


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 1154 North Stricker Street		

TO

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

DATE: January 31, 2013

REQUEST

The Department of Planning has received Brian Knight's Board of Municipal and Zoning Appeals (BMZA) nonconforming use application to use the premises as a grocery store. We understand that this appeal is scheduled for hearing on February 5, 2013.

SITE

1154 North Stricker Street is located on the southwest corner of the intersection with Winchester Street. This property measures approximately 16' by 76'10" and is currently improved with a three-story semi-detached building measuring approximately 16' by 50'. This site is zoned R-8 and is located within the Sandtown-Winchester Urban Renewal Plan area and the Old West Baltimore National Register Historic District.

ANALYSIS

Use: In this zoning district, grocery stores are not listed as a permitted or conditional use, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a liquor store, which is a nonconforming use in this R-8 General Residence District.

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Sandtown-Winchester Urban Renewal Plan, which does not allow this use in this district. The Plan designates the block of which this property is a part as Residential, thus making this premises' use "non-complying" under the terms of the Plan. The Plan states in part:

"A non-complying use is any lawfully existing use of a building or other structure, or of land, which does not comply with the land use regulations of this Plan. The non-complying land uses which exist or may be legally established between the date of the survey on which the list in Appendix B is based [*this property does not appear on this list*] and the date of approval of this Plan by the Mayor and City Council of Baltimore, shall be permitted to continue for an indefinite period of time, except that:

“(1) Any non-complying land use which is discontinued a period exceeding 12 months shall not be re-established.

...

(3) No non-complying land use shall be changed to any other non-complying land use.”

The proposed change of nonconforming use thus is not approvable under the terms of the applicable Urban Renewal Plan.

RECOMMENDATION

While the Department of Planning is supportive of changing the nonconforming use from a liquor store to a grocery store, it must recommend disapproval of this appeal, because the Sandtown-Winchester Urban Renewal Plan does not allow approval of changes of nonconforming use within its Urban Renewal Area, of which this property is a part.

Conflicting Provisions: *Most restrictive provision governs.* If any condition or requirement imposed by a provision of this article is either more or less restrictive than a comparable condition or requirement imposed by any other provision of this article or of any other law, rule, or regulation of any kind, including an applicable urban renewal plan, the condition or requirement that is the more restrictive governs (§1-206.b). As stated above, the Board must disapprove this request, as the provision of the Sandtown-Winchester Urban Renewal Plan is the more restrictive.

TJS/wya/mf

cc: Brian Knight, Appellant