



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

CERTIFICATION OF NONCONFORMING USE No. 40272-2002-U

Application	General Data
Project Name Judith A Sineway Two-Family Dwelling Location Northwest corner of Taylor Road and East-West Highway, known as 6304 Taylor Road. Applicant Judith A Sineway 6304 Taylor Road Riverdale Park, MD 20737 Correspondent Judith A Sineway 6304 Taylor Road Riverdale Park, MD 20737	Date Accepted 12/4/02
	Planning Board Action Limit N/A
	Tax Map & Grid 42 D3
	Plan Acreage 0.26
	Zone R-55
	Dwelling Units N/A
	Square Footage N/A
	Planning Area 68
	Council District 03
	Municipality N/A
	200-Scale Base Map 207NE04

Purpose of Application		Notice Dates	
Certification for a two-family dwelling		Adjoining Property Owners (CB-15-1998)	N/A
		Previous Parties of Record (CB-13-1997)	N/A
		Sign(s) Posted on Site	01/24/03
		Variance(s): Adjoining Property Owners	N/A
Staff Recommendation		Staff Reviewer: Elsabett Tesfaye	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

February 19, 2003

TECHNICAL STAFF REPORT:

TO: The Prince Georges County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Elsabett Tesfaye, Senior Planner

SUBJECT: **Certified Nonconforming Use Application No. 40272-2002-U**

REQUEST: **Certification for a Two-Family Dwelling.**

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 at the northwest corner of Taylor Road and East-West Highway, known as 6304 Taylor Road. It comprises approximately 0.26 acre of land and is improved with a 1½-story (plus basement) brick dwelling. Other improvements include a wooden-frame, one-car garage, gravel parking area, and a small wooden shed. It has approximately 84.25 feet of frontage on Taylor Road (east) from which it is accessed and 133 feet of frontage on East-West Highway (south).

B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-55	R-55
Use(s)	Residential	Residential
No. of Units	2 (not certified)	2 (certified)
Acreage	.26	.26
Lots	13&14	13 & 14

- C. **History:** The subject property was incorporated into the Maryland-Washington Regional District on April 17, 1928. The 1994 Sectional Map Amendment for Planning Area 68 retained the property's R-55 zoning.

- D. **Master Plan Recommendation:** The 1994 Master Plan for Planning Area 68 recommends the site for medium-suburban density, single-family detached residential land use with a maximum density of 6.70 dwelling units per acre.

- E. **Request:** The applicant requests certification of a two-family dwelling in the R-55 Zone. The R-55 Zone permits only one, one-family detached dwelling on a lot.

- F. **Surrounding Uses:** The immediate area surrounding the property is characterized by small lot, residential developments in the R-55 Zone. The subject property and the adjoining properties to the north and west are zoned R-55. The properties located to the south, across East-West Highway, and to the east across Taylor Road are also located in the R-55 Zone.

- G. **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 contends that her grandfather built the subject dwelling in 1936 and that she believes the building was constructed as a two-family dwelling. The applicant has also submitted an affidavit attesting to her personal knowledge of the fact that the dwelling has been used as a two-family dwelling since at least the 1950s while it was under the ownership of her grandparents. The applicant indicated that she inherited the subject property in 1985 and has been residing there occupying the first floor and the basement with various family members residing in the upstairs apartment sharing expenses for utilities.

The applicant's request is based on the fact that, because of an error, the Zoning Ordinance allowed a two-family dwelling unit in the R-55 Zone from July 29, 1986, thru September 20, 1988. The applicant maintains that the use existed during that time and has been in continuous operation until today.

At first glance, there is no obvious indication that the house is being used as a two-family dwelling. However, a closer look to the rear portion of the house reveals that two units are accessed through separate entrances—the first floor via the front entrance and a back door (leading to the kitchen), and the upstairs unit via a second back door and a stair leading to the unit. The nature of construction, materials and style of the building, including the design of the interior of the two units and the separate access points (porch, stairs, doors), appear to be consistent with the period of time (the 1930s) within which the house was originally constructed. There is no evidence of a later year reconfiguration or alteration to the original house, in terms of its design as a two-family dwelling. The first floor unit consists of a living room, dining room, kitchen, bedroom, and bathroom. The

upstairs apartment consists of a living room, dining room, kitchen, two small bedrooms, and bathroom.

H. **Documentary Evidence:** As evidence of a continuous use and occupation of the existing structure as a two-family dwelling, since prior to or during the period between July 7, 1986, and September 20, 1988, the applicant has submitted the following documentation:

1. An affidavit of David Kaplanis, resident of Brandywine, MD, attesting to his personal knowledge of the continuous use of the subject building as a two-family unit for the past 24 years.
2. An affidavit of Joan Taylor, resident of Riverdale Park, MD, attesting to her personal knowledge of the continuous use of the subject building as a two-family unit for the past 24 years.
3. An affidavit of Robert J. Sineway, son of the applicant who also had lived in the upstairs unit (Apartment 2) in the early 1980s, resident of Brandywine, MD, attesting to his personal knowledge of the continuous use of the subject building as a two-family unit for the past 34 years.
4. An affidavit of Mary Halloway, resident of Riverdale Park, MD, attesting to her personal knowledge of the continuous use of the subject building as a two-family unit for the past 24 years.
5. An affidavit of Hildy Shaw, resident of Riverdale Park, MD, attesting to her personal knowledge of the continuous use of the subject building as a two-family unit since 1942 to the present.
6. An affidavit of Guy Tiberio, a 50-year resident and a former Mayor of Riverdale Park, MD, attesting to his personal knowledge of the continuous use of the subject building as two-family unit since 1955 to the present. Mr Tiberio has also indicated that he is currently a Councilman for Ward 3 in Riverdale Park.
7. An affidavit of Mary Donaldson, resident of Riverdale Park, MD, for 49 years, attesting to her personal knowledge of the continuous use of the subject building as a two-family unit. Mrs. Donaldson has indicated that she was also a Councilman for Ward 2 in Riverdale Park for 12 years. The subject property is located within Ward 2.
8. An affidavit of Charlene Guff, resident of Riverdale Park, MD, attesting to her personal knowledge of the continuous use of the subject building as two-family unit for the past 27 years.
9. An affidavit of Mary Gaita, resident of Riverdale Park, MD, attesting to her personal knowledge of the continuous use of the subject building as a two-family unit for the past 18 years.

In addition, the applicant has indicated that she has contacted the gas company and the company is mailing her supporting documents that would confirm the installment of two separate lines for the two units in 1977. The applicant intends to bring the said documents to the Planning Board hearing.

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 in existence during the period from July 29, 1986, thru September 20, 1988, and has been continuously used as such since that time. Therefore, it is recommended that Application No. CNU-40272-2002-U be APPROVED for a two-family dwelling as a certified nonconforming use.