

City of Kent, Ohio

Documenting Legal Nonconforming Uses, Structures and Lots Application

Application/Case #: _____

Applicant Information		
Name:		
Address:		
City:	State:	Zip Code:
Phone:		E-mail:
Interest in property, if applicant is not owner:		
Owner Information (if different than applicant)		
Name:		
Address:		
City:	State:	Zip Code:
Phone:		E-mail:
Property Location		
Address:		
Zoning District:		
Current City Zoning Use Certificate Designation:		
Nonconforming Uses, Structures and Lots		
<p>A legal nonconforming use, structure, or lot does not conform to the current City of Kent Zoning Code, but did, at a prior time, comply with the City's Zoning Code in effect at that time or was in existence prior to the enactment of the City's Zoning Code on September 22, 1971, or any other applicable City of Kent Zoning Code amendment enacted on a subsequent date.</p> <p>The lawful continuation of any nonconforming use, structure, or lot requires the issuance of a "Certificate of Nonconforming Use" by the City of Kent. The City will determine if the proposed nonconforming use, structure, or lot is legal only after determining sufficient evidence has been provided to document the pre-existing use was legal at the time it was established and the nonconforming status has been in continuous use since it was established and through to the present day. Continuous is defined as no interruption of use greater than two (2) consecutive years.</p> <p>The presumption is a nonconforming use, structure or lot is illegal and the burden is on the applicant to establish, by a preponderance of the evidence, that a pre-existing use, structure, or lot was legal at the time it was established.</p> <p style="text-align: center;">(See Chapter 1169 of the City of Kent Zoning Code)</p>		

Documentation of Use/Structure/Lot Being Established and Continued

In all cases, the applicant bears the burden of demonstrating through the evidence provided that:

- 1) A use, structure, or lot meets the standard for legal nonconforming by providing documentation that the use, structure, or lot was established at a time when such use, structure or lot was legal or it was in effect prior to enactment of the City of Kent Zoning Code on September 22, 1971, or any other applicable City of Kent Zoning Code amendment enacted on a subsequent date; **and**
- 2) The nonconforming status has continued year-to-year, with no more than a 24-month interruption.
 - Examples of documentation that may be considered as evidence the nonconforming use was allowed when the nonconforming use was established **and** the use has been continuous includes, but is not limited to:
 - Building permits;
 - Site or building plans;
 - Leases, rent payment receipts;
 - Tax records;
 - Property insurance policies;
 - Building footprints visible on Sanborn maps, dated photographs, aerials or video recordings;
 - Documentation of evidence will need to be provided to the City's staff at the time Applicant submits an application so the information can be reviewed by staff and included in the meeting packets, which are disseminated to the BZA prior to the scheduled meeting. Please attach all documentation to the application in chronological/date order.
 - If sufficient documentation is not provided, the City's staff will designate the application as incomplete and it will not be scheduled for consideration by the BZA until such time that documentation of evidence is provided as part of the application submission.
 - City staff is not responsible for collecting and providing documentation. Applicants can review the City of Kent's property file records during normal business hours and request copies of any public record document. A per page copy fee may apply.
 - Merely submitting documentation does not guarantee the City will determine that a nonconforming use, structure or lot meets the legal standard for nonconforming status.
 - If an Applicant cannot provide documentation sufficient to support a conclusion of nonconforming status, it will result in a BZA determination to the contrary.

I certify, to the best of my knowledge, all information provided on this application is true and that the documentation I have provided to support my claim of nonconforming status has not been altered.

Signature:

Date:

Owner's Signature:
(required if applicant not owner)

Date:

Additional Information

- A \$50 application is required at the time of application submittal.
- One (1) completed original application and eight (8) copies of the complete packet, including all supporting documentation, are required.
- Applications deemed incomplete, after staff review, will not be processed for consideration by the Board until all required items have been provided.
- Standard sized certified/return receipt letters will be mailed to all property owners located within 200 feet of the property requesting nonconforming status determination from the Board. The cost of such mailing will be charged at the current USPS per letter rate and is the responsibility of the applicant. Mailing costs will be calculated by the City and the applicant will be informed as to when this postage fee must be paid. The mailing cost is a non-refundable fee.
- The Board meets the 3rd Monday of each month, except when day falls on City recognized legal holiday.
- The applicant(s) and/or the applicant's representative is required to attend the Board of Zoning Appeals meeting in person in order to present the request and answer questions from the public and the Board regarding the proposed project.