


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 / 6589 Saint Helena Avenue		

TO

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

DATE: March 6, 2014

### REQUEST

The Department of Planning has received Doug Julian's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a tavern and restaurant and the second floor as a dwelling unit. The Zoning Administrator has determined that the tavern / restaurant is a nonconforming use in a R-6 District. We understand that this appeal is scheduled for hearing on March 11, 2014.

### SITE

6589 Saint Helena Avenue is located on the southwest corner of the intersection with Central Avenue. This property measures approximately 40'9" by 145' and is currently improved with a two-story semi-detached residential mixed-use building covering the entire lot. This site is zoned R-6 and is located within the Southeast Neighborhoods Development (SEND) Strategic Neighborhood Action Plan area and the Dundalk National Register Historic District.

### ANALYSIS

Use: In this zoning district, taverns and restaurants 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 tavern and a personal services shop, which are nonconforming uses 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). Although the nonconforming use has remained on the City's records, two inspections in 2010 reported that the premises was without electricity and closed for business. The applicant should demonstrate to the Board that nonconforming use of the premises has not been discontinued or abandoned for this application to be approvable.

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). A restaurant is listed as a conditional use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

TransForm Baltimore: This property would remain part of a R-6 District (Proposed Zoning Map Area 12-B) 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)).

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**RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates to the Board that nonconforming use of the premises has not been discontinued or abandoned.

TJS/wya/mf

cc: Doug Julian, Appellant