



Kitsap County Department of Community Development

FORMAL DIRECTOR'S INTERPRETATION

Date: May 23, 2018

Business Location: NA

Subject of Interpretation

Kitsap County Code (KCC) 17.570.050(D): Nonconforming Uses, Structures and Use of Structures; Nonconforming Uses of Structures; Destruction of Nonconforming Use of Structure.

Cause for Interpretation

This interpretation addresses the replacement of mobile homes or manufactured homes when such replacement may exceed the allowance of code as noted below.

This interpretation is solely related to land use under Title 17 KCC, Zoning, and does not address the legality of the use under state law. Furthermore, this interpretation may not be construed as an authorization to circumvent or violate state or federal laws.

Background

This interpretation was triggered by a legally established non-conforming manufactured home in a commercial zone. In accordance with KCC 17.570.050(D), the non-conforming section of the code, any replacement of a structure shall not be larger in size than the existing non-conforming structure. The provision states in full:

Destruction of Nonconforming Use of Structure. If any nonconforming use of structure is destroyed by any cause, it shall be allowed to be reconstructed as a nonconforming structure up to the same size (total square footage of structure, square footage of footprint of the building and height) and appearance; provided, however, the director has the discretion to allow a different appearance if he finds that it would be more compatible with the zone in which it is located. A complete application for such reconstruction must be filed with the department within a one-year period from the date the structure was destroyed.

When searching the market for replacement of pre-constructed mobile homes or manufactured homes, the availability of these 'pad-ready' structures come in various sizes, depending on the manufacturer/model, and there may be circumstances where replacement of a structures may not be dimensionally identical to the structure that was destroyed or in need of replacement. For example, if a homeowner wants to replace a 24-ft x 56-ft (1344 sq ft) 1975 Champion Sequoia mobile home, the homeowner may find that the closest model on market and available for purchase is the 27-ft x 52-ft (1404 sq ft) 1992 Silvercrest Presidential manufactured home (a difference of 60 sq ft).

Interpretation

The intent of KCC 17.570.050(D), "Destruction of Nonconforming Use of Structure" is to allow lawfully existing uses to continue even though the use would not be allowed under today's code. Furthermore, as a nonconforming use, KCC 17.570.050(D) does not allow the enlargement or

expansion of non-conforming use. However, it is not wholly within the applicant's control when attempting to replace a mobile or manufactured home with a size that would match an earlier model within the timeframes required by code. In order to prevent hardship to the property owner having to replace an existing mobile or manufactured home with one of the exact size, this interpretation will refer to the provision of the zoning code that allows the Director to, in limited circumstances, grant relief of a numerical standard up to 10%.

Under KCC 17.105.010, the Director is authorized to grant administrative variances "of up to ten percent of any numerical standard, except density, when unusual circumstances cause undue hardship in the strict application of this title" so long as certain criteria are met. These criteria are:

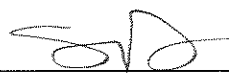
- A. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply to other property in the same vicinity or zone;
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone;
- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which the property is located; and
- D. The variance is the minimum necessary to grant relief to the applicant.

Therefore, if the owner of a replacement mobile home or manufactured home (within the 10% dimensional deviation from the existing home) can demonstrate they meet the variance criteria noted above, they will be allow to continue as a legal nonconforming use.

Conclusion

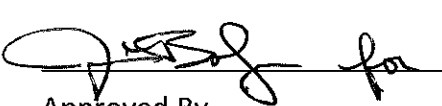
When requested by the applicant, the replacement square footage of a mobile or manufactured home under KCC 17.570.050(D) may be exceeded by no greater than 10% in size, on a case-by-case basis.

This decision is a final Type 1 decision of DCD and may be appealed within 14 days of the mailing date noted above pursuant to KCC 21.04.290.



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5.23.18
Date



Approved By
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