

Want a Mobile Home?

Better check the zoning requirements first

by Stephen McCollum

In early 1981, P.D. and Irene Duggins had a chance to own their first home. Duggins' sister had given him a one-acre lot in a newly annexed part of Walnut Cove, a community in Stokes County 23 miles north of Winston-Salem. A 52-year-old maintenance worker for the Lorillard Tobacco Company, Duggins felt that his age would handicap him in arranging financing for a conventional home. So he and his wife decided to buy a new "double-wide" mobile home instead, a 1,344 square foot beauty that cost \$24,500 on the lot.

Before purchasing the home, the Duggins requested and received a permit from Walnut Cove to install the "manufactured" home — as the industry now calls today's version of the house on wheels — on their lot. The Duggins then put \$2,474 down, obtained financing at 17½ percent for another \$22,026, paid a \$200 fee to tap into the town's water system, and arranged for the two sections of their home to be delivered to their land.

"We brought it out on a Wednesday," remembers Irene Duggins, "and the neighbors up the street started fussing about it." As the Duggins were preparing to build a foundation around their new home, town officials halted installation, claiming the placement violated the town's zoning ordinance for a restricted residential area. The Duggins didn't like what they heard. "It's very upsetting to have people tell you where you can or can't live," says Mrs. Duggins.

Backed by the N.C. Manufactured Housing Institute (NCMHI), the industry trade association in Raleigh, the Duggins went to court to contest the constitutionality of restrictive zoning of mobile homes. In May of 1982, N.C. Superior Court Judge James Long ruled that Walnut Cove has the right to exclude mobile homes from residential districts. NCMHI and the Duggins are appealing the decision to the N.C. Court of Appeals. Meanwhile, the Duggins double-wide new home sits nearby on his sister's farm, unoccupied. And the Duggins are still renting. "I've paid on a house for a year and can't even live in it," laments P.D. Duggins.



Photo by Howard Walker, courtesy of Winston-Salem Journal

P.D. and Irene Duggins with their mobile home sitting unoccupied in the yard of Mr. Duggins' sister. The town of Walnut Cove has prevented the Duggins from placing the home on their own property through restrictive zoning. The Duggins are appealing a N.C. Superior Court ruling, which supported Walnut Cove, to the N.C. Court of Appeals.

No one knows how many people like the Duggins have come up against restrictive zoning ordinances. But statistics do suggest that many North Carolinians may be sharing the Duggins' fate. North Carolina ranks fourth in the nation in sales and shipments of mobile homes. One of every 10 households, according to the 1980 U.S. Census, lives in a mobile home, a percentage that almost doubled during the 1970s. The cost of a mobile home seems to be the most important factor in this trend. In 1981, according to the NCMHI, the average retail price of a mobile home was \$13,750. Even if other costs were added to this figure — transportation, land, site preparation, unit set-up, and any additions that make a mobile home appear a more permanent part of the area — it still would fall far below the \$41,700 average price tag for all 1981 conventional homes for which permits were issued.

It is clear that mobile homes will continue to be an important housing source for an increasing proportion of North Carolinians, particularly the

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Photo by Stephen McCollum

Double-wide mobile home in a rural area east of Charlotte.

moderate-income, rural, and elderly populations. What is not clear is whether these people will continue to face highly restrictive zoning laws regulating the placement of their homes.

Since the 1930s, when the first live-in trailers were hitched to cars, mobile homes have had a transient image. But in the last decade, a decided shift has taken place within the mobile home industry toward a larger and more “conventional” looking home. The multi-section, or double-wide, model now accounts for about 15 percent of annual production in North Carolina and 30 percent nationally. Meanwhile, strict federal construction and safety codes have eliminated the basis for many traditional complaints regarding the quality of mobile houses. Moreover, the trailer image no longer reflects the reality; only four percent of mobile homes are now moved from their original location.

These trends have prompted the industry to begin referring to their product as “manufactured” homes (MHs) rather than mobile homes. “Mobile” reinforces the transient image. “Manufactured” implies soundness and permanence. (The shift in language can sometimes be confusing. One might assume, for example, that a modular dwelling, which is constructed in sections in a factory but assembled on the building site, is included in “manufactured” housing. This article follows the language of the trade association, using “mobile” and “manufactured” interchangeably, but neither includes modular structures.)

Despite the contemporary appearance and quality of manufactured homes, the conventional image remains: “the pink and white rectangular box squeezed into a trailer park by the side of a highway, next to the aquamarine dinosaur in the miniature golf course,” as Thomas E. Nutt-Powell put it in *Manufactured Homes – Making Sense of a Housing Opportunity*.

Failing to distinguish mobile-home parks and single placements in residential areas further complicates this persistent image problem. “If it weren’t for the bad history of mobile-home parks, they would have been out of the woods on this long ago,” says Philip P. Green, Jr., an authority on zoning at the Institute of Government at the University of North Carolina at Chapel Hill. “Most towns now have adequate regulations for mobile-home parks, but they are still uncomfortable about having mobile homes come onto any lot in town. The feelings about property depreciation are so strong it creates political pressure on local leaders. The courts may have to take the lead.”

Relying on a 1923 state zoning enabling act that allows municipalities to regulate the use of property for the “general welfare of the community,”¹ local officials have restricted mobile home location. While mobile home owners have contested the degree to which their homes do indeed detract from the “general welfare of the community,” the North Carolina courts have stood firmly behind the local officials. As recently as 1980, the N.C. Court of Appeals held that “mobile homes are sufficiently different from other types of housing so that there is a rational basis for placing different requirements upon them” (*Currituck County v. Willey*, 46 N.C. App. 835). That “sufficiently different” assertion by the court is at the heart of the zoning debate over manufactured homes.

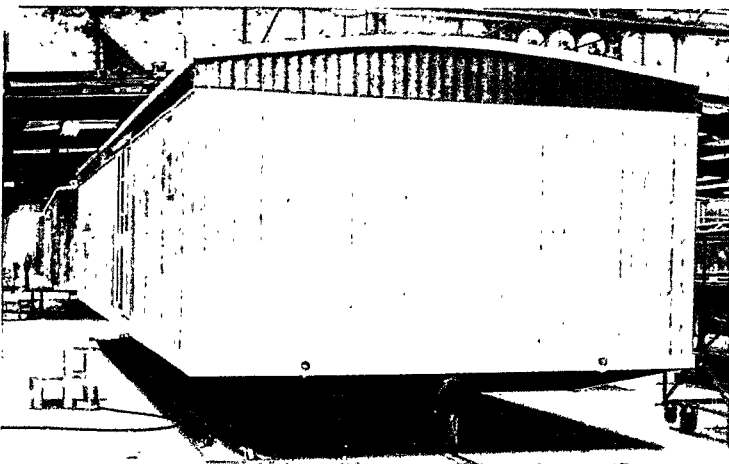
There is a certain irony in this "sufficiently different" rationale. While the judicial branch has reinforced a restrictive policy, effectively separating manufactured from conventional site-built housing, the legislature has taken the lead nationally in regulating manufactured housing. Legislation has served to upgrade the quality of mobile homes and make them more competitive with site-built homes. In 1969, the state legislature enacted the Uniform Standards Code for Mobile Homes, affecting all mobile homes produced after July 1, 1970. Congress did not take similar action until five years later, passing the National Manufactured Home Construction and Safety Standards Act. The U.S. Department of Housing and Urban Development (HUD) administers this code, which pre-empted the state act. The state and federal actions have resulted in upgrading the quality of the building materials used in mobile homes, effectively reducing the number of homes easily susceptible to damage by fires and high winds. This upgrading process has in turn increased consumer pressure to allow manufactured homes into previously restricted residential districts.

For example, in Mt. Holly, a town in Gaston County west of Charlotte, an increasing number of double-wide, manufactured home owners recently requested permits to place their homes in restricted areas. In response to this pressure, Mt. Holly changed its ordinance, now allowing double-wide MHs in approved residential areas, provided the MHs meet specific "appearance criteria," on roof pitch, facade, foundations, and other features. "It was suggested that manufactured homes be kept in moderate-to-low income areas," says Allen Medlin, planning and zoning director for Mt. Holly, "because the homes serve people out of the conventional home price range." But Medlin, who says he welcomes the zoning change, sees a definite shift toward a wider acceptance of manufactured houses in the future "because that is what people can afford."

A similar kind of change is underway in Union County, on the east side of Charlotte. "We've had to turn down a lot of people who want mobile home [permits]," says the county's planning director, Luther McPherson. For over a year, officials have been debating a proposed zoning amendment that would reduce the lot size requirement for a manufactured home. After the county planning board initially rejected the amendment, McPherson drafted a new ordinance based on an American Planning Association model. The latest draft, which has not passed as of this writing, divides manufactured homes into three classes based on such appearance standards as minimum width, roof, pitch, exterior facade, and permanent foundation. The Class A home, which would most closely resemble conventional single-family homes, would be the least restricted of the three classes of manufactured homes by the new ordinance.

The N.C. Manufactured Housing Institute supports such zoning efforts as the Mt. Holly and Union County officials are pursuing. William Maskal, a zoning consultant for the NCMHI, has drafted a model zoning ordinance similar to the one being considered in Union County. "The idea that zoning is not supposed to deal with aesthetics is just not true any more," says Maskal. On May 4, 1982, the N.C. Supreme Court made a finding that supports this position. Reversing a long-standing legal doctrine in the state, the high court gave local governments the flexibility to base planning and zoning decisions solely on aesthetics [*State v. Jones*, 305 N.C. 520 (1982)].

Maskal believes the model ordinance, if adopted in enough towns across the state, would open up the market and make manufactured homes available to first-time buyers and persons on fixed incomes who can't afford or qualify for conventional housing. "Land use and zoning policies have consistently discriminated against manufactured housing by being exclusionary or limiting its placement to uncomplimentary sites," says Maskal.



Mobile home comes off the assembly line at Carolina Homes, Inc. in Rockwell, North Carolina.

Photo by Stephen McCollum

Basing local ordinances on aesthetics rather than image represents only one of the recent policy shifts in support of manufactured homes. In August of 1981, the Federal Home Loan Bank Board (FHLBB), the regulatory agency for federal savings and loan associations, said that manufactured housing which is permanently affixed to a lot could be treated by lenders as real, rather than personal, property. (This ruling also applied to associations chartered in North Carolina.) Historically, mobile homes have been treated as personal property, like a car, for taxing and financing purposes. The new FHLBB rule allows a manufactured home to be financed just like a site-built home, which means lower down payments and a longer term of payments than in the past. Shortly after the FHLBB action, the Federal National Mortgage Association (FNMA, known also as Fannie Mae) announced that it would buy mortgages on manufactured housing, an action sure to increase a saving and loan association's willingness to make loans for MHs.

Some states have also begun to treat manufactured housing more like conventional homes. California and a number of other states, for example, now tax mobile homes as real property, like a conventional house, not as personal property. In addition, 14 state housing finance agencies have assisted in some type of financing for mobile homes. And even in the controversial area of zoning, California, Vermont, New Hampshire, and Florida have enacted non-discriminatory zoning statutes prohibiting local governmental jurisdictions from excluding manufactured homes except through the use of appearance criteria similar to those included in the Mt. Holly ordinance.² (California and Florida, like North Carolina, are among the leading states for number of residents living in mobile homes and number of such homes produced.)

North Carolina has a mixed record concerning policies affecting manufactured homes. As mentioned earlier, the state took an aggressive stance on construction and safety standards, enacting legislation five years before federal action. In addition, in 1981 the General Assembly found that "mobile homes have become a primary housing resource for many of the citizens of North Carolina" and created a Manufactured Housing Board. The new Manufactured Housing Board, which began operation in 1982, will administer a warranty program, will license manufacturers and dealers, and will monitor consumer complaints. The nine-member board includes the N.C. Commissioner of Insurance, six representatives from the various sectors of the manufactured home and finance industries, and two public members. The NCMHI worked closely with the

Department of Insurance, which monitors consumer complaints in accord with the HUD code, in the development of the Manufactured Housing Board. NCMHI Executive Director Becky Griffin says that the creation of this state board does not mean the industry is over-regulated. The board can "only be a plus factor for our credibility," says Griffin.

While taking major initiatives in safety standards and monitoring of the industry, the state has pursued a much more passive stance towards zoning, tax, and finance issues. For example, the N.C. Housing Finance Agency does not have a program designed specifically to help finance mobile homes, a difficult task in today's financial world but one which could be considered. Regarding property taxes, local governments can now choose how to tax mobile homes. The General Assembly could vote to require local governments to tax mobile homes as real property, a complex policy decision but one worth thoughtful debate. But the major deterrent towards the industry's breakthrough into the mainstream of the housing market remains the zoning battle.

At a time when a conventional home is too expensive for an increasing number of North Carolinians, more and more people are beginning to question the value — and the legality — of ordinances restricting mobile-home locations. If zoning ordinances were altered to reflect appearance standards, more North Carolinians might consider a manufactured home as a viable option in a tight housing market. Becky Griffin, the NCMHI director, does not live in a manufactured home yet. "But I would in a minute if I could put it where I wanted it," she says.

Is Ms. Griffin taking a public relations stance expected from a person in her position? Or is she reflecting an important new trend among potential homeowners? To discover just how many persons would choose mobile homes in today's market, state officials will have to take a serious look at the central policy questions still unresolved in North Carolina regarding mobile homes:

- whether to tax them as real or personal property;
- whether to finance them through state-supported lending programs; and
- whether to zone them in a non-discriminatory fashion. □

FOOTNOTES:

¹N.C.G.S. 160A-381.

²California Government Code Section 65852.7; Vermont Statutes Annotated Title 24, Section 4406(4)(A); New Hampshire Revised Statutes Annotated Section 36-C:2(I); and Florida Statutes Annotated Section 320.8285(5).