

Zero Lot Line Administration

An ongoing “pinch point” between some neighbors might be termed their “zero lot line administration.”

In most cases the Association is aware of no homeowner-to-homeowner issue in this area; in some cases, however, it becomes a major conflict. Information in this guideline addresses this physical area, legal constraints and input, and Association-allowable work-arounds between two consenting owners.

Legal Issue

The overriding point to be made is that current rules state that no owner may independently construct something on another person’s property.

See the “zero lot line” description as recorded in the 6/17/2022 version of the Architectural and Landscaping Rules & Regulations. Included here is found the following:

“One homeowner may not encroach upon or construct anything on another neighbor’s property.”

Change from Previous Rule

The 2019-filed version (and likely earlier versions) of the ARCHITECTURAL RULES & REGULATIONS, however, stated:

“Planting beds (flowerbeds) shall not be placed against an Association fence or a neighbor’s house. A 12” bull rock border shall be used to protect the fence or house.”

Association Attorney Input

Recognizing the following: (1) the rule correction as compared with previous versions, (2) certain homeowners may have allowed, in the past, for neighbors to build up to their foundations, and (3) previous “constructions” allowed by earlier rules (without consent), the following two questions were asked of our Association Attorney during the fall of 2023, and the received answers were as follows:

Question 1: If records can prove that the Association (ARC or the Board) approved the installation of bull rock against an owner’s foundation but without the owner’s decision-involvement, and we gave that approval more than 4 years ago, is it now grandfathered and we can no longer address it – even if there is change in that property’s ownership?

Answer: The Association cannot pursue the bull rock as a violation or demand removal. The new owner (who benefits from the bull rock) is entitled to rely on the prior approval issued by the Board. However, the Board may make recommendations for changes in the future and refuse to approve replacement, if deemed necessary. The owner of the property upon which the bull rock lies, may remove it (unless the Restrictions state otherwise). If removed, only an approved replacement may be used.

Question 2: If an individual installed bull rock against a neighbor’s house but with the neighbor’s concurrence, can we document (notarize) that concurrence, keep the document in our property files, and therefore generate a grandfathering of sorts whereby a new owner would be made aware the bull rock installation was previously approved? Legal? A good idea?

Answer: Absolutely.

Document to Memorialize a Previous or Current Agreement Between Owners

The Board, in an effort to clearly document both current owner-to-owner agreement with respect to planting bed constructions in the vicinity of the zero lot line and also previous construction that a back yard owner declares has been in place during the time when the previous rules were in place), the following document has been developed to serve this purpose.

The attached document, once signed by both associated owners, notarized and filed in the staff-maintained Heritage Grand property files, (1) acknowledges joint agreement to move forward with the agreed-to construction and (2) remains in force unless both parties at a later date *jointly agree* to dissolve the agreement by signed written document.

This guideline was ratified by majority Board vote on 3/11/24 .

Jim Ireland

Jim Ireland, Board Secretary

Memorandum of Joint Agreement

Approval of Bull Rock Installation on my Property at My Home's Foundation

Visual and Actual Property Boundaries

My home's foundation serves as a *visual* boundary of one side of my neighbor's back yard enclosure. My property line is the actual legal boundary of the two properties and is found within that same back yard enclosure. (See the "zero lot line" description in the 6/17/2022 recorded version of the Architectural and Landscaping Rules & Regulations.)

Authority Granted to Install Landscaping on My Property Within the Back Yard Enclosure

1. My neighbor desired to install a planting bed in the vicinity of my property line and home foundation and requested that I allow him/her permission to install bull rock on my property at that specific location.

Be it known by this record that I granted permission for the neighbor to install the following on my property:

- A twelve inch (12") wide minimum bull rock barrier that contacts my foundation

2. I am an owner who, under the authority of the previous Rules & Regulations, installed bull rock next to my neighbor's foundation in my back yard, and therefore this bull rock installation should be rightly viewed as grandfathered under current rules. _____ (initials of claimant)

Zero Lot Line Area Maintenance Agreement

The following ongoing maintenance shall be performed by my neighbor is part of this bull rock border installation allowance:

- The bull rock installation will be kept at an elevation agreed to at the time; it will never higher than one-half (1/2) the typical height of my foundation above the nominal grass height as installed by the building contractor.
(There will always be a clear vertical separation between the top of the bull rock and the weep holes installed with my house siding.)
- The rock will be kept "clean" the full time it is located by my foundation – it will not be allowed to become covered with dirt or mulch over time.
- If for any reason the rock needs to be removed in the future, that work will be done at my neighbor's expense.
- The rock and planting bed installation will not negatively impact drainage around my foundation.
A "negative impact" determination should be technically sound but does not require agreement by both property owners.
- If I, anytime in the future, determine the need to "water my foundation" for foundation health, the rock will not in any way limit my doing so.

Lack of maintenance performance (once reported to the Board and deficiencies are then found) shall constitute abandonment of the agreement and the back yard neighbor shall return the zero lot line area to an original (no planting bed installation) condition with full repair cost born by the back yard neighbor.

Alignment with R&Rs

This Memorandum addresses the following specifications found in the 6/17/2022 recorded version of the Architectural and Landscaping Rules & Regulations (ALR&Rs):

- Article 2. Overview states, "Residents are not allowed to place items on a neighbor's property." This Memorandum, by action of two property owners, provides a homeowner-agreed-to exception to that rule.

- Article 2. Section 2. Subsection 2. Zero Lot Lines requires ARC involvement in work around the zero lot line. This involvement is not waived, but signature of this Memorandum addresses all issues the ARC might otherwise need to address.
- Article 5. Section 1. General states, “Bushes shall be maintained such that contact is never made with the neighbor’s house.” This rule is maintained in effect.
- As a reminder, Article 3. Section 2. Trees states, “Tree installation requests for placement within ten (10) feet of a neighbor’s property line will not be allowed.” Also stated, “Trees shall be maintained such that branch contact is never made with the neighbor’s house or roof.” Both these requirements will continue to be maintained.

Memorandum Use Process

This Memorandum, once *notarized by HG staff*, will be maintained in the property files of the two homes. This granted authority will continue to be binding now and to hereafter legal successors.

Deletion of this granted authority requires a second Memorandum signed by the two applicable property owners jointly requesting the termination of this Memorandum.

“Zero Lot Line” Property Owner:

“Back Yard Enclosure” Property Owner:

Property Address

Property Address

Printed Name

Printed Name

Signature

Signature

Date

Date