

SEPTEMBER 2020 SPECIAL ACC NEWSLETTER

As usual, there is a lot of false information that has been given to the community that this newsletter will correct.

There was a recent article written about a wall that violates the height restrictions of both the Dixie Springs CC&Rs, the City of Hurricane ordinances, and the variance that the City of Hurricane gave for the wall. The ACC has not put out information about this issue before this because they keep CC&R violations confidential. But since the violation has been made public by the lot owners, and a lot of incorrect information has been given to the community and the press, the ACC feels they need to put out correct information.

The violation is the height of the walls around three lots owned by Kaz and Drummond in the F section of Dixie Springs.

The documentation from the City of Hurricane can be seen at this link:

<http://www.dixiespringsacc.org/docs/20200908KazDrummondHurricaneCityWallDocs.pdf>

The ACC had nothing to do with the information that was given to the members of Dixie Springs and to the press.

In March of 2018, Kaz/Drummond went to the Planning Commission to get approval for a block wall they wanted to put around their three lots. They requested permission to put a 6-foot wall around their three lots. There was concern by the Planning Commission about the sight triangle at the street corner of the lots. They needed approval because the City code states that no fence exceeding 4 feet shall be erected in the front yard unless they receive permission from the Planning Commission. As part of the meeting minutes, there is a diagram that shows where the wall is supposed to be placed. Their request also stated they would build a 6-foot wall that would be placed 8 feet from the sidewalk.

The maximum wall height allowed in a back yard by the City of Hurricane ordinances is 6 feet.

The maximum wall height allowed by the Dixie Springs CC&Rs is 6 feet.

The ACC recently published a resolution that states that the wall can be 6 feet from the higher ground on either side of the wall (but the ground cannot be bermed to increase the height of the wall). The reason the ACC passed this resolution is the grade difference between some lots can be 4 feet or more. That would mean the wall on the high side would only be a few feet high. The resolution formalizes a policy that the ACC has held for many years. You can see the resolution at this link:

<http://www.dixiespringsacc.org/docs/Policies/DixieSpringsACCWallHeightResolution.pdf>

Kaz and Drummond have claimed they were being singled out because there were other supposed wall violations in Dixie Springs, but these are due to the height differences in grade between the inside and outside of the wall.

In November of 2019, the City of Hurricane sent an email to Kaz and Drummond about the addition of height to the wall. They stated:

“Our inspectors have been approached while working in Dixie Springs about the apparent new additions to the block wall in your back yard. As you know, you were approved for a 6’ wall in the front yard in 2018 because that is the maximum height allowed in a back yard. That code has not changed so you are not allowed a greater height in any part of your yard.

Adding this greater height is a violation of the land use code and the building codes. Please bring your wall height back to the permitted 6’ height within 30 days to avoid further enforcement action.”

You can see this letter in the City of Hurricane documentation.

Also, the extra height was added to the wall without getting a permit from the City of

Hurricane. A permit is required from the City of Hurricane when a wall is erected or changed.

Late in 2019, the ACC received an anonymous complaint about the height of the wall, and they investigated the issue. The anonymous complaint can be seen in the City documentation packet. The ACC saw that the wall clearly violated the height restrictions in the CC&Rs, and also violated the CC&Rs in that no approval was asked of the ACC for the change in wall height. If Kaz and Drummond would have asked for approval before they made the change, they would have been told that they could not increase the height.

The ACC members went to the home of Kaz and Drummond late in 2019 to discuss the issue before any action was taken. Kaz and Drummond refused to talk to the ACC. The ACC had no choice but to take legal action.

After Kaz and Drummond hired an attorney, they asked for arbitration, but arbitration only applies when there are issues with a common wall. In this case, the wall height is a clear violation of the CC&Rs, and the wall height needs to be brought back to the approved 6 feet.

Another issue is whether the wall, as built, actually does meet the setback, especially where it blocks traffic sight lines.

The ACC would strongly prefer that any issues be resolved without having to take legal action. The ACC asked Kaz and Drummond to reduce the height of the wall and gates to 6 feet in order to comply with the CC&Rs. If they had done so, no further action would have been taken. However, the behavior and attitude of Kaz and Drummond made it very clear that they were not going to reduce the height of their wall under any circumstances.