

# **NEW MARK COMMONS HOMES ASSOCIATION, INC.**

## **ARCHITECTURAL CONTROL GUIDELINES**

Revised December 8, 2018

### **I. PURPOSE OF THE GUIDELINES**

New Mark Commons, like many other neighborhoods, has adopted an architectural control policy to preserve the community's high standards of building design and physical appearance and to protect property values. Article X of the Covenants establishes the principle of Architectural Control and has as its basic requirement that no exterior addition or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography.

To be absolutely clear, any exterior work, even repainting in the same color, requires an ACC application. Although the Guidelines identify a number of changes that will normally be quickly approved, the required application creates a record that will allow follow up to verify that the change was made as proposed/approved.

The Guidelines exist to help assure that the community would retain its attractiveness by constraining exterior changes to those that respect the coherence and integrity of the design of individual structures and also respect the design harmony of entire streets. This policy, which is legally binding on all residents, is one of the reasons that New Mark's reputation endures as one of the most distinctive and attractive neighborhoods in Rockville. That distinctiveness is recognized in New Mark's placement on the National Register of Historic Places.

The following guidelines are intended to help residents determine whether the exterior changes or additions they are planning are consistent with New Mark's standards, and therefore likely to be approved by the Architectural Control Committee. ACC applications still must be submitted for any change.

Article X, Section 1 of the Covenants is presented below in its entirety:

Except for original construction or as otherwise in these covenants provided, no building, fence, wall or other structure shall be commenced, erected, or maintained upon The Property, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) members appointed by the Board of Directors. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## II. APPLICATION PROCEDURES A. GENERAL CONSIDERATIONS

1. Architectural control forms must be submitted for any exterior modification, even if it is (for example) repainting in the same color, a repair, or re-roofing with shingles of the same color and texture. These forms must be submitted and approved before you commence any work.
2. Be sure that planned work will comply with all local laws and building codes, including the securing of any necessary permits or licenses. New Mark's guidelines are an adjunct to, not a replacement for, these laws and codes.
3. Quality of materials and workmanship are important. They must at least equal the standard existing throughout the community.
4. Do not rely solely on the design of a neighbor's additions and changes. Those projects might not have received approval for reasons that do not apply in your own situation, or they might even be out of compliance with the covenants and/or objectionable to neighbors.
5. Use the architectural review process even when you intend to remove existing exterior features, since these too can substantially alter the appearance of the property.
6. No encroachments will be allowed by the ACC on your neighbor's property or on Association property. If you wish to add plantings to Association property, apply separately to the Administrator.

### B. HOW TO APPLY

Architectural control forms may be downloaded from our web site:  
<http://newmarkcommons.net/forms-and-docs/>. Also, they may be obtained by contacting:

*Shireen Ambush, Community Manager Abaris Realty, Inc. 301-468-8919*  
[sambush@abarisrealty.com](mailto:sambush@abarisrealty.com)

The mailing address is: New Mark Commons Homes Association, Inc c/o Abaris Realty, Inc. 7811 Montrose Road, Ste. 110 Potomac, MD 20854.

Following is a checklist to insure your project will receive prompt consideration:

1. Review the guidelines in Section III that most closely relate to your project.
2. Gather information about your planned modification. Whether seeking bids, working with your prospective contractor, or designing a do-it-yourself project, you should provide, in writing, as many details as possible. This will benefit all parties (you, the contractor, your neighbors, and the ACC) and will help head off future misunderstandings. Include an estimate of when your project will be completed.

3. You should describe the proposed project in detail. Except for relatively minor modifications, informal diagrams are not likely to be sufficient for ACC consideration. You should submit clear drawings (8½" x 11" min.) or professional plans, elevations and plats; photos (3" x 5" min.), printed brochures or physical samples (2" x 2" min.) or links to manufacturers' website pages showing complete details of the actual material(s) to be used. Proposals for additions and fences must be shown on a property map.
4. Your neighbors need to know about your plans but do not need to approve them. To inform your neighbors who will see the exterior modification, send them a copy of the application when you send it by email to the ACC. Show them as recipients on the email to the ACC. The ACC needs to see that your neighbors got this information. From the New Mark Directory, get the email addresses of your potentially affected neighbors. If you do not use email, you can visit your neighbors and get their signatures on your application form.
5. Call the City of Rockville Building Permits Office (240-314-8240) to determine whether any permits will be needed for the work. If a building permit is required, the City will want to see written approval of the project from the ACC. It is important to remember that a project may be acceptable as far as the City is concerned but remain unacceptable to the ACC. In all cases, New Mark's AC Guidelines take precedence.

### **C. WORKING WITH THE ARCHITECTURAL CONTROL COMMITTEE**

The ACC must comply with State rules for open meetings. Essentially, this requirement means that the Committee must make its decisions at a regularly scheduled monthly meeting open to all residents. The regular ACC meeting is the first Monday of the month at 7:15 at the clubhouse or other announced location.

In order to allow ACC members to see the properties affected by applications, the New Mark Board has established the third Monday of the preceding month as the deadline for applications to be considered at the first Monday meeting. Some simple applications may be quickly decided by the ACC Chair and the Board-ACC Liaison. If the ACC cannot meet on the first Monday, an alternate date will be publicized.

Make sure your forms are submitted to the Architectural Control Committee using one of the following methods:

- Emailed to the ACC at [acc@newmarkcommons.net](mailto:acc@newmarkcommons.net) or to Shireen Ambush, NMC Community Manager at [sambush@abarisrealty.com](mailto:sambush@abarisrealty.com).
- Mailed to:

Shireen Ambush, Community Manager  
New Mark Commons Homes Association, Inc.  
c/o Abaris Realty, Inc.  
7811 Montrose Road, Ste. 110  
Potomac, MD 20854

You may be contacted by the ACC. In its review of an application, the ACC not only determines whether it is consistent with the covenants and architectural guidelines but also works with the applicant to develop mutually acceptable changes in a design that might otherwise not be approved.

If the ACC deems that the application form and other material submitted are not sufficient or are incomplete, the application will be rejected with a notation about what additional information is needed. Once the additional information has been gathered, you must resubmit the application, and the 30-day period will begin anew.

Once a project has been approved, written notification will be sent to the applicant. Work cannot begin until written approval has been received. Approval by the ACC is good for only one year! When your project is completed, please notify the ACC by email [acc@newmarkcommons.net].

The ACC Chair and the Board-ACC Liaison together, have the authority to approve certain applications:

- To repaint in the same colors.
- To re-roof per Section T of the Guidelines.
- To replace windows or add storm windows per Section DD of the Guidelines.
- To repair, but not change, existing structures.
- To replace the front door of a contemporary house with a flat panel or flush door.
- To install solar panels on a roof.

#### **D. RESOLVING DISPUTES**

Work can begin as soon as ACC approval is granted. However, from time to time, the ACC will deny an application. If you disagree with the ACC's decision, you may request an appeal before the entire Board of Directors. The Board, generally at its next regularly scheduled meeting (given sufficient advance notice by the applicant), can review the ACC's decision and consider any additional information, presented either in writing or orally. In some cases, the Board will inform adjacent property owners and other affected parties of their opportunity also to comment. The Board can decide to:

- Uphold the ACC decision;
- Overturn the ACC decision in favor of the applicant;
- Suggest a compromise.

If an applicant disagrees with the Board's decision, he/she has the right to dispute it by filing a complaint with the Montgomery County Commission on Common Ownership Communities. For more information, visit the CCOC's website at <http://www.montgomerycountymd.gov/ccoc> or call 240-777-3636.

If there is a failure to resolve the dispute through the above options or through any other attempts at a compromise, and the applicant undertakes the denied project, New Mark Commons Homes Association will file a complaint with the Commission on Common Ownership Communities.

The Association will also use its opportunity to notify prospective purchasers that a property has outstanding ACC violations. Abaris Realty Inc. and its representatives are responsible for identifying homes for sale and checking for possible AC violations.

If violations are found by inspection of the property and the records maintained for that property, then the Administrator shall notify the property owner, the real estate agent, the Board of Directors, and any other appropriate party. That notice shall specify the correction required in order to get a clean report from the HOA.

## **E. ACC VIOLATIONS AND HOW NMC RESPONDS**

The enforcement of architectural regulations is a vital function of the NMC Board and its Architectural Control Committee. It is vital, therefore, that these regulations and the treatment of violations be spelled out clearly and communicated to all residents. While absolute adherence to the regulations and strict enforcement is the goal, it is important to note the Board and the ACC are allowed some flexibility in decision-making.

As Montgomery County's Commission on Common Ownership Communities (CCOC) has stated: "The board of directors has a fiduciary duty to enforce the association's rules, but that does not mean it must strictly enforce every rule in every case. The association documents give the board discretion on how to enforce the rules. However, the continued failure or refusal to enforce rules can eventually lead to a finding that the association has abandoned or waived its covenants." [CCOC Ruling 369, p.46]

There are several categories of violations. The Board and the ACC have agreed on the following responses:

1. Cases in which a homeowner has NOT applied for ACC permission for a change he/she has made that required advance ACC action.

Owners shall be required to submit an ACC application. If approved, no further action is necessary. If denied, the owner may appeal to the Board. If the Board denies the appeal, the owner shall be required to comply with the ACC's decision. This may entail a modification of the change or complete removal of the alteration at the owner's expense. Any owner who refuses shall be taken before the CCOC. The owner may also appeal to the CCOC.

2. Cases in which a homeowner has applied for ACC approval and received it but has made a change that differs from what was applied for.

Owners shall be required, at their own expense, to make the change conform to the original ACC ruling. Any owner who refuses will be taken before the CCOC. The owner may also appeal to the Board and/or the CCOC.

3. Cases in which a homeowner is denied ACC approval but makes a change anyway.

Owners shall be required, at their own expense, to remove the change. Any owner who refuses shall be taken before the CCOC. The owner may also appeal to the Board and/or the CCOC.

4. Cases in which a change was approved in the past but the change was in fact in violation of the ACC regulations or NMC covenants.

The ACC will inform the owner of its finding of a violation and require that the change be removed or brought into conformity with current regulations before the property is sold or otherwise transferred.

Owners will be sent a first letter giving them 60 days to bring their property into conformity. If they do not, they will receive a second letter scheduling a hearing by the Board of Directors. At least 30 days' notice shall be provided for this hearing.

Owners may, on their own, appeal to the Board of Directors within 30 days of the first letter. An appeal to the Board will stay the 60 day period to bring the property into conformity. Appeals will be heard at the next regularly scheduled monthly board meeting provided that the appeal is submitted to the Board 10 business days before the Board meeting.

In the event the Board rules against an owner, the owner has 30 days to bring the property into conformity or the Board is empowered to bring the owner before the CCOC. An action filed by the owner at the CCOC will stay the 30 day period to bring the property into conformity pending a decision.

The ACC and the Board are empowered to consider any external changes, including but not limited to, doors, windows, railings, hardscaping, paint color, lighting, extensions and sheds.

The following excerpts from CCOC rulings are provided as illustrations to homeowners in support of the NMC position:

“A homeowner who obtains approval for an application, but then makes changes and does not build according to the approved application, can be ordered to submit a new application for the structure as finally built and to comply with the association’s ruling on the revised application.” [CCOC Case 64-06, p.44]

“If a homeowner builds something different from what he applied and obtained approval for, and if the changes do not meet the community’s architectural standards, the CCOC will uphold the standards and require the homeowner to comply with them and make the necessary alterations.” [CCOC Case 166, p.44]

“When an association approved a member’s plans for a new deck, and he built the deck following the approved plans, the association cannot thereafter force him to change the deck, nor can it alter the deck without his approval, until such time as he sells the house.” [CCOC Case 53-13, p.47]

“When a member cannot show that he ever applied for, and received, approval for a deck, the association can require him to alter it, or can enter on the property to alter it at the owner’s cost.” [CCOC Case 73-13, p.47]

Despite the last citation, please note, the NMC Board and the ACC have decided Abaris Realty Inc. or a contractor hired by NMC will NEVER enter any property to make mandatory changes required by the Board or the CCOC. However they will strictly enforce requirements for such changes before the sale or transfer of any property.

The citations in this document are from Cases cited in and pages from “The STAFF’S GUIDE to the PROCEDURES AND DECISIONS of the MONTGOMERY COUNTY COMMISSION ON COMMON OWNERSHIP COMMUNITIES”

[http://montgomerycountymd.gov/DHCA/Resources/Files/housing/commonownership/CCOC\\_Publications/staffs\\_guide.pdf](http://montgomerycountymd.gov/DHCA/Resources/Files/housing/commonownership/CCOC_Publications/staffs_guide.pdf)

## **F. ACC AND BOARD GUIDANCE ON THE 30 DAY RULE FOR ACC APPLICATIONS**

The New Mark Commons Covenants state in Article X, Section 1 that any proposed additions or changes to the exterior of a resident’s home or property, even repainting, requires the submission of an application that includes plans and specifications of the proposed change. These applications must be submitted to the Architectural Control Committee.

It also specifies that if the ACC does not respond to a resident’s application within 30 days, then formal approval is not required and the applicant may proceed with the proposed work.

In the words of the Covenants, if the committee “fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.”

Nevertheless, the Board and the ACC wish to make clear that the 30-day limit does not apply when a resident has applied for a change that is specifically prohibited elsewhere in the Covenants.

Section 3 of the same Article X is titled “Prohibited Uses and Nuisances” and spells out specific prohibitions. For example, item (j) states: “No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used on any lot at any time. Temporary playhouses or the like may be so maintained provided that their primary purpose is the promotion of juvenile recreation.”

The Board and the ACC are issuing this clarification to prevent future misunderstandings. When two provisions of the Covenants are in conflict, the Board must establish precedence between them.

### III. SPECIFIC GUIDELINES

From experience, the Architectural Control Committee has developed specific guidelines for the following design elements that are frequently presented:

- A. Additions
- B. Air Conditioners/Heat Pumps/Generators
- C. Attic Ventilators
- D. Awnings
- E. Basketball Poles & Backboards
  
- F. Chimneys/Metal Flues
- G. Decks
- H. Doors
- I. Driveways/Parking Pads
- J. Fences & Railings
  
- K. Gutters/Downspouts
- L. Handrails
- M. House Numbers
- N. Lighting
- O. Mailboxes
  
- P. Painting/Staining/Color Changes
- Q. Patios
- R. Play Equipment
- S. Retaining Walls
- T. Roofing
  
- U. Sheds
- V. Siding
- W. Signs
- X. Skylights
- Y. Spas/Hot Tubs
  
- Z. Tree Removal
- AA. Trellises
- BB. Utility Enclosures
- CC. Walkways
- DD. Windows
- EE. Other Exterior Features

Note: The items covered herein should not be viewed as an all-inclusive list. These items represent only the changes that the ACC is frequently asked to review.



## **A. ADDITIONS-MAJOR**

Major additions include but may not be limited to new rooms, garages, the conversion of existing garages into living spaces (or vice versa), carports, porches (also see DECKS, below), and sunrooms. They may also include the expansion of existing rooms, such as the enlargement of a garage or extension of a room or rooms, when such expansions result in a change to the exterior of the house. When reviewing major additions, the ACC will take into account the Covenants' general guidelines on harmony in relation to surrounding homes and topography; how well the addition matches or "blends" with the present structure; the impact on neighbors' views and privacy; changes in grading and drainage; and the extent of destruction of surrounding natural features, including trees.

## **B. AIR CONDITIONERS/HEAT PUMPS/GENERATORS**

Replacing units of similar size in the same location will normally be approved. Relocated or larger units will be reviewed on a case by case basis. Through-window units are not permitted in New Mark. Whole house gas generators will be considered on a case-by-case basis.

## **C. ATTIC VENTILATORS**

Ventilators will generally be viewed favorably if they are appropriate in size for their location and use. Except in unusual cases, ventilators shall be placed in a location least visible to adjoining properties and shall be no higher than 10 inches above the roof surface. Wall units shall not extend more than 8 inches beyond the wall.

## **D. AWNINGS**

Awnings over doors, windows, patios, or decks shall have a straightforward design and shall be consistent with the architectural style and scale of the home to which they will be attached. Fabric color must be compatible with existing building colors, and any exposed frames should match the trim or the dominant color of the unit. The ACC will consider the visual effect an awning will have on adjoining properties.

## **E. BASKETBALL POLES & BACKBOARDS**

Basketball backboards for detached homes will be reviewed on a case-by-case basis. The ACC will consider their relation to surrounding structures and topography; as well as the potential for noise and physical damage to adjoining properties. Basketball hoops will not be approved in the townhouse areas.

## **F. CHIMNEYS/METAL FLUES**

New and/or replacement chimneys, and any extensions such as spark arresters and caps, shall be harmonious with the design, color, and material of the home and surrounding homes. Chimney/flue enclosures on houses with siding shall use materials matching the existing siding; those on brick houses shall use matching brick, and so on. "Freestanding" metal flues shall be no higher than the minimum local code requirements and designed so as not to require visible bracing.

## **G. DECKS**

Decks and deck enclosures can have a significant impact on a home's appearance and affect the privacy and rights of enjoyment of neighbors. Therefore, suitability of any given deck will be decided on a case-by-case basis. General guidelines for acceptable decks are given below:

**Upper-Level Decks:** These must relate to the mass of the house in size and conform to the architectural style of the residence. Privacy screens shall be in proportion to the deck and shall be compatible in terms of design, material and construction with the rest of the deck. The treatment of the space under the deck, including stairs or landscaping, is an area of architectural concern and must be included in the application. In keeping with the original design of the community, no placement of a deck to the front of a dwelling is allowed unless the ACC determines that the siting of the house is unique.

**Ground-Level Deck:** Depending on the elevation of the ground level deck, it must include a skirt board to screen any exposed structural elements. Appropriate landscaping shall be used to "soften" or hide the visual effect.

**Modification of Existing Deck:** Material, color, and design of the proposed modification shall be in harmony with both the existing deck and the rest of the house. Non-functional ornamentation on the top of the railing is not acceptable.

## **H. DOORS**

Colonial homes shall have doors in keeping with the style of the house and the doors on surrounding homes, as determined by the ACC. Doors, including storm and screen doors, shall be compatible with the architectural style of the property and shall not detract from the appearance of the entryway. The color of the doors must be compatible with the siding or trim color.

The original doors on houses of contemporary design were all flat panel or flush doors painted to harmonize with the house colors. Such doors fit the house designs and are recommended when a door needs to be replaced. However, the Association wants to be responsive to the desire of some homeowners to have a different door. Therefore, alternative doors with contemporary sensibility are illustrated in an appendix. Doors of these designs will be favorably reviewed by the ACC. Colors must harmonize with the rest of the house.

Note that doors with multiple raised panels are a traditional design and will not be approved for contemporary houses.

Storm doors on contemporary design houses must fit that style. The storm doors may be almost entirely glass with a simple frame. The frame color should be white or match the color of the main door. Full glass storm doors are preferred. See appendix.

## **I. DRIVEWAYS/PARKING PADS**

Approval for the enlargement of driveways is difficult due to the proximity of the homes within New Mark and the wish to preserve green space. The ACC must

determine that enlarging or adding a parking pad will not adversely affect adjacent property, natural areas, or drainage and will not overwhelm the house to which it is being attached. No asphalt extensions will be considered

## **J. FENCES**

The construction of fences is governed by Article X, Section 2 of the Covenants. Since fences often intrude on the open character of New Mark Commons and may have both a visual and physical impact on adjoining property, it is recommended that, wherever possible, alternatives such as landscaping and plant materials are employed instead.

Fences must harmonize with adjacent structures and with the topography. The location of a proposed fence is extremely important. Except for original construction, the Covenants prohibit any fences to the front of a living unit or within thirty feet of any street. However, split rail fences are permitted in side yards adjacent to a street, but must not extend past the front of the house. Side yard privacy fences must observe the 30 foot setback. In addition, privacy fences immediately adjacent to the bike path would be viewed unfavorably since a "tunnel effect" would be created for pedestrians. Split rail fencing shall be no higher than 48 inches. If wire mesh is also used, it must be placed on the inside of the fence and must be no higher than the top horizontal rail. Privacy fences shall be no taller than six feet.

In townhouse areas, except for "open" fences, all fence tops must be level. If the ground slopes, step the fence. On detached house lots, fence tops may follow ground contour.

Gate design, material, height and color must conform to the fence. The gate top must not extend above the fence top. New Mark's original fences and railings had a flat cap board without projecting posts. Where that style remains dominant, it will be required on new or replacement fencing. Non-functional ornamentation on the top of a fence or railing is not acceptable.

## **K. GUTTERS/DOWNSPOUTS**

Requests for extending or reconfiguring gutters and downspouts must include a certification or other assurance from the contractor that the modification will not result in damage to any other lot or the common areas. The color of gutters and downspouts should be harmonious with the design and color of the adjoining structure. Downspout extensions should be concealed as much as possible.

## **L. HANDRAILS**

### **Guidelines**

Installation, refinishing or replacement of railings for decks, balconies, porches, and exterior stairs must be approved by the ACC. In general, existing railing should be replaced with new railings of the same material, color and style as the original or existing.

**Design:** Railings may be made of wood, metal, glass or a combination of these. Railings should have simple straight lines. To create a sleek modern appearance, posts should not extend above the top rail. When required by the material or conditions, curved railings should be as elegant and simple in design as possible. Residents are responsible for checking that any railings comply with relevant Rockville city codes and regulations, and be permitted where applicable. Preference will be given to vertical balusters, however, other applications such as horizontal balusters, or glass railings will be considered on a case by case basis. (See examples below.)

**Colors:** Metal railings should be black. Wood should be treated and stained, or painted gray, beige or brown. Balconies in the 100s block of New Mark Esplanade have historically painted a deep reddish brown, so that color will be acceptable. Other colors will be considered on a case by case basis.



## M. HOUSE NUMBERS

House numbers shall be easily visible from the street or parking area. Thus they should be of reasonable size and contrast with their background: dark on a light background and vice versa.

Contemporary houses were equipped originally with black vinyl numbers on the simple frosted glass light fixtures. Replacement vinyl numbers are available from the Administrator. The vinyl numbers can also be applied to the Hinckley light shown in Section L on lighting above. Other types of numbers for contemporary houses should be simple, such as the illustration at right. These numbers are five inches high.



## N. LIGHTING

These specifications and guidelines address design considerations only. They do not address safety, security and County code requirements. The installation of security lights, such as floodlights, will be considered by the ACC if such lights are placed under roof eaves, directed downwards, and shielded so they do not create a “hot” glare spot visible to neighbors. The fixture color and any shielding shall be compatible with the building.

The outdoor light to be used on all contemporary detached homes and townhouse units is a non-ornamental, rectangular fixture. Acceptable replacement lights are: Hinkley 1650TT (left) and the Bay View Wall Lantern in Oil Rubbed Bronze [Great Outdoors by



Minka] (right). Designers Fountain LED15011A-34 is similar to the Minka light. The lights are 9 - 10 inches high.

Replacement lights for colonial homes should conform to the architectural style of the residence. The addition of any pole type fixture in the front yard of a residence (such as a gas lamp) is an exterior change.

## **O. MAILBOXES**

Except on Tegner Way and Tegner Court, no freestanding mailboxes are permitted. If the door of the residence does not have a mail slot, any receptacle appropriate to the style of architecture may be acceptable to the ACC, provided it is small and does not detract from the appearance of the front facade.

## **P. PAINTING/STAINING/COLOR CHANGES**

All repainting, except minor touch-up, requires an application. Repainting in the same colors will normally be approved. Proposed color changes should be in keeping with the predominant colors found in the immediate neighborhood and should be consistent with the architectural style of the house.

## **Q. PATIOS**

Patios shall be constructed of natural colored concrete, slate, flagstone, brick, or wood (no synthetic turf is permitted). Patios must be harmonious in design with the adjoining structure and must not impinge in any way on the privacy of neighboring properties.

## **R. PLAY EQUIPMENT**

Structures such as tree houses, forts, and swing sets require the approval of the ACC which will consider the visual and acoustic impact the equipment will have on neighboring properties.

## **S. RETAINING WALLS**

Proposed retaining walls built with brick, stone or pressure-treated wood will be considered by the ACC. Retaining walls shall be at the minimum height needed to serve their function. The top of the wall should be integrated into the terrain, terraced, if necessary, but level. Any railing must meet the requirements of Section H, Fences and Railings.

## **T. ROOFING**

Location is important when choosing a roof color. Owners of detached houses may have some flexibility in selecting a color since they are not immediately adjacent to another unit. However, they shall always submit an ACC application. Matching the existing color will normally be approved. Townhouse owners (except for Tegner Court and Tegner Way) are expected to replace their roofs with Certaineed "Oakwood".

Tegner townhouse owners can match the original roof color with: Tamko colors “Weathered Wood” and “Tweed Blend”; and Owens Corning color “Autumn Brown”. Although the original roofing in New Mark consisted of cedar shake shingles, replacement roofs consisting of either asphalt or fiber glass shingles are acceptable since these are less expensive and wear better.

## **U. SHEDS**

Article X, Section 3(j) of the Covenants states that no structure of a temporary character, shack or outbuilding shall be used on any lot at any time. Therefore, for a shed to be acceptable, it must be attached to the house. Sheds shall be simple in design and harmonize with surroundings. They shall be of the same material and color as the house and must not adversely affect the appearance of the neighborhood.

## **V. SIDING**

Siding must harmonize in color and material with the remainder of the house and neighborhood and be of equal or better quality than the original material. The ACC will consider the use of vinyl siding, aluminum, or other man-made material on a case-by-case basis. The intent is to preserve the character of the community by using materials similar in appearance to the original.

## **W. SIGNS**

The type of signs allowed in New Mark is expressly governed by Article X, Section 3(K) of the Covenants. Any allowable signs shall be simple, unadorned, and of low profile. In all cases, they must harmonize with the surroundings.

## **X. SKYLIGHTS**

Skylights must have a low profile and be flat or only slightly curved. The frames shall be painted to match or harmonize with the roof color. Skylights shall be installed so that their upper edge is parallel to the roof ridge.

## **Y. SPAS/HOT TUBS**

Spas and hot tubs must be (1) located in the rear yard as far away as possible from adjacent properties so that their normal use, presence and mechanical noise do not adversely affect those properties; (2) integrated into a deck, patio or the topography, and (3) screened from view by permissible fencing or landscaping. All mechanical equipment, pipes and wiring shall be concealed. When set into above-ground decks, the understructure of the spas/hot tubs should be screened. The installation of a spa or hot tub may be denied due to its adverse effects on adjoining properties.

## Z. TREE REMOVAL

Article X, Section (3)(i) of the Covenants provides that “No sound hardwood trees shall be removed from any lot without written approval of the Association acting through its Board of Directors or duly appointed committee.” Ornamental and evergreen trees will be subject to the same restriction on removal. The Board may assign responsibility in this area to the Landscape Committee. Authorization for removal generally will not be granted unless there is physical intrusion by the tree’s trunk, limbs, branches or roots on a living unit which could cause damage to property or blockage of paths and sight lines from vehicles and pruning will not solve the problem.

A homeowner concerned that a tree on Association property may pose a hazard should contact the Administrator. Sound trees will not normally be removed, but, under certain conditions, the Board may authorize removal with cost sharing from the homeowner.

## AA. TRELLISES

A trellis shall harmonize and integrate with the architectural style, design and visual scale of the structure to which it is attached. Free standing trellises may not be approved if found to be awkward or visually disjointed.

## BB. UTILITY AND TRASH ENCLOSURES:

### Guidelines

Utilities such as air conditioning units and waste receptacles should be screened from view, especially in townhomes. The screening will be a wood or brick enclosure, but may include strategic planting of shrubbery. Existing enclosures should be replaced with the same material. Brick walls replacing brick walls will be given preference by the ACC. Utility enclosures are not the same as privacy fencing. The Architectural Guidelines require that modifications to or new construction of utility enclosures must be approved by the Architectural Control Committee (ACC) based on Article X, Section 1 of the Covenants.

### Recommendations

- a. **Coordination:** Neighbors who share enclosures are encouraged to coordinate enclosure repairs and replacement. Shared enclosures should have the same materials, style and finish.
- b. **Size and Location:** The size of an enclosure should remain the same as the original if possible. The enclosure may be enlarged to effectively conceal the air conditioning unit and waste receptacles. However, the new enclosure should have a footprint as close as possible to the original and be no wider or deeper than necessary to screen utilities from view.

At townhouses, air conditioning units and trash receptacles should be placed within the enclosure. If that is not possible, they must be screened from view by passersby through the use of plantings or other means approved by the ACC.



At detached homes, utilities should be placed to minimize visibility from abutting streets. Per Section X,3,c of the Covenants, trash cans should be screened from street view except on collection day.

- c. **Fencing Type and Style:** Wood enclosure walls should be the vertical panel fencing known as shadowbox or board on board. The fence tops should be level and capped with a sill. If the ground slopes, the panels should be stepped. Fence posts should be no higher than the top of the panels. (See examples below.) Where feasible, brick enclosure repairs or replacements should be of the same brick pattern, finish and size as the existing. Applications to top the walls with vertical boards, or replace the entire wall with vertical boards will be considered on a case by case basis considering circumstances.
- d. **Gates:** Gates are not required, but if used, they should repeat the style and finish of the fence. The top of the gate should be level with the top of the fence – no higher or lower. Enclosures may have either single or double gates. Hardware should be simple, and in keeping with the Mid-century Modern style of the townhouse architecture. Choose hinges and latches sturdy enough to withstand regular use over many years.
- e. **Covers:** Wooden covers over the enclosures are not required, but if used, they should be flat, and the same color as the enclosure wall. They may consist of wood slats, louvers or checkerboard lattice. Homeowners should check with an HVAC expert about adequate ventilation for the air conditioning unit.
- f. **Materials and Construction:** Homeowners are advised to use pressure treated wood, or a weather resistant wood species. Brick walls should be installed by an experienced brick layer.
- g. **Finishes:** Wood should be allowed to weather naturally or stained a transparent medium brown/gray wood tone. Both sides of shared enclosures should be treated in the same way. Brick may match the brick of the house or be painted to match as closely as possible.

Examples:



Board on board or shadowbox



Stepped board on board or shadowbox

## **CC. WALKWAYS**

Walkways must harmonize with adjacent structures and with the topography. Creation of a new walkway requires ACC approval.

## **DD. WINDOWS**

Replacements/Additions - In all homes, replacement windows and replacement glass must match the design details and color of the existing windows. Window additions in townhouses generally will not be approved because of the difficulty in harmonizing them with the design of the structure and the placement of existing windows. In detached homes, window additions must match the design details and color of the existing windows and their size and location must harmonize with the architectural style and composition of the structure. Storm Windows - Storm windows shall not alter the appearance of the existing windows. Storm window frames shall resemble the existing window frames and have the same general configuration. The frame color must match the color of the existing window frames.

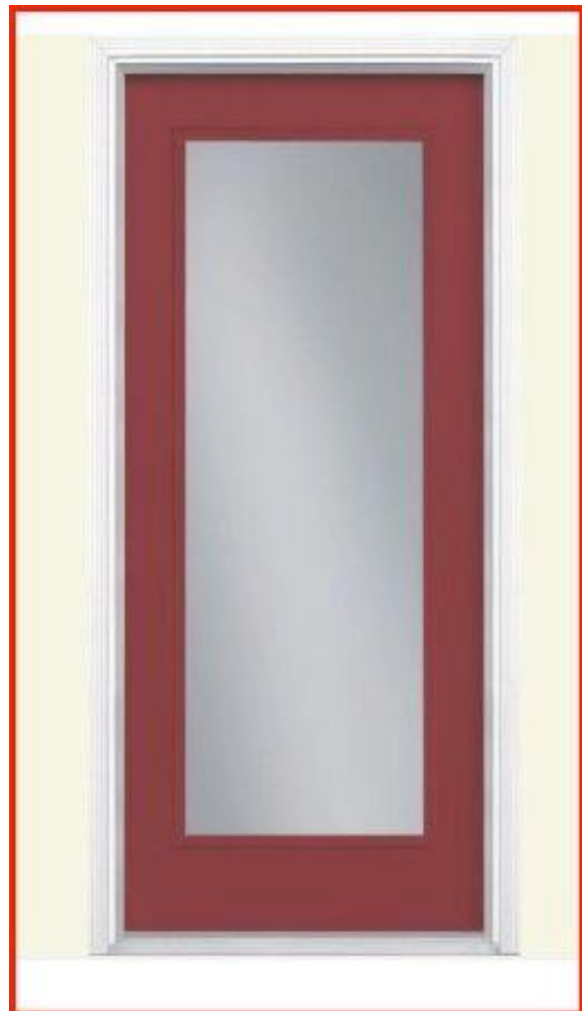
Shutters - Shutters on houses of traditional design shall harmonize with the house, and be appropriately proportioned. Shutters are not permitted on houses of contemporary design.

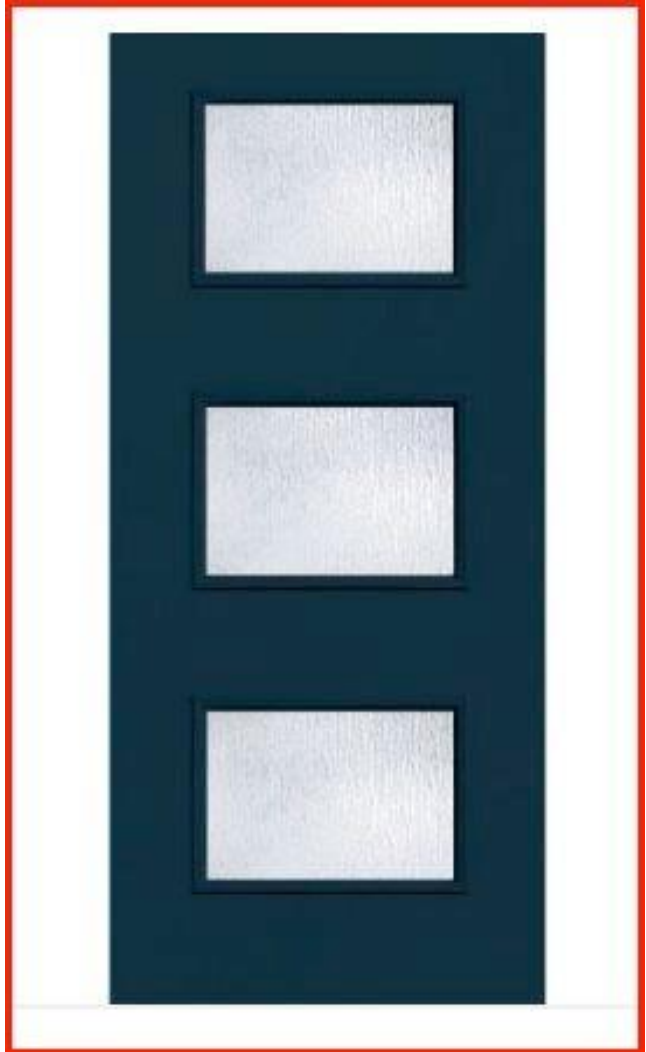
## **SECTION EE. ANY OTHER EXTERIOR FEATURE NOT SPECIFIED**

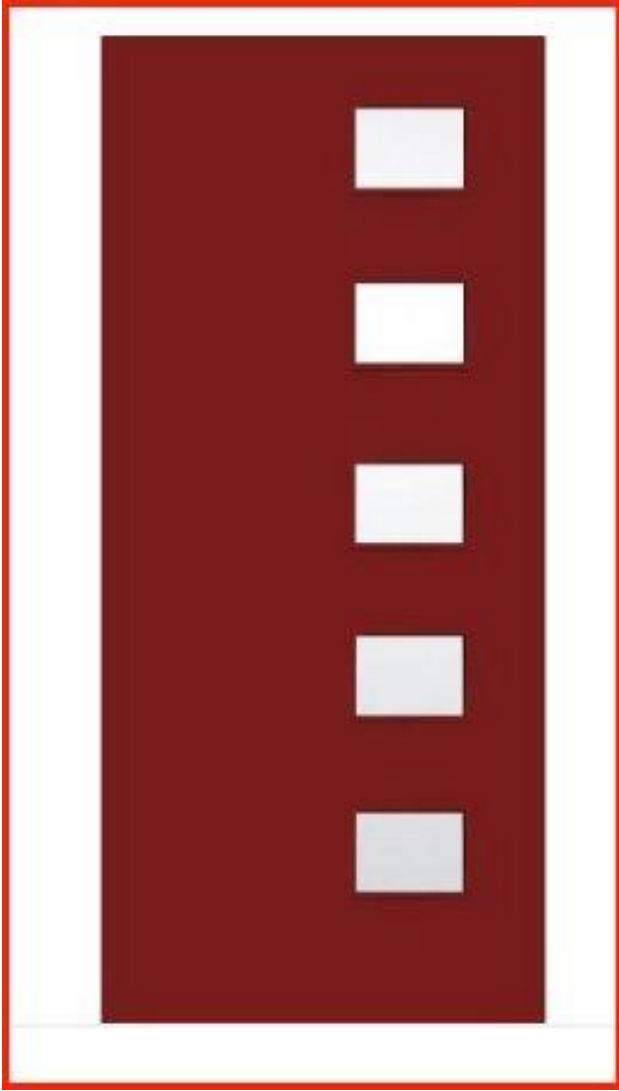
As stated in Section I, any exterior work, even repainting in the same color, requires an ACC application. This means that any exterior feature or modification not covered elsewhere in these guidelines still requires an application to the ACC.

## APPENDIX: DOORS FOR CONTEMPORARY HOUSES

Following are examples of doors for contemporary houses that would be favorably reviewed by the ACC. These doors are available through home improvement stores. See Section III, I for discussion.









**STORM DOORS**

