

## R E S O L U T I O N

WHEREAS, the Prince George=s County Planning Board has reviewed Nonconforming Use Application No. 12006-2001-U requesting Certification of nonconforming use to park a commercial vehicle with a gross maximum weight of 17,000 pounds in a residential Zone in accordance with Subtitle 27 of the Prince George=s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on November 29, 2001, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The subject property is located on the northwest side of Bond Mill Road, approximately 102 feet north of Bradford Drive, known as 15814 Bond Mill Road. It comprises approximately .47 acre of land and is improved with a one-story brick dwelling and an accessory garage. The property has approximately 102 feet of frontage on Bond Mill Road from which it is accessed.
- B. History: The property was retained in the R-R Zone in the approved 1990 Sectional Map Amendment for Subregion I.
- C. Master Plan Recommendation: The 1990 Approved Master Plan for Subregion I recommends the property for residential development at low-suburban density (single-family detached homes on lots of 20,000 square feet at an average of 1.85 dwellings per acre).
- D. Request: The applicant requests certification of a nonconforming use to park a commercial vehicle with a gross maximum weight of 17,000 pounds in a residential zone.
- E. Surrounding Uses: The immediate area surrounding the property is characterized by residential developments in the R-R and R-80 Zones. The subject property and the adjoining properties to the north, south, and west are zoned R-R. Residential uses in the R-80 Zone are located directly across Bond Mill Road and further along the road to the southeast. Bond Mill Elementary School is located approximately 250 feet west of the subject property.
- F. Certification Requirements: Certification of a nonconforming use requires that certain findings be made. First, the use must either predate zoning or have been established in accordance with all regulations in effect at the time it began. Second, there must be no break in operation for more than 180 days since the use became nonconforming. Section 27-244 sets forth the specific requirements:
  - 1. **In general, a nonconforming use may only continue if a use and occupancy permit identifying the use as nonconforming is issued after the Planning Board (or its authorized representative) certifies that the use is really nonconforming and not an illegal use.**
  - 2. **Application for Use and Occupancy Permit:**

- a. The applicant shall file for a use and occupancy permit.**
- b. Along with the application and accompanying plans, the applicant shall provide the following:**
  - (1) Documentary evidence, such as tax records, business records, public utility installation or payment records and sworn affidavits showing the commencing date and continuous existence of the nonconforming use.**
  - (2) Evidence that the nonconforming use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted or that conditions of non-operation for more than 180 consecutive calendar days were beyond the applicant's and/or owner's control, were for the purpose of correcting Code violations, or were due to the seasonal nature of the use.**
  - (3) Specific data showing:**
    - (i) The exact nature, size and location of the building, structure and use.**
    - (ii) A legal description of the property.**
    - (iii) The precise location and limits of the use on the property and within any building it occupies.**
  - (4) A copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use, if the applicant possesses one.**

The applicant, who is the owner of the subject property, has lived at this location since June 1960 and has been parking his commercial vehicle on the property since 1964. Commercial vehicles with a maximum gross vehicle weight of 17,000 pounds were permitted to be parked in the side or rear yard until July 21, 1987, when CB-53-1987 amended the zoning ordinance to require these vehicles to be parked within a wholly enclosed garage.

The applicant filed for a use and occupancy permit for the parking of a commercial vehicle in May 2001. Permit # 12006-2001-U is pending, waiting for the outcome of this application.

A site inspection reveals a one-story residential dwelling with a carport and a two-car

parking garage at the rear portion of the property. The commercial vehicle is being parked in the side yard, in the southeastern portion of the property.

G. Documentary Evidence: The applicant has submitted the following documentation, which establishes the parking of one commercial vehicle on the subject property prior to the adaption of CB-53-1987 on July 21, 1987.

1. An affidavit of Mr. Donald E. Proctor, a homeowner and a resident of the neighborhood since 1970, confirming his personal knowledge that the property has been used for the parking of a commercial vehicle continuously since prior to July 21, 1987.
2. An affidavit of Betty Russell, a homeowner and a resident of the neighborhood since 1963, confirming her personal knowledge that the property has been used for the parking of a commercial vehicle continuously since prior to July 21, 1987.
3. An affidavit of Leonard R. Geary, a homeowner and a resident of the neighborhood since 1962, confirming his personal knowledge that the property has been used for the parking of a commercial vehicle continuously since prior to July 21, 1987.
4. An affidavit of Peggy Shawiniski, a homeowner and a resident of the neighborhood since 1970, confirming her personal knowledge that the property has been used for the parking of a commercial vehicle continuously since prior to July 21, 1987.
5. Copies of vehicle insurance notices from 1967 issued for commercial trucks owned by the applicant and mailed out to the subject property.
6. Copies of sales invoices for trucks and truck parts from 1964 and 1985, indicating the applicant as the purchaser, residing at the current location.
7. Copies of the registration certificate from the Maryland Motor Vehicle Administration, issued for the applicant's commercial truck, with expiration dates of April 30, 2001, and April 30, 2002.

The documentary evidence demonstrates the continued use of the property for the parking of a commercial vehicle, with a maximum gross weight of 17,000 pounds on the subject property, since prior to July 21, 1987.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Nonconforming Use Application No. 12006-2001-U for a parking of one commercial vehicle with a maximum gross weight of 17,000 pounds on the subject property.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the

Planning Board=s decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Eley, with Commissioners Brown, Eley, Lowe, Scott and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, November 29, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of January 2002.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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