

Glencoe Homeowners Association Trustee Meeting
July 15, 2023 at 9:30 a.m.

Meeting regarding Hutchinson Tree Removal

Present: Barb Kimbrew, George Gates, Harold Gaar, Dean DiCarlo, Karen Feth, Cortney Skory and Resident Joe Hutchinson

This meeting is being held so that resident Joe Hutchinson can appeal the Trustee's denial of his request to remove a shag bark tree that drops large nuts. He was recently hit in the head by a nut while sitting outside. Additionally, he and his wife are replacing their deck and would like to be able to enjoy the new deck more than they can now due to the shag bark tree.

Hutchinson began by sharing that he feels the request is reasonable and that the issue is

“what is reasonable?”. He agrees with the sentiment that this should be a “woody” neighborhood. Hutchinson shared photos of the front and back of their home and stated that removing the tree would not change the appearance of the front of the house.

The Hutchinsons will replace the tree with another hardwood tree. There are three trees in the back and they would only remove the one tree to the farthest left when facing the back of the house.

He continued to share that no-one can see that tree other than one other resident (Murins). The other homes around the back of the house can not see the tree in question. Additionally, Hutchinson shared that he has spoken with every homeowner that shares the back “swamp” and there are no objections. He stated that if the tree was 2 feet closer to the house, he wouldn't need approval.

Hutchinson thinks that this is a reasonable request and that it won't really set a precedent since tree removals must be approved by the Glencoe trustees.

Harold Gaar, Board President, pointed out that the Trustees would have no standing if we approve this request to remove a tree that drops nuts and not other requests. There have been many requests to remove trees and the Trustees have followed the bylaws for each request. Dean DiCarlo stated that there have been multiple requests for tree removal due to falling sticks, roof moss, and falling nuts. The concern is that all of the former requests have been denied so approval of this request would be inconsistent. DiCarlo also has three nut trees and they are less than 10 feet away from his house now due to growth. They drop nuts frequently. He has never requested that they be removed.

Hutchinson stated that perhaps other requests should have been approved. The bylaws do say the board has the authority of "sole discretion." But, he stated it is a question of reasonableness and that we are all neighbors and should treat each other as such. He shared that previous denials are irrelevant and that this is a reasonable request and has no impact on any other residents.

Gaar stated that as an attorney, Hutchinson should know that precedents matter. Hutchinson responded that precedent is a subset of reasonableness. Gaar stated that the declarations and covenants were very carefully developed up to and including how homes were originally sited and built. Furthermore, as long as the tree is not dangerous to the home or homeowner, it should stay. The HOA will trim or remove any tree that threatens the structure of a home.

Hutchinson said that under Ohio law, the denial has to be reasonable. Gaar stated that according to an attorney familiar with homeowner's associations (HOAs) as well as management companies for other HOAs, this is a reasonable denial.

Feth stated that she has nut trees, lives with the falling nuts, and that she would never ask to have the trees taken down. Hutchinson stated that he could reasonably disagree with Feth and that he was leaving because he could see where this meeting was heading.

After Hutchinson departed, the Trustees discussed that the tree may actually be located on HOA owned property and that Hutchinson may be asking to remove a tree that is not located on his own property.

The decision to deny the request to remove the tree was reaffirmed by all trustees.