

Why I take exception to the Tonnadoonah Board raising a 60 year old deed restriction.

In 2022 I was told that I am “not living up to Tonnadoonah standards” based on a set of 60+ year old deed restrictions that were not provided to my parents at the time they purchased our property, and apparently were not fully adhered to by the person my family bought the property from. The deed restrictions were essentially a forerunner to zoning, and they were largely usurped by the onset of codified state-wide zoning which occurred less than a year of my family’s property purchase. (My parents purchased our family property on July 31, 1967. The Michigan Zoning Act of 1967 went into effect on January 1, 1968, five months later.) Zoning Code provides any family with the (grandfathered) right to live as they always have, so long as that situation is safe. My family’s lifestyle has always included the seasonal use of an RV trailer which was installed on the property by the family we purchased our property from (R. Caplin).

Why after 55 years the issue was brought to a head is both unfortunate and questionable. My feeling is that it has to do with my attempts to support the community as an officer of the now defunct Cedar Lane Conservancy Board. In fact, I was confronted in person by another resident of our lane who told me, “Hal, you can’t break the rules on one side of the road and enforce them on the other.” My immediate response to that statement was, “I’m not aware of any rules that I am breaking on either side of the road.”

Such sentiment makes it clear to me that my attempts to uphold the tenets of the Conservancy was a primary motivation to undermine my own credibility on the lane based on the notion that I’m a rule-breaker too. While I was not aware of the aforementioned Tonnadoonah deed restrictions, I have been informed by legal counsel I consulted, (Kuhn Rogers of Traverse City) that (per MCL 600.5807 item 5) a deed restriction cannot be upheld after a period of 10 years has elapsed since the given violation has occurred. This is applied on a per case basis meaning that if a violation occurs, the powers that be have 10 years to take legal action. For the situation on my property, that time period elapsed in 1972 for the trailer that was installed on our property in 1962 by Mr. Caplin, the property owner prior to us.

Why Mr. Klevorn (who provided a contrary legal opinion to the Board) missed this basic statutory limit is not clear. What is clear is that it is contrary to my interests and legal rights to have what appears to be an ill-informed and prejudicial opinion being bandied about that runs afoul with well-known law. Even the Board President stated that he felt that “the clock may have restarted” when I took over my parent’s property – implying that my parents may have gotten away with something 50 years ago, but now that I own the property I could be legally taken to task. That is false. Once a restriction is annulled (again, on a case-by-case basis), that annulment is permanent so long as the usage in question is not abandoned.

What made the situation I was subjected to blatantly prejudicial is that it is no secret that others on the lane also periodically use trailers which, similar to my situation, is legal based on zoning, but prohibited by the Tonnadoonah deed restrictions. The message I heard was clear: “you can break Tonnadoonah deed restrictions if you fit in with the image Tonnadoonah wants to project, but not if you don’t.” I obviously don’t. I get that. I’ve maintained the modest, rustic family legacy of using a trailer on our wooded lot. I understand we haven’t kept up with the Jones’s. Truth is I can’t afford to. How about that. It seems that a dose of public humiliation at the hands of the Board is the price I had to pay for that and for trying to help the community preserve the intentions of the Conservancy. Thinking I could help there turned out to be a mistake, and a big one. Lesson learned. So it goes in life. And based on the painful public backlash, as much as is possible, I no longer care to associate with the Tonnadoonah Association, their two 8 cubic yard (often overfilled) dumpsters, and the precious, old warranty deed restrictions. Cie la vie.

Hal Wolff, May 16, 2023