

## Oak Park Outbuildings

The Oak Park Homes Association Board of Directors has an obligation to see that our homeowners comply with each subdivision's deed restriction on outbuildings. Deed restrictions were established by the developers to maintain the original character of the neighborhood and the beauty of each property. All homeowners agreed to abide by the deed restrictions when we purchased our home (it was part of the sales contract). Adherence to these restrictions has enhanced the desirability of OPHA neighborhoods as our subdivisions have matured, thereby increasing property values to keep pace with the surrounding area.

The Board believes that outbuildings in the backyards of OPHA properties are a blight on the neighborhood. Minutes of OPHA Board meetings going back many years consistently note denials of requests for outbuildings on OPHA properties. In fact, there are only a handful of outbuilding approvals noted in the OPHA archives. Nevertheless, over the years, outbuildings have been erected without the consent of the OPHA Board. Any such construction is, by definition, a violation of the deed restrictions.

The deed restrictions for the subdivisions of the Oak Park Homes Association (Aspen Hills, Oak Park, Oak Park Manor, Oakview Estates, Oakview Place, Oakwood Estates, Quivira Meadows, and Summerfield) define an outbuilding as "an enclosed, covered structure not directly attached to the residence to which it is appurtenant." For example, storage sheds, garden sheds, playhouses, and pool cabanas are considered outbuildings by the OPHA Board. In fact, anything in which something may be stored outside the house may be considered an outbuilding. An outbuilding is usually a permanent structure that, when the house is sold, is considered part of the property.

The Board enforces the OPHA's deed restrictions by establishing criteria for their fair and consistent application. In the winter 2003 OPHA newsletter, the Board published criteria for the approval of outbuildings. Rather than having little buildings dot the OPHA landscape, the Board requires an outbuilding to be "attached" to the house, giving it the appearance of a room addition. The Board believes this "room addition" criteria results in a much more aesthetically appealing appearance for each property.

All OPHA subdivisions' deed restrictions also require homeowners to obtain prior written approval from the OPHA Board before erecting an outbuilding. The consent of the OPHA Board is the **only** approval necessary. When it comes to compliance with deed restrictions, the approval or disapproval of neighbors is not part of the equation. Of course, to ensure compliance with local building codes, the cities of Lenexa and Overland Park may require a permit to construct an outbuilding.

In the past, the Board has relied on homeowners to let us know, through the complaint process, about neighbors who appear to be out of compliance with their subdivision's deed restrictions on outbuildings. This procedure has resulted in identification of very few outbuildings. Relying on the complaint procedure may not seem fair to those who follow the rules, asking for approval prior to constructing an outbuilding. As mentioned

above, in 2003 the Board articulated a set of criteria that homeowners should follow to have an outbuilding approved. Many requests have been denied, leaving homeowners feeling like they have been singled out for enforcement when they could see outbuildings on several other OPHA properties. The Board believes it is not fair to all homeowners to leave owners of existing outbuildings unchallenged. Therefore, the Board has attempted to inventory all of the outbuildings in the Association. The Board has been able to identify fewer than 100 properties with outbuildings.

As announced at the Annual Meeting in May, the Board has recently sent a letter to the owners of all of properties with outbuildings. The letter explains the process we have initiated to bring homeowners into compliance regarding outbuildings. The entire process should be complete by the end of the year. The definition of an outbuilding provides the Board with some latitude when considering a request for approval of such a structure. Members with outbuildings on their property have four options, as shown below:

1. Removing the outbuilding by December 31, 2007.
2. Applying to the OPHA Board for approval without changing the outbuilding.
3. Applying to the OPHA Board for approval after changing the outbuilding to be in compliance as described in an article from the winter 2003 OPHA newsletter (which was included with the letter).
4. Applying to the OPHA Board for temporary approval. The Board may temporarily approve the outbuilding for up to five years or until the property changes ownership in any way (whichever comes first).

A form and return envelope was included with the letter to simplify the process for each property owner. The Board will determine the disposition of each request on a case-by-case basis.

The names of homeowners on the outbuilding inventory will not be published. However, if you think we may have missed your neighbor's outbuilding, please let us know. By the end of the year, all outbuildings should be approved, removed, or contracted for removal at a specific future date.

As we go through this process, homeowners may confuse property rights issues with contract obligations. The Board challenges all of us to see the big picture. It is and will continue to be much easier for all of us to live as a community when we follow through on the commitments we make. When all of us purchased our homes, we agreed to abide by the deed restrictions of our subdivision. As members of the Oak Park Homes Association, we need to honor our obligations.

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