

HERITAGE ESTATES PROPERTY OWNERS ASSOCIATION  
MINUTES FOR BOARD OF DIRECTORS' MEETING VIA ZOOM  
SUNDAY JUNE 4, 2023

Directors present: Duane Esarey, President, Jimmy Copeland Vice President, Gay Cass, Secretary, Janet Johnson, Treasurer, Michele Nowak, Assistant Treasurer and Directors at Large Paula Shepherd and Robert Landen. Absent: Ginger Jordan.

President Esarey declared a quorum and called the meeting to order at 4:02 pm

Welcome and News: The President extended a warm welcome and expressed his appreciation to the board members for their attendance and support of the Heritage Estates Property Owners Association. The Board was advised that revised Bylaws passed with 96% of those members voting being in favor. Since the passage of the Bylaws a shed has been constructed on Lot 55, the mail boxes have been repaired, and a tree which fell across the road has been removed.

Secretary's Report: Copies of two sets of minutes - the March 26, 2023 Board Meeting minutes and minutes covering the Board of Directors business conducted by email (March 30 through May 23, 2023) were emailed to the Directors prior to the business meeting for their review. Paula Shepherd called our attention a typo in the set of minutes for the transaction of business via email. Paragraph 3, line 1 should read 'April 23, 2023 Director Paula Shepherd emailed the BOD suggesting we move toward *presenting* the..... ' Paula Shepherd made a motion to accept as corrected, seconded by Michele Nowak, motion carried.

Treasurer's Report: Treasurer Janet Johnson called to the Board's attention line items in the 2023 budget which will exceed the amount previously authorized. There has been an increase in mowing fees, some insurance premiums have seen an increase and utilities have gone up. Funds are available in the Operating Account to cover these increases. Anderson Law firm has advised us to do a special assessment annually to cover any needed Operating Funds for the coming year. Treasurer Janet Johnson suggested that the annual assessment statement reflect the amount of the special assessment and it will be billed along with the annual assessment of \$300.00. It has been suggested we keep \$3000, contingency fund in the operating account. Dollar amount needed will be included in the proposed annual budget. Any special assessment would vary year to year depending on expenses, special needs and number of lots. Beginning to resolve the issue of assessment extinguishments for 5 lots will be addressed under New Business.

The Treasurer's report called to the Board's attention the expenditure of \$2500 for legal fees in 2023.

Janet Johnson, treasurer submitted the following proposed budget for 2024:

Utilities	\$1400
Mowing	\$2400
Snow removal	\$ 300
Theft insurance	\$ 220
D&O Insurance	\$1211
Liability Insurance	\$ 300
Office Supplies	\$ 200
HEPOA meeting	\$ 100
Replenish contingency	<u>\$ 917</u>
TOTAL	<u>\$7048</u>

(total has been adjusted to reflect correction of error in Treasurer's original handout.)

The BOD will review this proposed budget and final draft will be mailed to the membership for approval

The Treasurer reported the Reserve Fund, which is designated for maintenance, is in a money market account earning interest. \$60,000 of the Reserve has been placed in a 13-month certificate of deposit earning 5% per annum. HEPOA Officers Janet Johnson and Jimmy Copeland are signatories of both.

Old Business: President Duane Esarey and Vice President Jimmy Copeland presented the road maintenance study done by Tri County Paving, Inc. The BOD was made aware there are a few areas on Heritage Road and Autumn Run in need of immediate attention. Estimated cost \$8,876.36. The Board will secure additional bids for comparison.

Long range Reserve projections for resurfacing vs. tar and chip repairing road costs was submitted for initial consideration. Recommendation was for work to be done 10 or more years in the future. Recommendations and estimated costs in 2023 dollars are embedded in the planning sheet described under New Business.

President Esarey reported Shape-Up Lawn Care is doing a good job. There has been a slight increase in the cost since budget was submitted due to reclaiming overgrown portions of the ROW and common area.

New Business: There being a concern for increased traffic on River Sound, the blind curve and children often walking in the road, Robert Landen made a motion, seconded by Jimmy Copeland that we erect two signs: "**Slow Down: Kids playing**" along the right of way going into the curve in both directions. Motion carried.

The date for the annual membership meeting was set for Saturday, August 5, time, place and details to be determined. President Esarey will prepare required documents for mailing.

President Esarey shared a draft revised Architectural Checklist for Board consideration. This draft implements the new terms of Bylaws (copy of draft attached. With more building activity in the development, there seems to be a need to clarify construction guidelines. It was agreed we need an Architectural Review Committee. Jimmy Copeland will chair that committee serving with member Mike Shepherd, and the committee will review and finalize the draft checklist.

Janet Johnson, Treasurer presented to BOD a draft of the 2024 Proposed Budget for consideration. A vote will be taken at a later date. The final Board approved budget will require the vote of the HEPOA membership. A copy of the said budget will be included in the packet mailed to members prior to the annual meeting in August.

Janet Johnson also presented Long-Term Reserve spreadsheet. In order to give the BOD a better understanding of the Reserve Study Janet prepared and distributed to the board members a spreadsheet that can be used for projecting maintenance based on past costs, estimates for road maintenance, and adjust for inflation and changes in assessment income. The Board discussed the information with interest. Janet suggested that we put together a committee to study this planning tool and make recommendations about what we need to budget for Reserves. For the meantime, the planning spreadsheet is available to Board members to view and explore on the website at <https://heritageestatesnc.com/reserve-study-planning/>

In the interests of transparency, access to the web based spreadsheet will eventually be provided to the membership along with several other Reserve documents.

Resolving issue assessment extinguishments for 5 lots: There remains an issue of how to handle the supposed extinguishment of assessment(s) for the 5 lots which have been consolidated with an original lot containing a residence so as to only pay \$300 annually. The Association received legal advice that this is unlawful (for anyone except the original Developer) and annual assessments must be set per lot. The Board members agreed we need to examine this issue with an understanding of all implications, before advise the membership of the issue and solutions determined. Gay Cass made a motion, seconded by Jimmy Copeland, that President Duane Esarey draft an examination of the legal questions for the Board, and eventually to be sent to the membership, explaining the issue and the Board's solution(s).

At 6:20 pm Director Paula Shepherd left the meeting.

Next Board Meeting: A pre-annual meeting BOD meeting was scheduled for July 30<sup>th</sup>. The entire membership will be notified that this will be an "Open Business Meeting".

There being no other business, meeting adjourned at 6:38 pm.

Respectfully submitted,

Gay T. Cass

**DRAFT for BOD approval, HEPOA Board approval needed**  
HEPOA-ARC checklist, Vers. May 30, 2023 incorporating 2023 Bylaws

**Heritage Estates Property Owners Association**  
**Architectural Checklist - implementing terms of the Declaration and Bylaws**

Sections:

1. Residence construction checklist and agreement.
2. Outbuilding checklist and guidelines.
3. Principles guiding use of lots without an approved permanent residence.
4. Text of cited governing documents.

**1. Residence Construction checklist and agreement**

- ☐ Owners of each granted tract must have residence construction plans approved (RC&R 2021:9).
- ☐ No visible cinder or concrete blocks (RC&R 1999:5; 2021:5).
- ☐ No modular homes except as defined in (RC&R 1999:7; 2021:7).
- ☐ Building set-back of 20' from fronting ROW, except lots 17, 38, 39, 52 and 53 (RC&R 2021:8).
- ☐ Building set-back of 10' from property line of adjoining unconsolidated property (RC&R 2021:8).
- ☐ Minimum 1000 heated square footage of each home (RC&R 2021:9).
- ☐ All co-constructed out buildings in accordance with guidelines at RC&R 2021:9.
- ☐ Following home construction period each lot must use off-street parking (RC&R 2021:10b&13).
- ☐ Motor homes as a temporary residence during period of construction only (RC&R 2021:13).
- ☐ Twelve (12) month deadline for completion of dwelling/detached garage (RC&R 2021:14).
- ☐ Construction 12 month deadline extensions are per 2023 Bylaws Article IV, Section 1:d:16.
- ☐ Utility easement of 5' exists on all sides of each unconsolidated lot (RC&R 2021:16).
- ☐ Owner/Contractor is responsible for any street damage due to construction activity.
- ☐ Driveway easements reserved for other property owners must be respected.

<hr/> <b>Construction Start Date</b>	<hr/> <b>Anticipated Completion Date</b>
<hr/> <b>Owner Signature</b>	<hr/> <b>Date</b>
<hr/> <b>HEPOA Signature (Officer or Committee Chair)</b>	<hr/> <b>Date</b>

**DRAFT for BOD approval, HEPOA Board approval needed**  
HEPOA-ARC checklist, Vers. May 30, 2023 incorporating 2023 Bylaws

**2. Permanent outbuildings: checklist, guidelines, and citations**

On lots having a completed residence, or ARC approved and in-process construction of such a residence, the Lot owner may construct detached permanent outbuilding(s) either on the same lot, or on an adjoining lot **conjoined with the lot having such a residence, as long as:**

- a) **Future sales of said adjoining lot are permanently secured to the lot containing the approved residence.** An acceptable form of securing the lots' future conjoined sales may be accomplished by consolidation with the Ashe County Register of Deeds. Please note that while consolidation (of one or more lots under a 3<sup>rd</sup> party agreement, for instance with the County) does secure the future sales of the conjoined lots, combining lots with a third party does not extinguish the enduring covenanted per lot assessment obligations and the voting rights of any Heritage Estates lot, except those that were consolidated exactly as described in the Declaration by the Developer during the period of that entity's Special Declarant rights. See NCGS 47F-103, items 2, 6, 9, 11ii and 11iii; Heritage Estates RC&R 1999:10 and 2021:9, and Heritage Estates Bylaws 2023 Article IV, Sect. 2.
- b) Per Heritage Estates RC&R 1999:10 and 2021:9 "all outbuildings shall be constructed in the same style and with the similar materials as the main house. Outbuildings which are built to accompany a log residence may have log-siding."
- c) In contrast with the 1000 square foot minimum for Residences, there is no minimum size for a permanent outbuilding per the Declaration or Bylaws.

**3. Lot use and temporary improvements on lots without a permanent residence.**

Members' lots owned and used without the benefit of being on, or being permanently secured to, a lot containing an owner's residence are limited to placement of temporary personal property and such easily removable affixed property improvements as indicated in Bylaws Article IV, Section 2 (full text attached below).

**DRAFT for BOD approval, HEPOA Board approval needed**  
**HEPOA-ARC checklist, Vers. May 30, 2023 incorporating 2023 Bylaws**

**4. Text cited from selected Declaration/Covenants and current (2023) Bylaws**

**RC&R 1999:5 and 2021:5** “No building of any kind shall be erected or allowed to remain on said property if there are any cinder blocks or concrete blocks exposed on any side.”

**RC&R 1999:7 and 2021:7** “No single-wide, double-wide or other mobile homes or house trailers shall be permitted on the subject premises; provided, however, that nothing herein shall prevent modular homes which have been constructed off frame, with roof pitches 6/12 or greater if approved pursuant to paragraph 10 below. No other modular homes shall be permitted.”

**RC&R 1999:8 and 2021:8** “No building shall be erected upon the granted premises which is closer than twenty (20) feet from the right of way or closer than ten (10) feet from the property line of any other adjoining tract; provided, however, that the 20-foot set-back provisions shall not apply to lots 17, 38, 39, 52, and 53.”

**RC&R 1999:10 and 2021:9** “All buildings constructed on the subject premises shall be constructed in accordance with all of the rules and regulations of Ashe County and the North Carolina Building Code, and owners of each granted tract must have the plans approved by the owner/developer of the subdivision, or its successors or assigns. Each home shall have 1,000 or more square feet of finished heated living area, excluding garages, porches, etc. All outbuildings shall be constructed in the same style and with the similar materials as the main house. Outbuildings which are built to accompany a log residence may have log-siding. The Architectural Review Committee (ARC) will provide lot owners with a Construction Checklist, which outlines items with which they must comply, and record the beginning date for construction. The ARC, or Board of Directors acting in its stead, will also examine the building plans and ensure that the finished area meets the minimum size requirement.”

**RC&R 1999:11b and 2021:10(b)** “...no parking shall be allowed on the streets. Each lot shall have its own parking area/driveways on the lot once owners have taken occupancy of the home.”

**RC&R 1999:14 and 2021:13** “No motor home shall be used on the subject premises as a residence except during a period of time when the owner of the same has a residence under construction on the subject premises. Suitable parking arrangements shall be made for all motor homes and campers owned by residence owners within the development. The same may not be parked on or within the rights of way of the subdivision streets or within the yards of residence owners.”

**RC&R 1999:15 and 2021:14** “When the construction of a dwelling house or detached garage is commenced by the owner of any lot in said subdivision, the external construction of the same shall be complete and said structure shall be ready for occupancy or use within twelve (12) months from the date construction is started. If construction is not completed within one year, a fee of 40% of the annual dues will be due on the last day of each month that completion of construction is overdue.”

**RC&R 1999:17 and 2021:16** “A five (5) foot utility easement is hereby reserved on all sides of each lot. This may be removed, upon request, by the developer for multiple lot purchases; and it is specifically understood and agreed that, upon lots being combined, this utility easement on the common boundary of the combined tract shall be automatically extinguished.”

**Bylaws (Version 2023): Article IV, Section 2** “As mediated by the Association’s regulating interests defined in the Declaration and the Architectural Review Committee checklist, members shall have the right to place on any owned lot(s) non-affixed recreational or decorative personal property (for example, picnic tables, seats, benches, swings, playhouses, tree-houses, birdhouses, bird baths), as well as removable affixed property (such as fences, pathways, stairways, bridges, firepits, landscaping, gardens, gazebos, and transportable storage sheds up to 225 square foot). Members shall only have the right to make permanent real property structural improvements upon their lots, such as unattached out-buildings with foundations, subsequent to an Architectural Committee checklist approval for construction of an approved residence, or legal combination of an adjacent unimproved lot with a residence that has met Architectural Review Committee approval. Definitions for these forms of property are as fixed under NCGS § 105-164.3 (31a, 31k; and 205).”

**Bylaws (Version 2023): Article IX, Section 1(d) (16)** “With regard to the Board’s oversight of the Architectural Committee, the Board may consider mitigating circumstances and allow extensions (into a second year only), delaying a determination that completion of construction is overdue and thus subject to penalties.”