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Teresa MacNutt - Understanding terminology: legal & legal non-conforming

June 09, 2011 - Appraisal & Consulting

Three residential cases are presented because there are zoning classification issues with the structure or site.

Let's first begin with an understanding of our terminology: legal and legal non-conforming.

Legal refers to a residential structure currently allowed under zoning codes and other laws and regulations that govern land use restrictions in a community.

Legal non-conforming refers to a residential structure that was allowed when a zoning code was established; however, it does not meet one or more provisions in the current zoning code in that community.

Case One: A cape-style dwelling consisting of 1,368 s/f of gross living area, with two bedrooms and one bathroom, built in 1950 on a site consisting of 8,135 s/f site with 75 feet frontage. The property is located in a zoning district requiring a site to have a minimum lot area of 6,000 s/f and a minimum lot frontage of 60 feet. This site is legal and in zoning compliance.

A buyer purchased the property in 2009, demolished the dwelling and in 2010 built a colonial style structure consisting of 3,528 s/f of gross living area with four bedrooms, two full bathrooms and two half bathrooms.

Is it legal? The buyer purchased a parcel of land from a neighboring site consisting of 2,122 square feet. The purpose of the land acquisition was to meet the zoning dimensional requirements in this community. The site with its current dwelling consists of 10,257 s/f with 75 feet frontage.

This site is legal and in zoning compliance.

Case Two: A site contains 10,964 s/f with a two-family dwelling built on it. The site is located in a zoning district where this type of dwelling is a permitted use. The zoning district in this community requires a minimum lot area of 15,000 square feet. The site is legal non-conforming.

Could this property be rebuilt? Yes, according to zoning codes in this community, if a non-conforming structure is damaged by fire, flood, or other casualty or by vandalism, then restoration of this non-conforming structure is allowed.

Case Three: A parcel of land in a community contains 9,594 s/f and 50 feet frontage. The zoning district where this parcel site is located requires a minimum lot area of 15,500 s/f and a minimum lot frontage of 125 feet. The prior dwelling on this site was a ranch built in 1960 consisting of 1,144 s/f of gross living area with three bedrooms and two bathrooms. In 2001 this property was demolished and a colonial with approximately 4,000 s/f of gross living area with five bedrooms and four bathrooms was constructed.

How is this possible? Because while the site is legal-non conforming, in this community you are allowed to construct a dwelling which meets all the dimensional controls set forward in its zoning bylaws.

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