

- B. Pending – none
- C. Listings – none

II. Common Areas:

- A. see Complaints, below.

III. Website:

- A. rates set to increase as per Lopofsky.
 - 1. Sales tax increase - but as nonprofit organization we should be exempt.
 - 2. Yost and Lopofsky working to locate tax-exempt letter, have already sent documents showing that we are a non profit.
 - 3. Cost of site at 14.00/month remains unchanged, only taxes are changing.

IV. Tot Lot

- A. No Issues.

V. Front Entryway --

- A. Flags
 - 1. Sean to follow up with Ken Miller on status of repair/replacement
 - 2. Rottschafer has volunteered to purchase replacement of Kent County flag as current one is damaged.

VI. Road Updates:

- A. Phase 5 scheduled to begin week of July 5.
 - 1. Email notices were sent to neighborhood on June 18 and 30
 - 2. Another reminder email will be sent early next week
 - 3. Rottschafer visited Ada Post Office on 6/30/21 and discussed impacted areas and tentative dates for road closure. Provided list of homes and homeowners that will be impacted. Will reconnect with Postmaster as closure dates are firmed up.
 - 4. Rottschafer to distribute paper copies of notice to impacted homeowners weekend before work begins.

VII. Requests

- A. **1153 Spice Bush Dr.** – the homeowners requested permission to install a playhouse at the right rear corner of their property. The owner submitted plans showing the location of the proposed playhouse, as well as its appearance. The owner consulted with their neighbors and reported no objections. **The board approved this request.**
- B. **8020 Thornapple Club Dr** -- the homeowners requested permission to install an in-ground pool surrounded by a fence. The owner submitted detailed plans showing the location of the proposed pool and fencing, as well as its appearance. The owner consulted with their neighbors and reported no objections. **The board approved this request.**
- C. **1265 Dogwood Meadows Dr** -- the homeowners requested permission to make a variety of landscaping improvements. These improvements included removing a large tree and expanding the back-patio area. The owner submitted detailed plans showing the location of the proposed improvements. The owner consulted with their neighbors and reported no objections. **The board approved this request.**
- D. **7905 E Dogwood Meadows CT SE** –the homeowners requested permission to resurface and slightly expand their back deck. The owners consulted with their neighbors and reported no objections. **The board approved this request.**
- E. **1289 Dogwood Meadows Drive** -- the homeowner requested permission to install a 10' dog run immediately behind their home. The owner submitted plans showing the nature and dimensions of the proposed dog run. The proposal was similar to other, previously approved dog runs in the neighborhood. The owner consulted with their neighbors and reported no objections. **The board approved this request.**

- F. **986 Dogwood Meadows Dr** -- the homeowners requested permission to install an in-ground pool surrounded by a fence. The owner submitted detailed plans showing the location of the proposed pool and fencing, as well as its appearance. The owner consulted with their neighbors and reported no objections. **The board approved this request.**

XI. Complaints

- A. Board recognizes the Marthens of 794 Dogwood Meadows Dr, addressed that dock was moved, thanked Marthens for complying with the request and opened the floor to hear them, as was their request:
1. Lori - appreciates association, appreciates bylaws and what they represent. She has gotten a lot of requests as to why this situation required the board to seek legal counsel while other issues are present in the association.
 - a. Identified by photo, wire racks being stored on someone's back patio
 - b. Identified by photo, debris (branches, leaves) that are being left on someone's front area.
 - c. Board referenced Marthens email/letter to the board dated May 2, 2021 that they had sought legal counsel regarding the issue leaving the board no choice up to seek counsel (May 3, 2021) on behalf of the community.
 2. Brad - dock enhances community.
 - a. Asked the board to define what is considered common area
 - b. Argued that ponds are general common elements, not limited common elements
 - c. Land bridge is a flood plane
 - d. Said he understood it was wrong of them to store their stuff there.

Situation recap:

In 2020, the board received a complaint about a homeowner (974 Dogwood Meadows) using association property adjacent to a pond to store personal belongings (dock, boats, raft, etc.). The board was to send a letter to homeowner to ask them to remove items when not in use. See Minutes of July 20, 2020 meeting.

The issue resurfaced this year, and on April 26, 2021, the board sent the homeowners a letter asking them to remove their personal property from the common area. Shortly thereafter, the homeowners moved their personal property off the association property. Thus, on April 30, 2021, the personal property was removed.

On or about May 2, 2021, the homeowners moved their personal property back onto the association property. A board member asked them orally to remove it, and they refused. The homeowner also hinted that they were considering trying to take the property from the association through adverse possession. Shortly thereafter, the homeowner also wrote: “We had our local neighborhood attorney come and take all the papers and information and walk the property with me. She is bringing it all to the attention of her firm. We have our riparian law attorney looking at all the information as well.”

On May 11, 2021, the homeowner posted on social media that they had placed a dock “on pond 2 off the community land bridge, for your enjoyment (at your own risk.)”

On May 13, 2021, the board again asked the homeowners in writing to remove their personal property.

On or about May 14, 2021, a board member spoke with the homeowner via telephone and again asked them to remove their personal property. The homeowner again refused and indicated they were considering trying to take the property from the association through adverse possession. The homeowner stated they had consulted with one or more lawyers about it.

Given the foregoing, the board retained counsel to assist and advise the board. On June 16, 2021, the board’s attorney wrote to the homeowner’s requesting that they remove their personal property from the association property.

On or about June 19, 2021, the homeowner removed their personal property from the association property. The homeowner also posted on social media that they had moved “the dock we put on the common area.”

The homeowners requested a hearing.

XII. Any Other Business

- A. None mentioned.

XIII. Open Forum

- A. Homeowners asked, generally, if there was a proper process for filing a complaint?
1. Board's response was that we receive complaints by various methods, and agree it is a best practice to have something in writing, but email, phone call, or directly speaking with association board members are also acceptable.
 2. Board explained their stance that they do not generally seek out and identify issues. As a result, some may exist that we are unaware of.
- B. Formal Complaint made by attendees for brush that's near the nature preserve entrance at the front of the association. Board agrees to investigate.

XIV. Next Meeting

- A. Sept 29 @ 7:45pm, gatehouse

XV. Hearing Outcome

- A. Lewis motions to go into executive session
1. Rottschafer seconds
 2. All present vote to go into executive session
- B. Outcome
1. Bylaw in question is the install, store, and maintain personal property on general common elements.
 2. Marthens admitted they were in the wrong for storing it there, and removed the property as requested by the board.
 3. Board decides penalties are inappropriate at this time, as the Marthens have removed their personal property
 4. In regards to this hearing, the decision of the board is homeowners cannot install, store, or maintain personal property on general common elements. We reserve the right to remove the property with or without notice should it return, or to impose other penalties, such as fines.
 5. The board did not need to address whether the ponds themselves (in contrast to the dry ground abutting them) are general common elements or limited common elements, as that was unnecessary to the resolution of the issue. If the ponds are general common elements as the Marthens contend, then the board's decision that people cannot install, store, and maintain personal property on general common elements resolves the issue. If the ponds are limited common elements, then as per the master deed, they are "limited in use to the owners of the unit they abut or to which they appertain." The Marthens's property does not abut the pond in question.

XVI. Adjournment

A. 9:18pm