

Nonconforming Use Certification Application Procedure

Section 27-107.01 (166) of the Prince George's County Zoning Ordinance defines a nonconforming use as "the 'use' of any 'Building', 'Structure', or land which is not in conformance with a requirement of the Zone in which it is located (as it specifically applies to the 'use'), provided that:

- i. the requirement was adopted after the 'use' was lawfully established; or
- ii. the 'use' was established after the requirement was adopted and the District Council has validated a building, use and occupancy, or sign permit issued for it in error.

Section 27-241(b) of the Prince George's County Zoning Ordinance requires that in order for a nonconforming use to continue, a use and occupancy permit must be issued identifying the use as nonconforming, and the use must be certified in accordance with Section 27-244.

For a use that has already been certified as a nonconforming use, items A, D, and H below shall apply at the time of permit application.

At the time of filing, the applicant shall submit:

- (A) A Use and Occupancy Permit - Filed with the Department of Permitting Inspections and Enforcement DPIE;
- (B) Application - One (1) copy of the nonconforming use application form signed by all owners of record of the subject property;
- (C) Statement of Justification - One (1) copy of a justification statement indicating the exact nature, size, and location of the use to be certified, the dates upon which the use first commenced and when the use became nonconforming, and any other pertinent information concerning the use;
- (D) Documentation of Continuous Operation - Documentary evidence shall be filed, such as tax assessment records, business records, public utility installation or payment records, notarized affidavits, and aerial photographs, showing the commencing date and continuous existence of the nonconforming use. Sufficient evidence must be submitted demonstrating that the use has not ceased to operate for more than one hundred eighty (180) consecutive calendar days between the time the use became nonconforming and the date when the application is submitted;

The bulk of evidence submitted by the applicant must be enough to satisfy staff that the use has been in daily operation since becoming a nonconforming use. As part of the certification process, staff will carefully review the evidence submitted to determine whether all pertinent, legal issues have been addressed. If the documentation does not adequately establish continuous use or does not fully cover daily operations during the nonconforming period (without a lapse of more than 180 consecutive calendar days), staff will require the applicant to submit additional evidence. If the applicant is unable to obtain additional evidence which supports the commencing date and continuity of the nonconforming use, the application will be referred to the Planning Board to conduct a public hearing in accordance with Section 27-244(f) of the Prince George's County Zoning Ordinance.

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- (E) Copy of Previously Issued Use and Occupancy Permit - A copy of a valid use and occupancy permit previously issued for the use prior to the date upon which it became a nonconforming use, if the applicant possesses one;
- (F) Filing Fees - If a copy of a valid use and occupancy permit is not submitted with the application, if the documentary evidence submitted is not satisfactory to the Planning Board's authorized representative to prove the commencing date or continuity of the use, if a public hearing has been requested by any party of interest challenging the commencing date and/or continuity of the use, the Planning Board shall conduct a public hearing on the application for the purpose of determining whether the use should be certified as nonconforming.

A check or money order, made payable to the M-NCPPC covering all applicable fees, shall be submitted. The [Fee Schedule](#) and [Fee Schedule Worksheet](#) are published online.

- (G) Zoning Sketch Map - One (1) copy of a zoning sketch map with the property outlined in red. Note: Required for cases going to the Planning Board - Applicant submits a [pre-application form](#) as instructed in [Bulletin 3-2019 Pre-applications Online](#) to DRDApplications@ppd.mncppc.org. A \$12 fee will be collected with the application fee when staff has processed and requested fees for formal acceptance.
- (H) Site Plan - One (1) copy of an accurate map or plat drawn to scale including the following information.
- (1) Boundaries of the property outlined in red using bearings and distances (in feet).
 - (2) Use and dimensions of all existing buildings and structures, including setbacks from property lines.
 - (3) Names and widths of all abutting streets.
 - (4) North arrow and scale.
 - (5) A complete automobile parking layout.
 - (6) The precise location and limits of the use to be certified.
 - (7) The total area of the property (in square feet or acres).

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