



CERTIFICATION OF NONCONFORMING USE 12794-2003-U

Application	General Data
Project Name: Monopoli Two-Family Dwelling Location: North side of Maple Road, 150± east of Pine Grove Road, known as 4112 Maple Road Applicant/Address: Frank Monopoli P.O. Box 565 White Plains, MD 20695 Correspondent Frank Monopoli P.O. Box 565 White Plains, MD 20695	Date Accepted 05/16/03
	Planning Board Action Limit N/A
	Tax Map & Grid 089 D-2
	Plan Acreage 0.65±
	Zone R-80
	Dwelling Units 2
	Square Footage N/A
	Planning Area 76A
	Council District 09
	Municipality Town of Morningside
	200-Scale Base Map 206SE06

Purpose of Application	Notice Dates
Certification of a nonconforming use for a two-unit dwelling in the R-80 Zone.	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site 06/13/03
	Variance(s): Adjoining Property Owners N/A

Staff Recommendation			Staff Reviewer: Tom Lockard
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

July 9, 2003

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Certified Nonconforming Use Application No. 12794-2003-U**

REQUEST: **Certification of a Nonconforming Use for a Two-Family Dwelling in the R-80 Zone.**

RECOMMENDATION: **APPROVAL**

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 located on the north side of Maple Road, 150± east of Pine Grove Drive. It comprises approximately 0.65± acre in area and is improved with a two-family dwelling. The building has the appearance of a single-family dwelling, but is divided into two units—the main floor and an apartment on the second floor. Each dwelling has a separate entrance from the outside with no access between them.
- B. **History:** The subject property was retained in the R-80 Zone in the approved 2000 sectional map amendment for The Heights.
- C. **Master Plan Recommendation:** The 2000 approved master plan for The Heights recommends the property for residential development at a suburban density (2.7–3.5 dwelling units per acre).
- D. **Request:** The applicant requests certification of a two-family dwelling in the R-R Zone. This use is not ordinarily permitted in the R-80 Zone.
- E. **Surrounding Uses:** The subject property is surrounded by single-family residences.
- 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 nonoperation 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.**

According to the applicant, the building was constructed as a two-family dwelling in 1942, seven years before the area was brought into the Regional District on November 29, 1949; however, no record of a use and occupancy permit could be found. This date does correspond with the building's construction date, according to the database of the Maryland Department of Assessments and Taxation.

G. **Documentary Evidence:** The applicant has submitted the following documentation, which establishes existence of the two-family dwelling prior to the subject property's incorporation into the Regional District and its continuous use since:

1. A printout from the Maryland Department of Assessments and Taxation database showing the building at 4112 Maple Road was originally constructed in 1942.
2. Various rental licenses and rental agreements covering the time period between 1990-1996.
3. Two appraisals of the property from 1986 and 2002 showing the building to be a two-family dwelling.
4. Various deeds, purchase agreements, assessments, insurance and tax documents.
5. Affidavits from three long-time residents of the neighborhood attesting to their knowledge of the dwelling being used as a two-family dwelling for more than 30 years. One letter, from Mayor Gerald Glaubitz, attests to the fact that he has lived at 4507 Maple Road since 1947 and that the subject building has always been occupied as a two-family residence.

CONCLUSION:

Based on the evidence submitted by the applicant and the lack of contradictory evidence from other sources, staff concludes that the subject two-family dwelling was constructed prior to the site's incorporation into the Regional District on November 29, 1949. The documentary evidence also demonstrates the continued use of the property since that time. Therefore, it is recommended that Application No. NCU-12794-2003-U be APPROVED as a certified nonconforming use.