



Sienna Point Homeowners Association
Resolution of the Board of Directors

Setback Rules

Whereas, the Board of Directors (the Board) of Sienna Point Homeowners Association, Inc. (the Association) desires to establish this policy concerning the minimum setbacks on lots in the subdivision; and,

Whereas, Article VII, Section 1(c) of the Bylaws of the Association grant to the Board all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of those Bylaws, the Articles of Incorporation, or the Declaration.

NOW THEREFORE, BE IT RESOLVED, that the following policy concerning setbacks is hereby adopted:

Definitions:

For the purpose of this rule the following definition of the terms used herein apply:

Governing Documents - shall mean collectively:

- (a) The Association's Articles of Incorporation and Bylaws, and
- (b) The Declaration (or DCCRs) which shall mean collectively the Declaration of Covenants, Conditions and Restrictions for Sienna Point, Section One (1) in Sienna Plantation (recorder under Fort Bend County Clerk's file number 9666678), the Amendment to the Declaration of Covenants, Conditions and Restrictions for Sienna Point, Section One (1) in Sienna Plantation (recorder under Fort Bend County Clerk's file number 9758438), and the Supplemental Declaration of Covenants, Conditions and Restrictions for Sienna Point Section Two in Sienna Plantation (recorder under Fort Bend County Clerk's file number 9815020) and the Supplemental Declaration of Covenants, Conditions and Restrictions for Sienna Point Section Three in Sienna Plantation (recorder under Fort Bend County Clerk's file number 9897743) recorded in the Official Public Records of Real Property of Fort Bend County, Texas, and as the same may be amended from time to time as therein provided, and
- (c) The Second Revised and Restated DCCRs for Sienna Plantation, as well as the Sienna Plantation most recent Builder Guidelines and Design Guidelines,
- (d) The Missouri City Building Code, and
- (e) The Sienna Point ARC Builder Standards, Design Guidelines and Landscape Standards,
- (f) The Fort Bend County ordinances that are applicable to residential construction,
- (g) All subdivision easement documents, and
- (h) The subdivision plat and all associated notes.
- (i) All policies adopted by the Board and filed with the Clerk of Ft. Bend County, Texas.

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Setback - shall mean the distance measured perpendicularly from the closest property line shown on the plat of the subdivision to an object or structure being placed on a property.

Easement - shall mean a property restriction or right granted to a party other than the property owner. An easement is considered a property right in itself. All easements are either shown on the plat of the subdivision or established and described in the document establishing the easement of file with the Clerk of Fort Bend County.

Right-of-Way - shall mean a form of easement granted to a party for the purpose of providing the right to pass over property owned by another party. All right-of-ways are shown on the plat of the subdivision.

Primary Occupied Structures - shall mean any house, garage, servant quarters, guest house, pool house, summer kitchen, sports court, pool, patio, or any other structure erected on a property that is intended to be used by the property owner for residence, recreation or for primary storage of motor vehicles.

Flat Work - shall mean all walking paths, sidewalks, driveways, and other covered surfaces on the property used primarily for access, regardless of the material used for the surface.

Cut-ins - shall mean the point where a driveway or walkway connects to a street or other right-of-way.

Outbuilding - shall mean any structure erected on a property other than a primary structure that is intended to provide storage, including housing of livestock, workshop space, or similar purpose.

Oyster Creek lots - shall mean any lot that abuts Oyster Creek that includes land with a property line that is within the jurisdictional waters of the creek.

Levee Improvement District lots - shall mean any lot that abuts land owned by the Sienna Plantation Levee Improvement District (LID)

Star Lake Preserve lots - shall mean any lot that abuts the Star Lake Nature Preserve area of Sienna Point Estates.

Lake lots - shall mean any lot that abuts Thompson Lake or House Lake.

Jurisdictional areas - shall mean any water, wetland or land area that is jurisdictional to a state or federal agency, or restricted by state or federal law. Within Sienna Point, the following areas have been determined to be jurisdictional:

1. Oyster Creek up to the normal high water level. This level was established by the Army Corps of Engineers (ACE) as being 53.5 feet above mean sea level (m.s.l.) in upper Oyster Creek and 52.5 m.s.l. in lower Oyster Creek.
2. Star Lake Nature Preserve is jurisdictional wetlands by ACE determination.
3. The drainage path from House Lake to the west property boundary is jurisdictional wetlands.

These major areas have creditable determinations that they are jurisdictional areas and cannot be disturbed without the approval of the appropriate regulatory agency.

Drainage Easement - shall mean any area of the Sienna Point community that was indicated on the plat of the subdivision on file with the clerk of Fort Bend County as a drainage easement or drainage path.

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Lot Size Modification:

In order to provide equity in land use on smaller lots, the setbacks are modified for lots equal to or in excess of 3.5 acres. This is necessary to ensure that smaller lot owners are not restricted from the use and enjoyment of their land by the setback requirements that are more appropriate for larger lots. The setbacks are necessary to provide adequate spacing between structures to protect neighboring property owners right to privacy, and to preserve the overall aesthetics of the community, while maximizing the property owners right to the use and enjoyment of their lot.

Setbacks for Larger Lots:

On lots equal to or greater than 3.5 acres the setbacks for primary structures will be set at 60-feet on each side not facing a street and 100-feet for any side facing a street. On side setbacks for corner lots, the setback on the side facing the street shall be 80-feet. For outbuildings and similar structures, the setback is set at 30-feet for any side not facing a street and 50 feet for any side facing any street. In addition, the structure must be behind the rear most position of the primary structure projecting the furthest back on the property. Flat work setback shall be set at 20-feet from the closest property line. No portion of any structure or flat work may be closer than 10-feet from any property line, even by variance, on the sides and rear of a property, and no closer than 50-feet, even by variance, from any right-of-way or property line for any street, regardless of whether it is the front-facing or side-facing side.

Setbacks on Smaller Lots:

On lots smaller than 3.5 acres the setbacks for primary structures will be set at 40-feet on each side not facing a street and 80-feet for any side facing a street. On side setbacks for corner lots, the setback on the side facing the street shall be 60-feet. For outbuildings and similar structures, the setback is set at 30-feet for any side not facing a street and 50 feet for any side facing any street. In addition, the structure must be behind the rear most position of the primary structure projecting the furthest back on the property. Flat work setback shall be set at 20-feet from the closest property line. No portion of any structure or flat work may be closer than 10-feet from any property line, even by variance, on the sides and rear of a property, and no closer than 50-feet, even by variance, from any right-of-way or property line for any street, regardless of whether it is the front-facing or side-facing side.

Cut-ins:

Although the flat work setback limitation is set at 20 feet from any property line, when the flat work is a sidewalk, walkway or driveway that must connect to the street the 20-foot limitation does not apply and the connection is allowed with approval as long as it conforms in all manners to the county and ARC requirements.

Special Setback Rules

There are specific instances where the setbacks are different from the standard setbacks for lots. Specifically these apply to Oyster Creek lots and LID lots, Star Lake lots, Lake lots and lots

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abutting Jurisdictional lots. Because of the unique circumstances relative to these lots these modifications to the general setback rules shall apply:

Oyster Creek lots

Oyster Creek lots contain jurisdictional lands and waters up to the normal high water level of the Oyster Creek as determined by the ACE. This determination was made for the permit they granted to install the weirs (referred to as the "404 Permit"). From that level continuing into the lot there is a 20-foot wide maintenance easement granted to the Association.

In addition, two other easements may affect Oyster Creek lots. These include an easement granted to each member of the Association for the use and enjoyment of the waters of "Old Oyster Creek Lake". This does not grant any right to access to Oyster Creek lots, only the right to use and enjoy the surface of the waters impounded behind the weirs. There are also a few lots with easements to the Association for the maintenance of the weirs that only affect certain lots.

Therefore, the setbacks on these lots shall be determined from the inward boundary (the line separating the unrestricted and jurisdictional area of the lot) between the jurisdictional lands and the unrestricted lot rather than the property line, which is at the center of the creek. On the lots with an easement for maintenance, the setback that abut the easement should be measured from the property line and, provided it does not encroach into the easement, the standard setbacks apply. If the setback does encroach into the easement, the ARC must determine if the encroachment violates the easement terms, and if so the setback must be altered to avoid encroachment.

LID lots

LID lots abut a property that is owned "fee simple" by the LID. These properties contain the large drainage features that provide overall community drainage. Since these properties are owned by the LID, a property line exists between the lot and the LID property. Therefore, considering that these LID properties are wide and will provide ample separation between outbuildings and any neighboring property, the setback for outbuildings on LID lots is modified to 20-feet from the property line, and flat work is modified to 10-feet from the property line.

Star Lake Preserve lots

Star Lake Preserve lots abut the Star Lake Nature Preserve that is owned as common grounds of the Association. Therefore, there is a property line indicated on the plat of the subdivision between the lot and the common grounds. These lots have no neighboring lots on the side that abuts the preserve. Therefore the setbacks are modified on the side that abuts the preserve only. On that side the setback for outbuildings shall be 20-feet and the setback for flat work shall be 10-feet. All other setbacks shall remain unchanged.

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Lake lots

Lake lots have one or more property lines that abut House Lake or Thompson Lake. Both lakes are on property that is owned by the Association as common grounds. Therefore, there is a property line between the Association owned property and the lot. From that property line (the line separating the lot and Association common grounds) inward for 20-feet there is an easement granted the Association for maintenance of the lake.

Because of the unique nature of these lots, and the need to maintain the aesthetics of the lake, the setbacks shall be measured from the edge of the easement rather than from the property boundary for outbuildings in order to keep the area immediately adjacent to the lakes uncluttered and open to preserve the aesthetics of the amenity.

Jurisdictional lots

There are jurisdictional lots other than those on Old Oyster Creek Lake. Primarily those lots on Church Lake, Northwinds and Thompson Lake Drive and they abut the House Lake drainage slough. These lots have no close neighboring lots on the side that abuts the preserve however; there is an easement to the LID for the purpose of drainage. Therefore, the setbacks are modified on the side that abuts the slough only. On that side the setback for outbuildings shall be 20-feet and the setback for flat work shall be 10-feet. All other setbacks shall remain unchanged.

Other Considerations:

In addition to these setback limitations the ARC must consider other factors prior to granting a variance. They must ensure that the placement of the structure does not unnecessarily obstruct the line of site view of the amenity lakes from any public street or Association common grounds. They must also consider the effect the placement will have on the neighboring property owners right to privacy.

Variances:

The use of a variance from these setbacks will only be considered by the ARC based upon certain factors such as topography, natural obstructions, hardship, or aesthetic or environmental considerations. Any variance that will result in encroachment into an established easement must be approved by the easement holder and comply with the requirements of the easement. In the instance where the easement is to the Association, the variance must be approved by the Board. In all other cases, it is the property owner's responsibility to review the easement requirements and obtain the necessary approvals from the easement holder. No structure or other modification that encroaches into a drainage easement, regardless of the easement holder, may be approved by the ARC if it obstructs drainage in any manner.

Variances may only be granted, however, when unique circumstances dictate, and they must be requested in writing by the property owner. The ARC will not suggest a variance as a resolution to an unsatisfactory placement.

No variance shall

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- (a) Be effective unless in writing and signed by the chairman of the ARC,
- (b) Be contrary to the restrictions set forth in the Governing Documents, or
- (c) Stop the ARC or Board from denying a variance in other circumstances.

For purposes of this Setback Rule, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

Disclaimer

The review and approval of plans pursuant to this rule is made on the basis of aesthetics considerations only and no approval of plans and specifications and no publication of the Builder Guidelines, the Design Guidelines, or the ARC Guidelines shall be construed as representing or implying that such plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner.

Neither the Association, the ARC, nor any of their respective officers, partners, directors or members, shall be responsible or liable in damages or otherwise to any Person who submits plans for approval by reason of mistake of judgment, negligence or nonfeasance arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such reviews primarily seeks to conform the aesthetic appearances of development within the Properties.

In addition, the approval of plans pursuant to this rule shall not be deemed a variance from the specific restrictions of any of the Governing Documents. All variances must be issued in accordance with the provisions of this rule.

Adoption

This Setback Rule of the Sienna Point Homeowners Association, Inc. was adopted by resolution of the Board of Directors on May 28, 2013, and will be in effect as of the date it is filed in the records of the Clerk of Fort Bend County, Texas and remain in effect until modified or repealed by the Board.

Signed this 31 Day of June, 2013 by:
Sienna Point Homeowners Association, Inc.


James C. LaRue
Secretary

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STATE OF TEXAS:

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COUNTY OF FORT BEND:

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Before me, the undersigned authority, on this day personally appeared Mr. James C. LaRue of the Sienna Point Homeowners Association, Inc., a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he had executed the same as the act of said corporation for the purpose and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 21st day of June, 2013

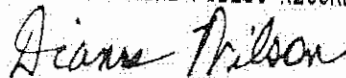

Notary Public, State of Texas
[Notarial Seal]



RETURNED AT COUNTER TO:

JAMES C. LaRue
9004 Thompson Lake Dr
Missouri City, TX 77459

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Dianne Wilson, County Clerk
Fort Bend County, Texas

June 21, 2013 03:04:03 PM

FEE: \$35.00 CDC
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