



July 19th, 2023

To: Chairman Shockey and the Commissioners

From: Kim White, Community Development Director

RE: Consideration to Adopt Resolution 08-2023 to Grant the Expansion and Enlargement of a Non-Conforming Structure Located at Block 14, Grand Lake Estates 2nd Filing; More Commonly Referred to as 700 Lake Front Road (A.K.A. Shadow Mountain Recreation Park) #23

Location Map:



Purpose:

To replace an existing trailer with a newer unit. The owner states that the 1957 trailer is uninhabitable with major plumbing issues and needs replacement.

Background:

Town Staff received an application to replace a mobile home in the Shadow Mountain Recreation Park which is zoned Resort. Resort zoning does not allow for mobile home units, therefore the applicant has requested an exception be granted to allow them to replace the pre-existing, non-conforming unit.



According to Certificate of Title, the existing mobile home (Unit #23) was constructed in 1957. Staff properly noticed the request and received one letter in opposition of the request (see attached).

Owners submitted required paperwork for the request:

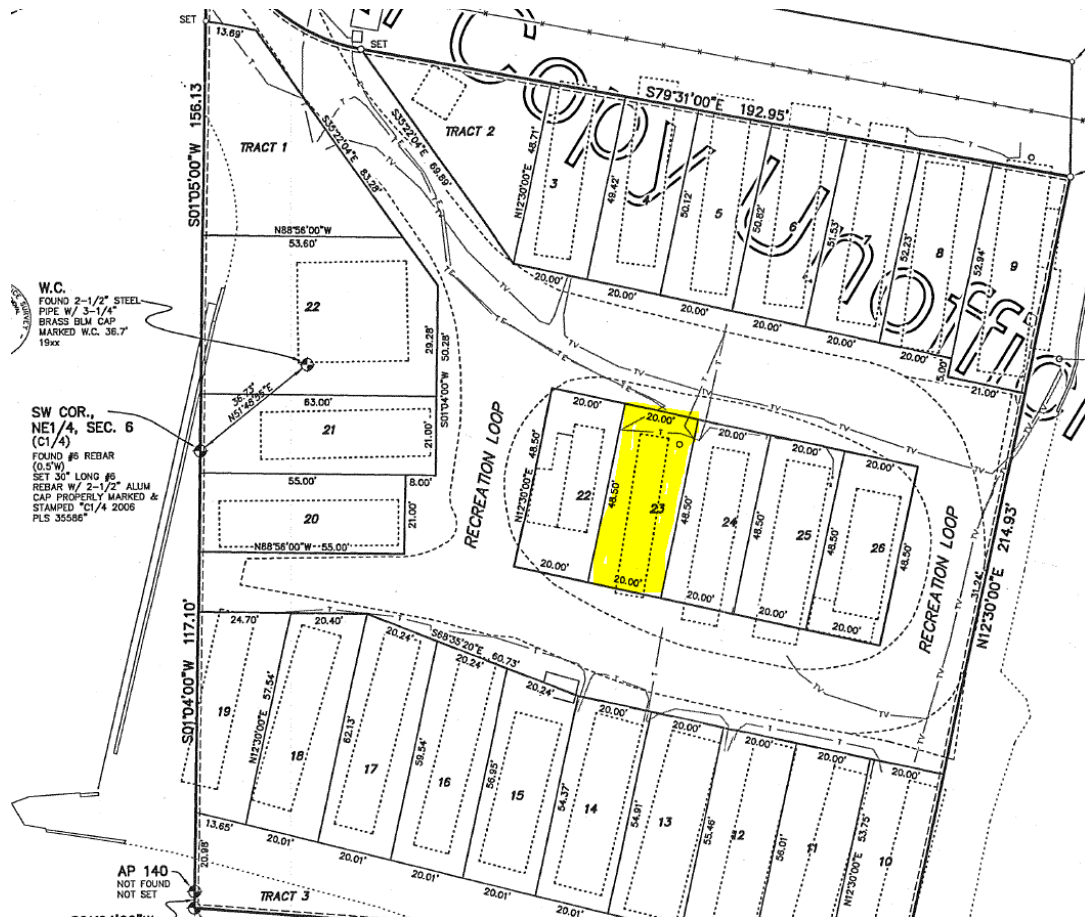
- Site Plan
- Explanation of Hardship- the existing 1957 trailer is 48.5 ft. x 10 ft. in dimension. Trailers are no longer available in this size and are larger in width than previously manufactured.
- Survey
- Signed Agreement for Services with the Town and deposit
- HOA approval letter

The proposed replacement trailer has a smaller square footage and is within the HOA guidelines for size (see table 1).

Table 1

	Existing trailer	Lot size	Replacement Option a	Replacement Option b
Dimensions	45' x 10'	48.5' x 20'	37'-3" x 10'-10"	36'-1" x 11'5"
Square Footage	450 sf	970 sf	404 sf	412 sf

Figure 2





Municipal Code 12-2-6 Definitions states:

Mobile Home - Any vehicle or similar portable structure originally constructed to have no foundation other than wheels, jacks or skirtings and so designed or constructed to permit occupancy as living or sleeping quarters and shall have been issued a manufacturer's statement of origin.

Municipal Code 12-2-32 Non-Conforming Uses and Structures states:

(A) Non-Conformance - Certain uses of land and buildings may be found to be in existence at the time of the passage of this Article which does not meet the requirements as set forth herein. It is the intent of this Article to allow the continuance of such non-conforming use.

1. A building or use that is in violation of the requirements of this Code and was constructed or established since the adoption of this Code without the necessary approvals, permits or authorizations from the Town is considered nonconforming. The owner and/or operator of a nonconforming building or use shall be subject to actions and penalties allowed by this Code and all other applicable Town Ordinances and shall be required to correct the nonconforming situation to come into conformance with all applicable standards and regulations of this Code.

(B) Expansion or Enlargement

1. A non-conforming building or use to be extended or enlarged shall conform with the provisions of this Article.

(a) Special Exceptions to Provisions on Expansion of Non-Conforming Uses

3. The Planning Commission may authorize, upon appeal in specific cases, an exception permitting an increase in a non-conforming use on a parcel when the parcel has similar non-conformances, subject to terms and conditions fixed by the Commission. No exception shall be authorized hereunder unless the Commission shall find that all the following conditions exist:

(a) The use is a non-conforming use as defined by this Article and is in full compliance with all requirements of this Article applicable to non-conforming uses;

(b) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Article regarding non-conforming uses will result in unnecessary hardship;

(c) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same zone district or other zone districts;

(d) That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;

(e) That the exception will not weaken the general purposes of this Article or the regulations established herein for the specific district;

(f) That the exception will be in harmony with the spirit and purposes of this Article.

(g) That the exception will not adversely affect the public health, safety, or welfare.



Additional Information:

In 2007, the Planning Commission reviewed a planned development application for Block 14, GLE 2nd filing, which was called the Shadow Mountain Recreation Park. The Commission recommended the planned development proceed with preliminary plat. The planned development has not moved forward since 2007.

- The Board of Trustees granted an Encroachment License for Unit #6 by Resolution 1-2016.
- The Planning Commission granted a change to a non-conforming structure by Resolution 23-2015 (Unit #6).
- The Board of Adjustment denied a variance application to expand the existing mobile home square footage (Unit #10) in 2006.
- The Board of Adjustment granted a variance application to expand the existing mobile home square footage (Unit #15) in 2005.
- The Board of Adjustment granted a variance application to expand an existing mobile home square footage (Unit #13) in 2002.
- The Board of Trustees granted a variance application to expand an existing mobile home square footage (Unit #12) in 2022.

Staff Comments:

Commissioners shall find that 12-2-32 (B) (3) items a-g exist in order to approve an exception to the non-conforming condition. Staff believes the completion of the Planned Development Application would alleviate most building permit requests for the property. Considering the age of the Planned Development Application and lack of progress by the Applicant to complete review by the Town, Staff believes issuing building permits to the structures only encourages the application to remain idle.

Staff recommends the Commission adopt the draft resolution as presented, which grants the replacement of the existing non-conforming mobile home with a less non-conforming unit and includes the following conditions:

1. The Applicant obtains an approved Building Permit for the Property; and,
2. The Applicant complies with all other federal, state, and local regulations; and,
3. In granting this Request the Commission is not obligated to grant similar requests in the future nor does granting this Request set precedent for any future requests; and,
4. The Applicant has one (1) year to comply with all the conditions and requirements above or this authorization shall become null in void.

Commission Discussion:

The Commission should discuss the findings of fact for the non-conforming structure, and the request of the Applicant.

Motion:

The Commission has several options to consider including:

1. Adopt Resolution 08-2023 as presented; or,
2. Adopt Resolution 08 -2023 resolution with modifications; or,
3. Deny the resolution.