



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

CERTIFICATION OF A NONCONFORMING USE NO. CNU-12206-2002

Application	General Data
Project Name: John & Elizabeth Newman Mobile Home/Tenant House Location: Northeast side of Rosaryville Road approximately 2,000 feet northwest of US 301, known as 9902 Rosaryville Road. Applicant/Address: John & Elizabeth Newman 9890 Rosaryville Road Upper Marlboro, Maryland 20772	Date Accepted: 1/7/03
	Planning Board Action Limit: N/A
	Plan Acreage: 7
	Zone: R-A
	Dwelling Units: 2
	Square Footage: N/A
	Planning Area: 82
	Council District: 09
	Municipality: None
	200-Scale Base Map: 212SE10

Purpose of Application	Notice Dates
Certification of a nonconforming use for a Mobile Home/Farm Tenant Dwelling	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) None
	Sign(s) Posted on Site: 3/28/03
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Catherine H. Wallace	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

April 30, 2003

TECHNICAL STAFF REPORT:

TO: The Prince Georges County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Certified Nonconforming Use Application No. 12206-2002-U**

REQUEST: Certification of a mobile home/farm tenant dwelling

RECOMMENDATION: **DENIAL**

NOTE:

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addressed to the Development Review Division at the address indicated above. Please call 301-952-3530 for additional information.

FINDINGS:

- A. **Location and Field Inspection:** The subject property is a seven-acre tract located on the northeast side of Rosaryville Road, about 2,000 feet northwest of its intersection with US 301. It is developed with a single-family residence and a mobile home. The balance of the site contains a shed and a large pile of firewood and logs.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-A	R-A
Use(s)	Single-family residential	Single-family residential
Acreage	7.0	7.0
Dwelling Units:		
Detached	2	2

- C. **History:** The evidence in the record indicates that the mobile home currently located on the subject property was placed there in 1974. It was placed there to provide a home for the applicant's son, who was afflicted with Sickle Cell Anemia. The applicant's son passed away in 1981, and the mobile home has been rented out to others since that time. According to the applicant, the tenants who lived in the mobile home derived the majority of their income from farming the land until about eight years ago. The current tenant does not derive the majority of his current income from farming, however; he "remains the sole farm hand in the operation of the cattle and crop farm," according to the applicant's statement.

- D. **Master Plan Recommendation:** The 1993 Subregion VI Master Plan recommends rural residential development at one dwelling for every two acres.

(H) **Request:** Certification of a mobile home as a farm tenant dwelling, which predates 1975 and has been in continuous use since that time.

(H) **Surrounding Uses:** The subject property is surrounded by single-family homes in the R-A and R-R Zones.

(H) **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:

(H) **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.**

(H) **Application for Use and Occupancy Permit:**

(H) The applicant shall file for a use and occupancy permit.

(H) Along with the application and accompanying plans, the applicant shall provide the following:

(H) 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.

(H) 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.

(H) Specific data showing:

(H) The exact nature, size and location of the building, structure and use.

(H) A legal description of the property.

(H) The precise location and limits of the use on the property and within any building it occupies.

(H) 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.

H. **Documentary Evidence:** The applicant has submitted various affidavits testifying to the continuous use of the mobile home as a farm tenant dwelling since 1974. A letter from the widow of the applicant's son explains the original purpose of the mobile home and its subsequent rental after 1981 to other tenants. The documents in the record are:

1. March 22, 2002, notarized letter from Beverly Chancey, widow of original tenant in the mobile home
2. May 14, 2002, affidavits from the following persons attesting to the continuous use of the mobile home as a farm tenant dwelling since 1974:

Mary M. Newman
Elizabeth C. Smith
Sheila M. Walls
Julie Newman

I. **Discussion:** There are two separate issues that must be resolved to allow the subject mobile home to remain on this property. First, it must be determined that the subject parcel may legally contain two dwellings. This can be determined if the location of the second dwelling on the property predates the

establishment of zoning authority in this area (in 1961); or if the second dwelling is determined to be a farm tenant dwelling.

Second, the mobile home must have been legally established and in continuous legal operation. In 1975 mobile homes were prohibited in all zones except the R-M-H (Planned Mobile Home Community Zone). In 1979, mobile homes were permitted by special exception in the R-O-S, O-S, R-A, and R-E Zones. Since the mobile home was placed on the property in 1974, it may have been legally established, but only if the use was also a farm tenant dwelling. Otherwise, the mobile home location would have to predate 1961.

The Zoning Ordinance in Section 27-107.01(74) defines a farm tenant dwelling as follows:

A one-family detached dwelling or dormitory (but not a multifamily dwelling) which is:

- (A) Not the principal residence of the property owner;**
- (B) An "Accessory Building";**
- (C) Located on land used exclusively for "Agriculture";**
- (D) Owned by the same person who owns the agricultural land; and**
- (E) Occupied by a tenant who derives a majority of his total income from working the agricultural land.**

CONCLUSION:

Based on the information in the record, the mobile home was not originally placed on the property as a farm tenant dwelling. It is likely that it didn't house a farm tenant until 1981. Moreover, according to the applicant's own statement, tenants occupying the property for the past eight years have not derived the majority of their income from working the agricultural land, a requirement to keep the farm tenant dwelling designation. For these reasons the staff is compelled to recommend DENIAL of this application.