

# Braemore HOA

## **Architectural Guidelines**

**Adopted May 1, 2015**

## **INTRODUCTION**

### ***Purpose of Architectural Guidelines***

Braemore is a Planned Residential Development (PRD). Simply stated, this means that the original tract of property was designed and approved as a self-contained, deed restricted community, having its own covenants and order of rule under which all property owners would live and abide and which would provide for the maintenance of all Common Property and improvements thereon. Restrictions were established so that aesthetics, appearance, and continuity could be defined and written based on the covenants and on precedence established by the Declarant or Architectural Review Committee, as applicable, and the Declarant or Architectural Review Committee, as applicable, reviews all architectural requests. These Architectural Guidelines provide an overall framework and comprehensive set of standards and procedures for the development of the community in an orderly and cohesive manner. In addition, these Architectural Guidelines are established to give the homeowner some degree of assurance that the actions of all members of the community would be directed so as not to adversely impact their enjoyment or property values.

The architectural standards and use restrictions set forth in this document are for the purpose of protecting the value and desirability of the real property located in the Braemore Community. The Declaration of Protective Covenants and Easements for Braemore Residential and the Braemore Residential Neighborhood Association, Inc. (Association) Bylaws support the Board's ability to adopt, publish and amend, from time to time, written architectural standards and construction specifications.

No addition, alteration, modification or change to any improvement shall be made without the prior written approval of the Declarant or the Architectural Review Committee if such review authority has been delegated by the Declarant (the applicable having jurisdiction in a particular case shall be referred to as the "Reviewer"), which shall include, but not be limited to, any addition, change or deletions to any part of a building, wall fence, swimming pool, or screened enclosure constructed, installed or placed upon a residential property. Nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or re-landscaping of any Unit be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Reviewer. Construction must be accomplished in strict conformity with such plans as approved, unless otherwise expressly agreed to in writing by the Reviewer. The Reviewer shall have the sole right, authority and complete discretion to approve or disapprove the plans and specifications for any reason, including, but not limited to, exterior colors and appearance, landscaping, location of the structure or structures and aesthetics. In addition to setting standards, the Architectural Guidelines establish a process for review of proposed modifications to Units and dwellings to ensure that all sites within the community are developed and maintained with the consistency and quality that attracted you to your community.

### ***Government Permits***

To the extent that the Town of Cary and Wake County Ordinances or any local government ordinances, building code or regulation requires a more restrictive standard than the standards set forth in these Architectural Guidelines or the Declaration, the local government standards shall prevail. To the extent that any local government standard is less restrictive, the Declaration and the Architectural Guidelines (in that order) shall prevail.

### ***Review Structure***

The Reviewer handles architectural control and design review for the community. The Reviewer has exclusive jurisdiction over all matters relating to modifications to existing structures and landscaping, as set forth in the Declaration. The Reviewer shall review plans and specifications for all modifications and landscaping on any dwelling or Unit, shall be the conclusive interpreter of these Architectural Guidelines, shall monitor the effectiveness of these Architectural Guidelines, and may promulgate additional design standards and review procedures consistent with these Architectural Guidelines. Information regarding the "appeals process" can be found on page 4.

## DESIGN REVIEW PROCESS

### *Review of Modifications*

The review of modifications shall require the submission of an application to the Reviewer. An application form can be found as APPENDIX A to this document and online at [www.charlestonmanagement.com](http://www.charlestonmanagement.com). Depending on the scope of the modification, the Reviewer may require the submission of all or some of the plans and specifications listed below. In the alternative, the Reviewer may require a less detailed description of the proposed modification.

### *Application Process*

Applications can be submitted online via [www.charlestonmanagement.com](http://www.charlestonmanagement.com). If sent via mail the Reviewer will require two (2) sets of any modification plans in addition to the submission of an application. These sets of plans should be submitted to the following address: Charleston Management, P.O. Box 97243, Raleigh NC 27624. FAX: 919-848-1548. Do not fax if the Reviewer needs to review colors.

Generally, drawings of the proposed change should be submitted (to scale) which show relationships to existing structures, landscaping, lot lines, and setbacks (distance from property lines) for all proposed improvements. These drawings should include a "site plan" and an elevation plan along with any additional information, which could help the Reviewer visualize the project. For further descriptions of the five (5) elements that follow [floor plan, elevations, exterior finishes, landscaping plan, and other], please refer to applicable sections of this document.

### *Floor Plan*

Showing decks, patios, related to the residential dwelling, trash enclosures, HVAC equipment and utilities.

### *Landscaping Plan*

Showing location of trees, protection of existing vegetation, use of plants and other landscaping details. For further information see "Landscaping and Site Standards" section of this document.

### *Other*

Such other information, data and drawings as may be reasonably requested, including, without limitation, irrigation systems, drainage, lighting, and other features.

### *Review Criteria: Recommendations / Variances*

While the Architectural Guidelines are intended to provide a framework for modifications, they are not all inclusive. In its review process, the Reviewer may consider the quality of workmanship and design, harmony of external design with existing structures and location in relation to surrounding structures, topography, and finish grade elevation among other factors; however, the Reviewer will not grant approval for a proposed modification that is inconsistent with the Architectural Guidelines, unless the Reviewer grants a variance.

Variances may be granted in some circumstances, which include, but are not limited to, topography, natural obstructions, hardship, or environmental considerations. The Reviewer shall have the power to grant a variance from strict compliance in such circumstances so long as the variance does not result in a material violation of the Declaration. No variance shall be effective unless in writing and supported by a majority of the Reviewer.

### *Review Period*

The Reviewer shall use its best efforts to approve or disapprove a submission within 45 days of receipt of all materials required by the Reviewer. One set of plans shall be returned to the Applicant accompanied by the Reviewer's decision. The other copies are for the Association's records. **The Reviewer's decision shall be based upon a majority vote of the Reviewer and shall be rendered in one of the following forms:**

1. "Approved" - The entire application as submitted is approved.
2. "Approved as Noted" - The application is not approved as submitted, but the Reviewer's suggestions for curing objectionable features or segments are noted. The applicant must correct the plan's objectionable features or segments and the Applicant may be required to resubmit the application and receive approval prior to commencing the construction or alteration.

3. "Disapproved" - The entire application as submitted is rejected in total.
4. "Variance" - Designated as an exception from the stated guidelines for a specific reason.

If the Reviewer fails to respond within 45 days, approval shall be deemed granted.

*As a condition of approval under this section, each Owner and all successors-in-interest shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration.*

***Approval of plans for any proposed modification shall not set a precedent for future applications.***

### ***Appeal***

If an initial application is disapproved, an Applicant shall have the right to appeal by resubmitting the application information, documents and fees set forth above to the Board. The second submittal shall be considered only if the Applicant has altered the plans for modification or has new information, which would in the Board's opinion, warrant reconsideration. If the Applicant fails to appeal a decision of the Board, the Board's decision is final. Appeals will be reviewed at the next regularly scheduled Board meeting provided the basic Architectural Guidelines set forth in this document are met and the Board is supplied with the application documents at least 7 days prior to the scheduled Board meeting. This final appeal shall be only deemed approved if the applicant receives written notification from the Board. As the Board may only meet quarterly, approval shall not be assumed to be granted if the Board does not respond within 30 days.

### ***Town of Cary / Wake County Approval***

The review and approval of plans and specifications by the Reviewer shall not be a substitute for compliance with the permitting and approval requirements of the City, County or other governmental authorities. It is the responsibility of the Applicant to obtain any and all necessary permits and approvals.

### ***Implementation of Approved Plans***

All work must conform to approved plans. If it is determined by the Reviewer that work completed or in progress on any dwelling or Unit is not in compliance with these Architectural Guidelines or any approval issued by the Reviewer, the Reviewer shall notify the Applicant in writing of such noncompliance specifying in reasonable detail the particulars of noncompliance and shall require the Applicant to remedy the same. If the Applicant fails to remedy such noncompliance or fails to commence and continue diligently toward achieving compliance within the time period stated in the notice, then such noncompliance shall be deemed to be in violation of the Declaration and these Architectural Guidelines and the homeowner (property) shall be subject to a daily monetary fine.

### ***Time to Commence***

If construction does not commence on a modification for which plans have been approved within one year of approval, such approval shall be deemed withdrawn unless the applicant requests, in writing, additional time from the Reviewer.

### ***Time to Complete***

The Board shall include, in any approval, a maximum time period for the completion of any modification. If no maximum time period is specified in the approval, the modification shall be completed within one year of its commencement. The Applicant may request an extension of such maximum time period not less than three days prior to the expiration of the maximum time period, which the Reviewer may approve or disapprove.

### ***Changes after Approval***

All proposed changes to plans, including, but not limited to, changes that affect the exterior of any building, colors, windows, grading, paving, utilities, or landscaping made after plan approval must be submitted by the Applicant and approved in writing by the Reviewer prior to implementation of such changes. Close cooperation and coordination between the Applicant and the Reviewer will ensure that changes are approved within 15 days.

If the Town of Cary or Wake County, or any other authority having jurisdiction, requires that changes be made to final modification plans previously approved by the Reviewer, the Applicant must notify the Reviewer of such changes and receive approval from the Reviewer prior to implementing such changes.

### ***Enforcement Waiver***

In the event of any violation of these Architectural Guidelines, the Reviewer may take any action set forth in the Bylaws or the Declaration, including levying a Specific Assessment pursuant to the Declaration. The Reviewer may also remove or remedy the violation and/or seek injunctive relief requiring the removal or the remedying of the violation. In addition, the Reviewer shall be entitled to recover the costs incurred in enforcing compliance and/or impose a fine against the dwelling/Unit upon which such violation exists.

### **DESIGN STANDARDS**

The following specific site criteria shall apply to all proposed modifications within the community unless the Reviewer grants a variance. These guidelines may be modified from time to time and are not inclusive of all architectural standards which may be adopted by the Architectural Review Committee with the consent of the Board of Directors. Applicants are responsible for obtaining all necessary building permits.

### ***Air Conditioning Equipment***

Unless other-wise permitted by the Reviewer, no window-air-conditioning unit (sides or front) shall be installed.

### ***Antennae and Satellite Dishes***

No radio or television transmission or reception towers, antennas or satellite reception dishes or discs shall be erected on a Unit unless approved as provided in the Declaration. A satellite dish or disc may be located on a Units, provided that (i) the disc or dish is not more than 30” in diameter and height; (ii) the dish is screened from public view and located behind the Living Unit either in the rear yard or affixed to the rear roof; and (iii) the disc or dish is located or screened in such a way that it cannot be seen from any street within the Subdivision.

### ***Awnings***

The installation of awnings on the front of the residence or side(s) of the dwelling that faces the street is prohibited. Other instances of installation are on a case-by-case basis for approval by the Reviewer.

### ***Boats, Trailers, and Unlicensed, Unregistered or Inoperable Vehicles***

No owner or his family, lessee or sublessee or guest of an Owner shall: (i) park any vehicle on a street within or adjoining the community except in a designated paved parking space; (ii) park or keep on any Unit or street within or adjoining the Subdivision any abandoned, partly dismantled or inoperative vehicle; or (iii) park or keep on any Unit or any street within or adjoining the Subdivision any boat or boat trailer, jet ski, motor home, camper, bus, truck in excess of one ton weight, commercial vehicle, truck or van, or anything else other normally intended to be a private passenger vehicle within the Subdivision. Boats and other watercraft, towing trailers, and related leisure vehicles or attachments shall not be permitted on any Unit except in areas where they cannot be viewed from the streets. In addition, no vehicle can be parked in the guest spaces as a means of storing said vehicle.

The Board shall have the right and authority to have towed any vehicle parked or maintained in violation of these or subsequently adopted parking rules and regulations.

### *Fences*

- Approvable fence styles: **4 foot black aluminum fence and 6 foot wooden shadowbox style privacy fence.**



- Wooden fences shall be built out of pressure treated wood, stained **Sherwin Williams color Banyan Brown #3522**. Wooden fences shall be shadowbox style with fence panels being dog-ear.
- Fences shall enclose all or part of the backyard, and shall extend no farther forward than **10 feet** from the rear corners of the house unless requesting a variance or if the fence was a pre-construction installation.
- Fences are subject to variances based on drainage, topography, etc..
- Replacement of any damaged material (natural or man made) shall be made within 30 days of discovery.
- Fences shall be maintained and kept in good repair.
- No wire, plastic, wood, vinyl or chain-link fences (including dog enclosures) shall be considered.

**PLEASE NOTE: If your home is on Lots 1-7 or 34-38 you will be required to have the wooden style fence. This is a Town of Cary guideline. They want all fencing along Green Level Church Road to have the same style wooden fence.**

### *Exterior Lighting*

Except for seasonal holiday decorative lighting, all significant exterior lighting changes must be approved by the Reviewer. The Reviewer may take into consideration the visibility and style of the fixture and its location. Exterior lights shall be conservative in design and as small in size as practical. Lights shall be directed toward the house or ground and limited in wattage to 2,000 lumens. Low voltage (12 volt) lighting is preferred. Holiday lights should be removed no later than one (1) month after the holiday. Holiday displays, which, in the opinion of the Reviewer, create traffic congestion or become an annoyance to adjacent property owners, shall not be allowed.

### *Hot Tubs and Saunas*

The approval of the Reviewer is required for the installation of any hot tub, jacuzzi, sauna or spa. Any hot tub, jacuzzi, or spa shall be an integral part of the deck or patio area and/or the rear yard landscaping. Hot tubs, jacuzzis, or Spas shall be located at the rear of the property and shall be installed in such a way that is not immediately visible to adjacent property owners and shall not create an unreasonable level of noise for adjacent property owners. Owners are required to install safety features such as locks or covers for these items when such are not in use. Applicable City and Wake County ordinances govern these requirements.

***Paint***

Owners may repaint in accordance with the original color scheme of any dwelling or improvement without approval of the Reviewer. The approval of the Reviewer is required for all changes in exterior painting.

***Parking***

While the HOA can't prohibit street parking it is discouraged for safety and aesthetic purposes. Owners should use their garage for cars and their driveway before resorting to street parking.

***Pets***

No doghouse, poultry house, rabbit hut or other similar yard structure shall be constructed or allowed to remain on any Unit.

***Rooftop Equipment***

The approval of the Reviewer is required for all rooftop equipment and accessories, unless specifically accepted in this section. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure. No exposed attachment straps will be allowed. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street. Landscaping or other buffering is required for solar panels. Please note when the roofing has been altered the Association no longer accepts responsibility for roof repairs / replacement.

***Siding***

Owners shall seek the approval of the ARC before installing or replacing siding, **which differs from original material and style.**

***Signs***

Except as otherwise required by the Town of Cary, or as may be established pursuant to rules and regulations from time to time established by the Architectural Review Committee with the consent of the Board of Directors, in its sole discretion, no sign of any kind shall be displayed to the public view on any Unit.

***Storm Doors***

Storm doors shall have the same trim color and hardware that will match the house, and shall be full-length, one-panel clear.

***Temporary Structures***

Temporary structures are prohibited. The approval of the Reviewer is required for tents other than camping tents that are used for occasional overnight sleeping. Approval by the Reviewer is also not required for temporary canopies that are erected for special occasions.

***Trash Containers***

All detached single-family residences will be provided roll-out receptacles by the Town of Cary, which shall not be left outside of the residence or within a screened area of the Unit except on the appropriate day of trash or yard waste collection.

***Clotheslines and outside clothes drying***

No clothesline or clothes poles shall be erected, and no outside clothes drying is permitted.

***Utilities***

Pipes, wires, and other utility facilities shall be kept and maintained underground. Utilities include water, sewer, power, telephone, cable television, and miscellaneous conduits.

## ***LANDSCAPING AND SITE STANDARDS***

Landscaping is an essential element of design in the neighborhood and is also an integral part of maintaining property value and neighborhood continuity. Preservation of existing vegetation must be considered in establishing and maintaining the landscape design.

### ***Drainage***

Drainage of the property must conform to all Town of Cary and Wake County requirements. All drainage and grading must be indicated on the proposed plans submitted to the Reviewer. There shall be no interference with the established drainage pattern over any property except as approved in writing by the Reviewer.

The established drainage pattern is defined as the drainage pattern engineered and constructed by the original builder prior to (or in some cases, immediately following) conveyance of title from the builder to the individual homeowner.

Landscaping shall conform to the established drainage pattern, shall cause water to drain away from the foundation of the house, and shall prevent water from flowing under, pounding near, or against the foundation of the dwelling. Water should flow fully over walkways, sidewalks, or driveways into the street.

## ***CONSTRUCTION GUIDELINES***

### ***Inspections***

The Reviewer may perform periodic informal inspections to ensure that work is being performed in conformance with approved plans and the Architectural Guidelines. All inspections are observations only and will not relieve the owner's obligation to obtain inspection approvals from the Town of Cary and/or Wake County and other organizations having jurisdiction.

Job sites not in compliance with these Architectural Guidelines or approved plans will be issued a Notice of Violation. Further construction is prohibited until the homeowner addresses the violations.

### ***Construction Damages***

Any damage to vegetation or common area facilities caused by the Applicant, their contractors, subcontractors, agents or employees must be corrected immediately to the satisfaction of the Reviewer and the owner of the damaged property. If the damage is not corrected, the Association may repair such damage and assess the costs of repair to the Applicant.

### ***Conduct***

The applicant must ensure that all contractors and subcontractors control the conduct of their employees while working in the community. Loud music, profanity and other behavior, which is unbecoming, will not be tolerated. Employees violating this policy may be asked to leave the premises and may be denied future access to the community.

### ***Site Cleanliness***

All **work sites** must be maintained in a clean and orderly manner at all times. The storage of materials should be in an inconspicuous location within the site and stored neatly and orderly. All construction debris shall be cleared on a regular basis.



**CHANGES AND AMENDMENTS TO THE ARCHITECTURAL GUIDELINES**

These Architectural Guidelines may be amended only upon the affirmative vote of two-thirds of the members of the Reviewer and the consent of a majority vote of the Reviewer. Such amendments shall be communicated to homeowners from time to time. All amendments shall become effective upon adoption. Such amendments shall not be retroactive and will not apply to previously APPROVED work, APPROVED work in progress, or Variance.

**LIMITATION OF LIABILITY**

Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications, neither the Reviewer, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither the Association nor the Reviewer nor the officers, directors, members, employees or agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that such person or Owner will not bring any action or suit against the Association, committees, or the officers, directors, members employees, and agents of any of them to recover any damages.