


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Shole / for T.J.S.</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 1152-1156 North Carrollton Avenue		

TO

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

DATE: April 12, 2012

REQUEST

The Department of Planning has received Donn Waddy's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of K A J Enterprises, to use the premises for a hand car wash and [automobile] detailing. We understand that this appeal is scheduled for hearing on April 17, 2012.

SITE

1152-1156 North Carrollton Avenue is located on the southwest corner of the intersection with Winchester Street. This property measures approximately 46'3" by 80' and is currently improved with a two-story commercial building covering the lot. This site is zoned R-8 and is located within the Sandtown – Winchester Urban Renewal Plan area.

ANALYSIS

Use: In this zoning district, car washes 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 warehouse, which is a nonconforming use in this R-8 General Residence District. Due to the fact that the existing structure on this property covers the lot, unless part or all of the structure would be razed the proposed use would be entirely indoors.

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). The structure appears to have been primarily constructed and used for a commercial use. In the B-1 zoning district, car washes are not listed as a permitted or conditional use, and so are not allowed (§6-206 to §6-208); similarly, automobile detailing is not allowed. The proposed change of nonconforming use thus is not approvable.

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, and which prohibits changing of an existing nonconforming use to a new or different nonconforming use.

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.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal, because the Board is not authorized by the Zoning Code to approve a change of a nonconforming use in a Residential District to a use that is not listed as permitted in a B-1 District; and because the applicable Urban Renewal Plan prohibits changing of an existing nonconforming use to a different nonconforming use within the Sandtown – Winchester Urban Renewal Area where this property is located.

TJS/wya/mf

cc: Donn Waddy, Appellant