

Decision of Hearing Held April 20, 2017

This is the decision of the Moretown Development Review Board with respect to the Application of Trek Communities, LLC for a side setback waiver to ten feet. Reference is made to the Minutes of the Board which provide a summary of the issues and evidence presented at the April 20, 2017 hearing. The Board's findings and conclusions are as follows:

1. Trek Communities, LLC owns a 10.37 acre parcel off River Road which operates as a twelve unit mobile home park. Trek owns the land and maintains the access road and common water and septic systems. Tenants for the most part own their mobile homes and pay lot rent to Trek. The evidence was the Park predates enactment of zoning in Moretown in 1976.
2. The present uses and structures are grandfathered and protected as non-conformities under Section 4.8 of the Moretown Zoning Ordinance. In addition, a mobile home park is an allowed conditional use in the Agricultural-Residential District in which the Park is located.
3. No change in use and no new structures are proposed as part of this application. Applicant simply requests that the setback applicable to its common boundary with that of Sara Cleland be reduced from 25 feet to 10 feet pursuant to Ordinance Section 4.5(C).
4. There was no evidence the Park has ever had difficulty obtaining any needed zoning approvals when park tenants replaced mobile homes, or a tenant left, and was substituted by a different mobile home of a different tenant in the same location.
5. A 1997 survey excerpt submitted as part of the application shows mobile homes and associated storage sheds benefitting residences on or near the common boundary with Sarah Cleland. As such, the present locations of some mobile homes or sheds would still be non-conforming structures under a reduced side setback. However, if any replacement mobile home was required to conform, a reduced setback would increase the possibility a shorter replacement structure could be sited.
6. Ordinance Section 4.5(C) provides in relevant part:

Notwithstanding the minimum setback standards...for various zoning districts...the DRB may allow the modification of building setbacks as a conditional use...subject to the following provisions:

(1) The DRB may allow for ...side/rear setback reduction from twenty-five (25) to not less than ten (10) feet (Agricultural-Residential District and Commercial District) from the side or rear property line...[if it]

- a. accomplishes the preservation of a scenic feature(s) not otherwise protected by the required setback; or
- b. is necessitated by building constraints caused by geologic, topographic, or hydrologic conditions.

7. As noted above, this is a new provision in the Ordinance . The Board interprets the section as not justifying a reduction of an applicable setback for possible future structures and uses that are not presently contemplated or proposed. The present request if granted would not preserve a scenic feature and is not needed because of building constraints caused by geologic, topographic, or hydrologic conditions.

8. That at some future time a mobile home may not be able to be replaced is only a possibility. The one year abandonment criteria of Section 4.8(E) pertain to non-conforming uses. It certainly can be argued that if a tenant home vacates a location, the basic configuration and existing use of the property as a 12 unit mobile home park has not been altered or abandoned. Rather, there is simply a period of vacancy before a replacement tenant is procured. The Board is not pre-judging or determining how various facts and circumstances might apply to replacement of mobile homes. It is only observing that a request for reduced setback should be considered in the context of a proposed change in structure location or type of use. Section 4.5(C) is not intended as a mechanism by which property owners can seek a general reduction in the setback applicable to their property, from that normally applicable in the District.

9. Further, the Board is not convinced that any ruling would resolve TREK Communities perceived need to establish ownership to additional acreage through adverse possession. And even if it did, it is not the role of the DRB to stretch the reasonable meaning of zoning provisions to resolve private disputes.

In Summary, the DRB denies Applicant's request for a reduced side setback.

Moretown Development Review Board

Date

05 May 2017

Date

Erick Titrud



David Russo

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Moretown Development Review Board

5/4/2017

Date

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Date

David Russo

5/5/2017
Date

5/5/17
Date

5/5/17
Date


Greg Nagurney


Paula Woods


John Riley