

Southwinds Homeowners Association, Inc.
Summary of Proposed License Terms
Regarding Encroachment at 32 Birch Mill Trail into SHHOA Open Space

Background:

The property located at 32 Birch Mill Trail has had encroachment on Association Open Space throughout the past three homeowners. There are no permits on file, and we are unable to determine who is at fault. The encroachment consists of a 15-foot section of stone wall, a large bench rope swing, a large storage container, lighting, and underground drainage pipes.

The Board of Directors is recommending that the membership authorize the Board to negotiate and grant a revocable license agreement to the current owner(s) of 32 Birch Mill Trail for the following reasons:

- To formally document and manage the encroachment.
- To avoid the cost and disruption of forced removal or litigation.
- To preserve the long-term value of the Association's open space through enforceable conditions.

Key Proposed Terms of the License Agreement:

Scope:

- The license will only cover the existing improvements as surveyed and documented. No future expansion or additional encroachments will be permitted.

Liability:

- The licensee shall be solely responsible for the encroaching improvements. The Association shall bear no liability for personal injury or property damage related to the licensed area.

No Conveyance of Title:

- The license does not convey ownership or any interest in the Association's open space.

Term & Renewal:

- The license is revocable and shall remain in effect unless the license is revoked for failure to remedy any non-compliance or at the agreement of all parties to the agreement.

Transfer Restrictions:

- The license will be transferable. A new agreement may be required upon the sale of the property, and SSWHOA will agree to facilitate the license with the new owner.

Recording:

- At the Board's discretion, the license may be recorded with the town land records to ensure notice to future owners.

Next Steps:

The Board seeks membership approval to move forward with negotiating and executing such a license agreement with the current owners of 32 Birch Mill Trail. The Board reserves the right to retain legal counsel as needed and will endeavor to minimize associated legal expenses related to the license. This action requires member approval at the upcoming Special Meeting.