

November 21, 2016

MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Jimi Jones, Supervisor, Zoning Review Section, Development Review Division

FROM: Taslima Alam, Senior Planner, Zoning Review Section, Development Review Division

SUBJECT: **Addendum to the Technical Staff Report
Certification of Nonconforming Use Application No. CNU-48061-2015
McGhee Property**

This case was originally set in for a public hearing on October 13, 2016. Due to the schedule conflict for the tax appeal hearing, the applicant's attorney, Michael S. Nagy, requested a one-week continuance to October 20, 2016. On October 20, 2016, after the oral argument, the Planning Board continued this case to October 27, 2016. At the hearing, the Planning Board requested certain clarifications with regard to the location of the residential-zoning line, the date the use became nonconforming, and the square footage of the building extension into the Rural Residential (R-R) zoned portion of the site. The Board also wanted clarification on the circumstances under which the 1982 building permit was issued. However, the applicant wanted to afford more time to research these issues identified and raised by the Planning Board. In doing so, it will allow the Board to review all of the pertinent information prior to making its decision. For this reason, the applicant's representative, Mr. Nagy, requested another continuance from the Planning Board hearing date of November 27, 2016 to December 1, 2016.

Upon review of the May 1956 resolution (No. 60-1956) in Zoning Amendment No. A-2691, adopted by the County Commissioners of Prince George's County, sitting as the District Council of the Maryland-National Capital Park and Planning Commission, discovered a mapping error for the subject property. The attached adopted resolution, marked as Exhibit 26, clearly states in Section 1 as follows:

"That the zoning map for the Maryland-Washington Regional District of Prince George's County be and hereby is amended as requested in petition for Zoning Amendment No. A-2691, (as amended), filed by Fred T. and Edith Ruth McGhee, owners, by reclassifying the property described therein and known as East ½ of lot 2, block 2, Palmer subdivision, Seat Pleasant, Md. from the R-R zone to C-2 zone be approved for that portion of the property lying south of a 50-foot building restriction line and denial for that portion of the property lying to the north of this line."

Section 2 of the resolution further defines the “building restriction line” as:

“Said building restriction line to be 50-feet south of and parallel to the centerline of Central Avenue.”

It appears that the entire property was reclassified to the C-2 Zone in 1956, with the exception of a small strip of property, which is located north of the building restriction line (see Exhibit 16.a). The C-2 delineation being 50 feet wide by 200 feet deep, running south from the southern right-of-way line of Central Avenue (MD 214), was an error (Staff Exhibit A). Hence, staff believes that the same mistake was also carried through when Special Exception SE-2376 was approved in 1970 and the first certification of the nonconforming use in 1982. In 1984, the entire property was rezoned to R-T (Townhouse). In 2008, the Capitol Heights Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment (Capitol Heights TDDP/TDOZ) placed the subject property within the Capital Heights Transit District Overlay Zone. Automobile repair use was no longer a permitted use within the TDOZ or the underlying R-T Zone without designation as a nonconforming use.

The current site plan shows the expansion of the building that is approximately 112 feet long at its farthest rear wall, with an established parking compound in the rear of the building. It also clearly illustrates that the applicant had enlarged its existing building by approximately 26 feet sometime after the 1982 Use and Occupancy Permit (51075-82-U) was issued by the Prince George’s County Department of Environmental Resources (DER). The size of the current building on the lot is 3,585 square feet, or 661 square feet, larger than the 1982 CNU approved site plan. Although the 1970-1977 aerial photographs indicate the existence of both the building at its current configuration and the parking compound in the rear of the lot, no permit record has been located for such an expansion. Nevertheless, since both the building, as constructed, and the automobile parking compound, as illustrated on the revised site plan, were legally established prior to the establishment of the TDOZ in 2008, it could have been certified as a legal nonconforming use.

Furthermore, the applicant had proffered to replace the existing array of fence types with a six-foot-high sight-tight fence. In doing so, it will reduce any adverse impact of the parking area on the adjacent single-family residential uses.

Based on the information and findings, staff recommends that Certification of Nonconforming Use Application No. CNU-48061-2015, for Automotive repair facility with parking compound for vehicles left for services or awaiting customer pickup, be APPROVED.