

NONCONFORMING USE CONFIRMATIONS

A nonconforming use is a lawfully established use, whether of a structure or a tract of land, which does not conform to the use regulations of the zoning district in which it is located.

Pursuant to Sec. 129.0.D, the factual existence of a nonconforming use may be confirmed by the Director of Planning and Zoning, or the Director's Designee, upon review of a petition filed by the property owner.

PROCESS

Submission

Petitions are submitted to the Department of Planning and Zoning. A plan that contains the items listed on the petition checklist must accompany the petition. At submission, a staff member briefly checks the petition for completeness.

Completeness Review

A DPZ planner reviews the petition in more detail to determine if it contains adequate information for an evaluation of all criteria. If deficiencies are identified, the applicant is notified in writing and given the opportunity to correct or supplement the information provided in the petition.

Scheduling

After the petition is complete, a hearing date is assigned by the Director's designee. The hearing date will be determined by the legal notice posting requirement and the number of cases in review.

Public Hearing Sign

A public hearing sign must be posted on the property 15 days prior to the hearing. The Department of Planning and Zoning supplies the posters to the petitioner, who is responsible for erecting and maintaining them. Prior to the hearing, the petitioner must sign an affidavit attesting that the property has been posted in accordance with the applicable requirements.

Hearing

The DPZ Director or a designee conducts the hearing in accordance with the DPZ's Rules of Procedure. The Petitioner or a designated representative must attend the hearing to present testimony supporting the petition and to answer any questions. Petitioners may choose to represent themselves or may engage an attorney or other qualified professional to present the case. The Petitioner is required to describe the request and how it relates to the applicable criteria. Any individuals interested in the petition may attend the hearing and present testimony.

Decision

The Director issues a written Decision and Order that contains Findings of Fact, Conclusions of Law, an evaluation of the following information and any conditions the Director finds appropriate.

1. A statement and plans or other illustrations fully describing the magnitude and extent of the nonconforming use.
2. A statement identifying the date the use became nonconforming to the use provisions of the Zoning Regulations.
3. Documentation substantiating the existence of the use on the date it became nonconforming and clearly demonstrating the continued and uninterrupted use or operation thereof from the specified date to the time of filing the application. The burden shall be on the property owner to establish the existence of the nonconforming use.

Appeals

The decision may be appealed to the Howard County Hearing Authority. The Hearing Authority will conduct a hearing *de novo*, which means the hearing will not be based upon the record established in the case.

Expiration of Nonconforming Use

If any nonconforming use of land or structure, or any portion thereof, either ceases for any reason for a period of more than two years, or is changed to a conforming use, then any future use of such land or structures shall be in conformity with the standards specified by these Regulations for the zoning district in which such land or structure is located.