

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed NCU-11429-01-U requesting certification of a nonconforming use 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 May 30, 2002, the Prince George's County Planning Board finds:

- A. Location and Field Inspection: The subject property is located on the north side of Orem Drive at the northwest side of the intersection of Kerr Road. The property is developed with a one-story, brick-and-frame dwelling with an asphalt driveway, carport and concrete pad adjacent to the driveway.
- B. History: The property was retained in the R-R Zone during the 1990 Sectional Map Amendment for Subregion I.
- C. Master Plan Recommendation: The 1990 Subregion 1 Master Plan recommends Low-Suburban development (1.6 to 2.6 d.u./acre) for the subject property.
- D. Request: Section 27-441(b), as amended by Council Bill 53-1987 (adopted July 21, 1987), requires that all commercial vehicles with a maximum gross vehicle weight of 17,000 pounds be located within a wholly enclosed garage in the R-R Zone. The applicant is requesting certification of a nonconforming use for a commercial vehicle parked in the side yard of an existing home. On April 19, 2001, the applicant was cited with a zoning violation for the commercial vehicle.
- E. Surrounding Uses: The property is surrounded by single-family detached homes in the R-R Zone.
- 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.**

- G. Documentary Evidence: The applicant must show that the commercial vehicle was being parked in the side yard of the property prior to the passage of Council Bill-53-1987 on July 21, 1987. The subject commercial vehicle is a C-30 Chevy Cube Van. The van has a gross vehicle weight of 10,000 pounds. The vehicle has been used in relation to the plumbing and heating business operated by the applicant since 1979. Prior to the adoption of CB-53-1987, the parking of a commercial vehicle was permitted in the R-R Zone provided it was owned or used by the occupants of the premises and parked in the side or rear yard. The applicant submits that they have lived on the property since June 1971 and have owned a plumbing and heating business since 1979. The same type of commercial vehicle has been parked on the subject property since 1979.

The applicant has submitted the following documentary evidence in support of this request for certification:

1. Four affidavits from neighbors certifying that a commercial van has been parked on the property since 1979.
2. Resolution dated August 27, 1979, from the Board of Directors of Regency Plumbing and Heating authorizing the applicant to buy two 1976 Chevy C-30 vans.
3. A purchase order dated July 25, 1981, from the applicant to Genderson Chevrolet for two Chevy Hi-Cube Step Vans.
4. A Certificate of Title from the Maryland Dept. of Transportation, Motor Vehicle Administration for a 1988 Chevy truck.
5. Invoice from Chevy Chase Chevrolet to Regency Plumbing and Heating for a 1988 Hi-Cube Van.
6. Pictures of the commercial vehicle parked on the subject property.

The applicant has also provided the information required above in Section 27-244(a)(3). Nothing in the record suggests that there was a period of 180 or more consecutive days when the vehicle was not parked in the side yard.

CONCLUSION:

Based on the information presented by the applicant, the Planning Board finds that the manner in which the commercial vehicle has been parked on the subject property predates Council Bill 53-1987 and therefore meets the criteria for APPROVAL of the requested certified nonconforming use.

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 recommends APPROVAL the above-noted application.

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.

