

# *Avendale Home Owners Association*

**C/O Premier Management Company**

**P.O. Box 12051**

**Wilmington, N.C. 28405**

September 6, 2016

Board of Adjustment  
Pender County, North Carolina

Dear Members of the Board:

Fred and Lori Mahnken are home owners at 15 Preswick Drive in the Avendale Subdivision and as such are thus part of the Home Owners Association, HOA. They have been working with the Pender Planning staff and the Board of Adjustment for several months to resolve their issue with solar panels in their back yard and behind their fence that are too close to the property line to meet the required set back.

After the Board postponed action on their request, Fred & Lori then approached the Avendale HOA to see if they could purchase three feet of HOA common property behind their lot to make their solar panels in compliance with the set-back requirements and action by the Board unnecessary. The HOA Board was willing to grant them an easement but in discussing this with the Planning Staff an easement would not be sufficient. After consulting with our Attorney we found that in order to sell or give away any HOA property and approval of 80% of the homeowners was required by state law. The HOA held a meeting on October 18, 2016, to consider this request (a copy of the information sheet is attached). The request did not receive the necessary number of votes (122 of the 152 homes). A controversial vote on allowing above ground pools, requiring 67% approval, as also on the agenda and it failed too. We did not have enough votes cast to allow either item to pass. It is extremely difficult to get 67% much less 80% of the homeowners to agree to or turn out and vote on any issue.

We truly hope the Board of Adjustment will grant the variance to the Mahnken's to allow their solar panels to remain as they have been built. The panels are out of sight and behind their fence. The property owner to their rear is the HOA and it will not affect any present or future plans the HOA would have for that land. The plan is for the land to remain open space without construction on it.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Hartman". The signature is fluid and cursive, with the first name being the most prominent.

Richard D. Hartman  
President, Avendale HOA

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Dear Homeowner of Avendale Subdivision:

Two of our neighbors, Fred & Lori Mahnken of 15 Preswick Driver have asked the HOA to sell them three feet of HOA Common Area behind their home. Our attorney has indicated to do so the HOA must have agreement of 80% of the lot owners in the subdivision.

The Mahnken's hired someone to install solar panels in their back yard with the long range intent of reducing or eliminating their electric bill. The contractor or the Mahnkin's failed to get a building permit from Pender County. The contractor installed the panel stands and took a long time to install the panels and the wiring. They were going to get the electric company's permission to connect to the system when they found out no permit had been obtained. They found out the wrong wiring had been installed. They got an electrician to install the correct wiring. Then the County informed them that the panels were too close to their rear property line set back by 2' 10". They then tried to obtain a variance from the County for the set back. The County Zoning Board reviewed the case in May and determined that the Mahnken case did not meet all four criteria for a variance. Instead of denying the request they continued the case until June and asked the Mahnken's to see if the HOA would sell them the land. The HOA asked if an easement would suffice for the County and they said "no", only ownership of the land would allow the Mahnken's to be within the 10' required set back and make a variance unnecessary. The case was continued until July 20.

The Mahnken's have agreed to pay for the attorney's opinion on what the HOA might be able to do in order to sell the land to the Mahnken's. They have further agreed to pay for the survey of the land that could be recorded, the attorney's fee for preparation of the deed, not to move their fence to include the additional property and \$2,700 (the approximate cost of the land based on their land assessment from the County).

The advantage of this to the Mahnken's is not having to move the solar panels and electrical lines to the panels and less dealings with the contractor. There is no real advantage to the HOA to do this. The disadvantage to the HOA is setting a precedent for other homeowners in the association who might wish to purchase HOA common area.

Attached is a ballot asking you to vote for or against their request. We ask that you return your ballot by July 6, 2016 to Premier Management. You may alternately submit your proxy and ask

one of the HOA Board members (Dee Hartman, President; John Durbin, Vice-President, John DeVeugh; Treasurer, Paula West, Secretary or Kailee Clipp ) to vote as they wish or you may attend the Board meeting on July 7, 2016 at 7:00 pm at the Pender County Annex building on Route 17 and vote for or against at that time. Understand, that if you do not vote for the request or give your proxy to a Board member you are effectively voting against the request because in order for this matter to pass 80% of the members must be in favor of the request, Please, consider this matter and vote your conviction.

Sincerely,

Avendale HOA



This is not Located in a Flood Zone -  
 NC Insurance DFIRM Panel (Zone X)



PURPOSED FENCING  
 LOT # 59  
 15 PRESWICK DR.  
 AVENDALE

EXISTING  
 NEIGHBORS  
 FENCING

GARAGE DOOR

Child-seek jobs are generally more noticeable  
 requiring routes to be closer to the street than  
 the model home resulting in shorter drives.

In-house plot plans are subject to  
 field modification and should not be  
 used in lieu of a final survey.

Buyer initials \_\_\_\_\_  
 Buyer initials \_\_\_\_\_

**1**  
 Plot Plan

Scale 1"=20'

Southern  
 Homebuilders, Inc.  
 108 N. Kerr Ave., Suite K-3  
 Wilmington NC 28405  
 Tel. (910) 799-0192  
 Fax (910) 452-3166

Permit#112106  
 Lot#059 Avendale  
 Preswick Drive  
 Hampstead, N.C. 28443

Township: Topsail  
 County: Pender  
 Book: 50  
 Page: 87  
 Phase: 3A  
 Section:

**Model**  
 Savannah AG2

Approx. Square Footage  
 1st floor Htd 1911  
 2nd floor Htd 264  
 Total Htd 1765  
 Garage 420  
 Porch 283

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