


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 2305 Presbury Street		

TO Mr. David Tanner, Executive Director  
Board of Municipal and Zoning Appeals  
417 East Fayette Street, 14<sup>th</sup> Floor

DATE:

December 10, 2014

### REQUEST

The Department of Planning has received Mohammad Naeem's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the property as a dry cleaning business and add a grocery store and a carry-out food shop. The Zoning Administrator has determined that this is a nonconforming use in a R-6 Zoning District. We understand that this appeal is scheduled for hearing on December 16, 2014.

### SITE

2305 Presbury Street is located on the south side of the street, approximately 84' east of the intersection with Ruxton Avenue. This property measures approximately 18' by 36' and is currently improved with a one-story semi-detached commercial building covering the entire lot. This site is zoned R-6.

### ANALYSIS

Use: In this zoning district, grocery stores and carry-out food shops are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a dry cleaning establishment, which is a nonconforming use in this R-6 General Residence District.

Changes in Nonconforming Use: *In Residence and Office-Residence Districts.* In accordance with subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may authorize a Class II nonconforming use in a Residence or Office-Residence District to be changed as follows: (1) to a use permitted in an M-1 District, if the nonconforming use is located in a structure all or substantially all of which is designed and erected for an industrial use; or (2) to a use permitted in a B-1 District, if the nonconforming use is located in a structure all or substantially all of which is designed and erected for a business or other nonconforming use (§13-305.b). A grocery store is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206). As a carry-out food shop is not listed as a permitted or conditional use in the B-1 District, that portion of this application must be disapproved. (The use is listed in the B-2 District as a permitted use.)

TransForm Baltimore: This property would remain part of the R-6 District (Proposed Zoning Map Area 6-A) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). "Neighborhood commercial establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use" (§1-310 (I)).

Mr. David Lanner, BMZA  
Executive Director  
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Re: 2305 Presbury Street

## RECOMMENDATION

The Department of Planning recommends disapproval of the portion of this appeal relating to a carry-out food shop, because the Zoning Code does not provide the Board discretionary authority to approve a B-2 use as a new nonconforming use in a R-6 Zoning District. The Department has no objection to the remainder of this application.

TJS/wya/mf

cc: Mohammad Naeem, Appellant

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**Transportation Baltimore:** This property would remain part of the R-6 District (Proposed Zoning Map Area 6-A) in which Neighborhood Commercial Establishments would be conditional use (Table 9-301). "Neighborhood commercial establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is not residential in its construction and original use" (§1-310 (f)).