



BOARD OF APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

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Appeal for Change of Non-Conforming Use Filing Procedures

Change of Non-Conforming Use – If requesting a change of non-conforming use, be prepared to discuss the following criteria excerpted from Section 4.3 of the Washington County Zoning Ordinance:

Any building, structure or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time this Ordinance is subsequently amended, may continue to be used without further imposition of use, dimensional, buffer or other Ordinance requirements even though such buildings, structure or premises does not conform to use, dimensional, buffer or other Ordinance regulations of the zoning district in which it is located. (Subject, however to the following provisions:) All nonconforming uses shall be subject to the following provisions:

- (b) All nonconforming uses (outside of existing nonconforming single-family dwellings) shall be subject to review and approval by the Board of Zoning Appeals. In all other zoning districts except the A(R), EC, P and BL districts, the Board may approve the alteration or the expansion of a non-conforming use provided the expansion is restricted to an additional area not exceeding thirty-five percent of the existing use.
- (c) In the A(R), EC, P and BL districts, the Board may approve the alteration or the expansion of a nonconforming use without restriction to area provided the proposed expansion is consistent with the Plan for the County, and provided it meets the guidelines of Section 25.6 of the Ordinance.

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities.
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

The standard for the grant or denial of a change of nonconforming use is whether there are facts and circumstances that show that the particular use proposed at the location proposed would have any adverse effects above and beyond those inherently associated with a change of nonconforming use irrespective of its location within the zoning district.

Application Process:

Incomplete applications will not be accepted.

- Applications are filed by appointment only. Appointments are accepted Monday-Friday between 8:00 a.m. and 3:30 p.m. **except** on a specified filing cut-off day which is 12:00 p.m. To schedule an appointment call 240-313-2430.
- Applications must be filed in person with the Department of Planning and Zoning.
- Nine (9) complete sets of the Change of Non-Conforming Appeal information are required at the time of filing.
- Pay the appropriate filing fee by cash, Visa/MasterCard, or check made payable to the Washington County Treasurer:
Non-Conforming Appeal\$ 500.00
Request for Hearing Postponement \$150.00

Filing fees are non-refundable.

Note: A plan review fee of \$150.00 and/or a floodplain review fee of \$150.00 may be charged by Plan Review

Before Hearing:

- The applicant will be responsible for conspicuously posting the property with a placard 14 days before the date of the hearing as required in Section 25.51(c) of the Washington County Zoning Ordinance. The applicant is responsible for maintaining the placard as posted for the full 14 days. The Department of Planning & Zoning Department will provide the placard to the applicant at the time of filing.
- The clerk to the Board of Appeals will be placing a public notice in the local newspaper, on the Washington County Planning and Zoning webpage under Board of Zoning Hearing Agenda, and courtesy letters will be mailed to neighboring property owners notifying them of the hearing.
- The clerk to the Board of Appeals will provide the applicant with any letters of support or opposition and or agency review comments received for review. This same information will be provided to the Board of Appeals members for consideration and may be discussed during the hearing.

Public Hearing

- Appellant or appellant's representative is to attend the hearing and will go before the Board to state their case and answer questions from the board members. Appellants are generally granted 10 minutes to present their case but the appellant can request an additional 20 minutes for a total of 30 minutes.
- Anyone attending the hearing is permitted to speak in support or opposition to the appeal. The appellant will be given a chance to address the oppositions concerns.
- The Board will then go into deliberations and there will be no further comment taken at that time. The board members will make their informal decision during the hearing. The formal and official written opinion will be issued within 30 days and a copy of the decision will be served to the parties via US postal service.

Opinion:

- If the appeal is granted, the appellant may apply for or continue with the permit process at their own risk after the hearing. The formal opinion can be challenged up to 30 days after the formal opinion has been issued to the Circuit Court. Any fees paid during this time will not be refunded if the Circuit Court overturns the Board of Appeals opinion.
- If the appeal is denied, the appellant may challenge the formal opinion in Circuit Court within 30 days of the formal opinion filing. The appellant can also file for a new appeal either 12 months after the original appeal or a new request can be submitted but must be deemed substantially different from the original proposal.
- Any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, or board, bureau of the jurisdiction, may appeal the same to the Circuit Court of Washington County in a manner set forth in Section 4.08 of Article 66B of the Annotated Code of Maryland. The Court may affirm, reverse, vacate or modify the decision complained of in the appeal.
- Appeals granted by the Board of Appeals do not have a time requirement of when the project must start. If the project is delayed and there is a change to the property, zoning, or project; a new approval may be required.



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Appeal for Change of Non-Conforming Use

Property Location _____

Appellant's present legal interest in above property: (Check One)

_____ Owner (Including Joint Ownership)

_____ Lessee _____ Contract to rent/lease _____ Contract to Purchase

Other _____

Present or previous non-conforming use:

Has previous use ceased for six (6) months or more? _____ Yes _____ No

Date of cessation: _____

Specify the Zoning District the property is located in: _____

Applicants must make application in person and shall submit *nine (9)* complete sets of the items listed below. Incomplete applications will not be accepted.

- A written statement demonstrating the specific reason(s) for the request and addressing the standards for a change in non-conforming use outlined in the Change in Non-Conforming Use Filing Procedures.
- Describe the nature and extent of the proposed change and the reason for requested change.
- A plot plan (concept plan), drawn to a scale indicating the following information:
 - Outline of the entire property;
 - Location of all existing and/or proposed structures with measurements from structures to property lines;
 - Location of existing and/or future septic and wells;
 - Any street rights-of-way or other easements (i.e. utility, storm water management, etc.);
 - Existing/proposed entrance/exit to property, driveways, etc.
 - Existing/proposed parking areas
- If Request is for commercial use, in addition to above, the following additional information will be required:
 - Location of any freestanding signage
 - Number of employees (existing/proposed)
 - Hours of operation
 - Proposed landscaping and lighting

NON-CONFORMING

- Other information that applicants feel will be useful to justify their request, this could include pictures, letters of support from impacted neighbors, concept draws of the structure.
- If you are not the property owner, a notarized affidavit from the property owner authorizing the appeal shall be submitted. This includes applicants filing as an agent on behalf of the property owner.
- Pay the filing fee by cash, Visa/MasterCard, or check made payable to the Washington County Treasurer:
 - Non-Conforming Appeal.....\$500.00

ALL FILING FEES ARE NON-REFUNABLE

Note: A plan review fee of \$150 and/or floodplain review of \$150.00 may be charged by the Engineering Department.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Signature of Appellant/Agent

Address and of Appellant/Agent

Email of Appellant/Agent

Phone Number of Appellant/Agent



BOARD OF APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that _____
is authorized to file an appeal with the Washington County Board of Appeals for _____ on property
located _____.

The said work is authorized by _____
the property owner in fee.

PROPERTY OWNER

Name

Address

City, State, Zip Code

Owner's Signature

Sworn and subscribed before me this _____ day of _____, 20_____.

Notary Public

My Commission Expires:

AUTHORIZED REPRESENTATIVE

Name

Address

City, State, Zip Code

Authorized Representative's Signature

Sworn and subscribed before me this _____ day of _____, 20_____.

Notary Public

My Commission Expires:

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