

First, your BW-HOA Board members are happy to see the recent interest in the documents that govern our neighborhood today. Questions submitted to the [byrumwoodsnew@gmail.com](mailto:byrumwoodsnew@gmail.com) e-mail address demonstrates the interest and the need to update our existing inconsistent BW-HOA Covenants and By-laws.

**Please understand that the “proposed” Covenant is exactly that, i.e., a “draft”. Something to be considered, thought about and edited in the end for the benefit of all lot owners in Byrum Woods.**

To act in full transparency, the BW-HOA Board will capture all questions received at our Gmail account into a BW-HOA Covenant Update FAQ, develop and document responses and distribute the updated FAQ daily if necessary to all BW-HOA members, up to and including Sunday, June 4, 2017. Any question received after Sunday, June 4<sup>th</sup> will be responded to at the meeting.

Please note that **we will not be responding to any comments made on social media** only to the questions submitted to our Gmail account by Byrum Woods’ home owners.

Also, these responses have been developed by your BW-HOA Board members without review with our legal counsel. This document will be shared with our attorney to prepare her for the meeting. Also, these questions and others will be clarified at the scheduled BW-HOA meeting to be held on Wednesday, June 7, 2017.

**Question:** What is a Restrictive Covenant and what are By-laws?

**Response:** According to Merriam Webster’s Dictionary definitions;

**Restrictive Covenant:** A covenant acknowledged in a deed or lease that restricts the free use or occupancy of property (as by forbidding commercial use or types of structures). For a restrictive covenant to run with the land it must be intended to do so by the original parties to it, it must directly concern the land itself and be enforceable, and there must be privity between the original parties and between the original and subsequent grantee.

**By-law:**

- 1: a rule adopted by an organization chiefly for the government of its members and the regulation of its affairs
- 2: a local ordinance

**Question:** Can you please send me the Bylaws of the HOA?

**Question:** I am looking for a copy of the **Bylaws** of the corporation Byrum Woods HOA, Inc. Mr. Dumas referenced these when he visited, saying that some of the additions to the Proposed Covenant were sourced from the Bylaws but for simplicity's sake were being added directly to the Covenants. Indeed, even the overview sheet you just sent states a few occasions where the change "Integrates some by-laws into the Covenant". I'd like to review the current bylaws.

**Response:** The BW-HOA Board members have been soliciting support from past Board members for an electronic copy of the BW-HOA By-laws. A past Board member supplied an electronic copy of the latest by-laws known to us on Thursday, May 25<sup>th</sup>. The source of the information came from the 2012 BW-HOA Directory. The By-laws were distributed electronically to all BW-HOA home owners on Friday, May 26, 2017.

**Question:** While I have since found the **Articles of Incorporation** on the Secretary of State's website, they are fairly minimalist compared to others I have seen. I wondered if there were other documents governing the form and function of the HOA itself or if there was a more robust version of the Articles that was not retained by the Secretary of State. If so, please send.

**Response:** The Byrum Woods Articles of Incorporations can be found at:

<https://www.sosnc.gov/Search/profcorp/5465729>

The primary reason for Byrum Woods to file Articles of Incorporation for a Nonprofit Corporation during May 2002 was to allow the transfer of the Architectural Committee from the original developer to a legal entity.

**Question:** Do Realtors represent Byrum Woods Subdivision as one with Protective Covenants?

**Response:** Realtors should let Buyers know that Byrum Woods has recorded covenants that are still "Active" and should provide Buyers with a copy of those covenants. This is not always true for subdivisions that are 30+ years old. Since the Byrum Woods HOA has dues that are voluntary, experienced Realtors would rightly assume that such an HOA would not have the legal authority to assess fines for non-compliance.

**Question:** Where is the 90% approval requirement coming from?

**Question:** Article IV Section 3: "called meeting of the Association at which a quorum is present" What is the definition of Quorum? Sometimes it is 50%+1. Sometimes it is 2/3. Should we clarify our definition?

**Response:** The BW-HOA Board members have heard everything from 51%, 67%, 75% and 90% of voting members required for different activities, e.g., meetings, voting on assessments, etc. During the past years the Board members have worked with our attorney to get clarification on this topic and include the important voted upon items into the Covenant. Quorum for meetings was defined in the By-laws and has been updated in the "proposed" Covenant Article XVII. We have requested for our attorney to clarify this at the meeting.

**Question:** Article IV Section 7: "In the event the proposed budget is rejected." This is an incomplete sentence.

**Response:** Thank you for bringing this to our attention. The Board will work with the attorney to correct the wording.

**Question:** Article V (iii): How is this ever going to be enforced and, if it can't be, then why is it in the Covenants? For example, let's say that I have a private tax prep business which is run out of my house. How do you know if someone is coming to see me for that or just stopping by for a cup of coffee?

**Response:** Let your present Board members reassure everyone, the present and past board members that have volunteered to work on updating the Covenant are not out to stop anyone in our neighborhood from working from home or running a small business from their house. The Covenants are there to protect against a business that requires on street parking for additional employees, customers or multiple large delivery trucks and/or that large signs are posted advertising their business. Again this is our beautiful and friendly neighborhood and without a covenant we would have no guidelines to protect neighbors against flagrant exploitation.

**Question:** What is the definition of "side yards"? We have a concrete slab on the right side of our house and there is not 15 feet from the edge of the slab to the property line with our neighbors. There is no room for 15 feet of grass. But there is 15 feet between the structure (garage) to the property line. Maybe that is what this should say: "the minimum width from the side of a structure to the property line should be at least 15 feet".

**Response:** A side yard (sometimes known as side set-back) is the area extending from the front yard to the rear yard of a lot and between a side lot line and the nearest main wall of any building or structure on the lot. Only the set-back is specified in the covenants.

**Question:** Article X: What is the definition of a "commercial truck"? I think that it is one which has a commercial tag, not a truck which just has a business advertisement on the side. Do we need to clarify or is this understood?

**Response:** According to North Carolina General Statutes **GS 20-4.01. Definitions Commercial Motor Vehicle. - Any of the following motor vehicles that are designed or used to transport passengers or property:**

- a. A Class A motor vehicle that has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- b. A Class B motor vehicle.
- c. A Class C motor vehicle that meets either of the following descriptions:
  1. Is designed to transport 16 or more passengers, including the driver.
  2. Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

**Question:** Article XIV: If a home owner has a gravel spot, off their driveway for their son or daughter to park their car. It is not on the lawn or dirt but it is not paved. How are we going to address existing conditions like this? Can the Architectural Committee give them a temp dispensation and tell them that the gravel has to go when they sell the property?

**Response:** The existing or the new “proposed” covenants should only be a guideline for responsible neighbors to follow and protect the value of their and everyone’s home in our neighborhood.

The bigger question is whether the infraction is offensive to the immediate neighbors. The Board members or Architectural Committee members, all volunteers, are not going to monitor performance against the covenants, post Covenant violation notices or trigger legal action to resolve issues for neighbors. If required upon the home owner(s)’s request, the BW-HOA Board can facilitate face-to-face discussions between neighbors to resolve issues and develop plans to resolve any infraction. The Board fully expects that neighbors within Byrum Woods would identify issues and work with their neighbors to resolve. The Covenant, Wake County or North Carolina laws may all be used as a guides during the discussion.

**Question:** If the current, effective covenants provide for two votes per lot how can the proposed vote to change this be held using one vote per lot? (I agree with the change but believe the validity of the vote may be questioned if it does not comply with the current covenants.)

**Response:** To conform to the existing By-laws, the BW-HOA Board has prepared a form to capture two votes / signatures per lot. The attorney will be available to clarify this item at the meeting.

**Question:** We will be on vacation when you have the meeting. Can we give someone a proxy vote, or vote in advance?

**Question:** I am unable to attend the HOA meeting on June 7, 2017 and I will be out of town until June 9. Am I able to vote before or after the meeting?

**Question:** We aren’t interested in attending the meeting on June 7—potential for too much conflict. Several of our immediate neighbors have already stated their positions on the Nextdoor and Facebook pages, which is disappointing because their language already demonstrates they don’t understand the intent and emotions are already running quite high. However, we are in support of the revised covenants as a common-sense approach to neighborhood governance and will be glad to sign—either before or after the meeting.

**Response:** Voting will begin at the end of the scheduled June 7<sup>th</sup> meeting. Our goal is to capture any changes to the proposed covenant and begin to acquire as many votes as possible at the meeting based on the covenant and noted changes. The Board members will update and distribute the Covenant within 48 hours of the meeting to all Byrum Woods homeowners. For those homeowners that cannot attend, our goal is for the Board members to engage and secure votes from every household on/or before Monday, June 19, 2017.

**Question:** I assume the document you sent which compares the existing 3 documents with the new proposed version was provided by the lawyers preparing the new version. For those of us not involved in the drafting of the new version the often used explanation of the change “Expanded to conform to the latest HOA templates” does not explain anything. I assume it means the lawyer is updating our covenants to their current standard template for new neighborhoods. But they does not explain the differences between the current BW documents the proposed changes.

**Response:** Over the past 5 to 6 years, both past and present BW-HOA Board members have been working with our attorney to identify and integrate critical by-law elements into a new Covenant for all BW-HOA lots. The document that compares the three existing covenants was developed by the present BW-HOA Board members as a high level guide to highlight changes and inconsistencies between the three existing Covenants. This document has been shared with our attorney. As of Friday, May 26<sup>th</sup> each Byrum Woods lot owner should have received copies of the existing By-laws, their existing Covenant (whether in Phase I, II or III) and the “proposed” Covenant. This will allow each lot owner to perform a detailed review of the changes.

**Question:** Article XII: What are the requirements for control of pets when on the owner’s lot? How does this compare to wake county requirement for control of pets?

**Response:** All Byrum Woods home-owners must be compliant with the Wake County Animal Control Ordinance. The ordinance can be found at:

[https://www.wakeforestnc.gov/Data/Sites/1/media/communications/wakecounty\\_animalcontrolordinance.pdf](https://www.wakeforestnc.gov/Data/Sites/1/media/communications/wakecounty_animalcontrolordinance.pdf)

**Question:** Mr. Dumas had mentioned "grandfathering" in current residents. Can you describe in more detail what that means?

**Response:** The recommendation up for vote is the requirement for anyone new purchasing a home in Byrum Woods subdivision must become a member of the HOA with annual assessments due yearly. Anyone that lives in Byrum Woods before the date that the new Covenant is approved would be “grand-fathered” in and could join only if they wish to participate.

The annual assessment (\$5 per month for 2017) benefits all household in Byrum Woods and pays for;

- The entrance way beautification that welcomes everyone entering our neighborhood.
- The maintenance and upkeep of the Covenants and By-Laws that protect the value of everyone’s property.
- The operating costs for the association, e.g., BW-HOA directory, annual meeting, newsletter, Calendar of Events, etc. and a contingency fund for unplanned events.

**Question:** One thing I have not seen (or I missed it, if so forgive me) is a way that if the neighborhood is not happy with the board or a member within, how would we go about having that person replaced? All I see is the board self-votes their replacement which is fine as long as we all feel the board is working in our best interest. I have no problem with it, but I noted that the Vice President is not even in the subdivision which means all the rules he votes for do not apply to him legally. My only concern would be that he no longer acts in our best interest and we as a collective have no recourse to replace.

**Response:** For many years, filling the BW-HOA Board member positions has not been easy. The Board desires to have each area of the neighborhood represented on the Board. Often members have stayed on the board for more than one two year term to fill vacant positions. This coming year we will need to fill two positions.

Nominations and elections of new Board members occur at the Annual Meeting scheduled for September 19, 2017. So please mark your calendars and plan on attending the meeting so that your voice can be heard.

Our existing Vice President lives on one of four tracks of land along Creedmoor Road collectively called Fox Run and was invited to join BW-HOA back when Byrum Woods Phase 1 was being created. The Vice President's family have consistently paid dues to the HOA and has always been an active member of our HOA and a key participant in the planning, orchestrating and managing activities for the benefit of the neighborhood.

Lastly, all present members of the BW-HOA, including our Vice President, are acting in the best interest for Byrum Woods in bring forward the discussion surrounding the consolidation of the three existing Covenants into a single covenant for all Byrum Woods house lots.