


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 / 3400 West Belvedere Avenue		

TO

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

DATE: February 20, 2015

### REQUEST

The Department of Planning has received Khalid Khokhar's Board of Municipal and Zoning Appeals (BMZA) application to use the basement of the premises as a grocery store and/or convenience store. The Zoning Administrator has determined that this is a prohibited use in a R-6 Zoning District. We understand that this appeal is scheduled for hearing on February 24, 2015.

### SITE

3400 West Belvedere Avenue is located on the northwest corner of the intersection with Elmer Avenue. This property measures approximately 14' by 108'3" and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 14' by 54'. This site is zoned R-6 and is located within the Park Heights Urban Renewal Plan area.

### ANALYSIS

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

Determination of nonconformity or noncompliance: (a) Whether a nonconforming use, noncomplying density or other form of nonconformity exists is a question of fact that, except as specified in subsection (b) of this section, must be decided by the Board after public notice and hearing in accordance with the rules of the Board (§13-107). This property was approved for a grocery store by the Board in December 2008 (appeal no. 874-08) but no Use and Occupancy permit has ever been issued pursuant to that decision.

Change in Nonconforming Use: In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may authorize a Class III nonconforming use in a Residence or Office-Residence District to be changed to a use permitted in a B-1 District (§13-405.b). Grocery stores are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206). Approval of this appeal would reduce the potential degree of impact imposed by this nonconforming use on the surrounding neighborhood if the previous nonconforming use as a carry-out food shop has not been discontinued and abandoned.

Urban Renewal Plan: This property is located in the Park Heights Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

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TransForm Baltimore: This property would remain part of the R-6 District (Proposed Zoning Map Area 1-D) 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)).

**RECOMMENDATION**

The Department of Planning has no objection to this appeal if the applicant demonstrates to the Board that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Khalid Khokhar, Appellant