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| 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 / 3822 Greenmount Avenue | | |

TO

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

DATE: June 19, 2012

REQUEST

The Department of Planning has received Hudson Defoe's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the premises for three dwelling units. We understand that this appeal is scheduled for hearing on June 26, 2012.

SITE

3822 Greenmount Avenue is located on the west side of the street, approximately 42' south of the intersection with 39th Street. This property measures approximately 28' by 122'6" and is currently improved with a two-story-plus-attic end-of-row residential building measuring approximately 26' by 44'. This site is zoned R-5 and is located within the Guilford National Register Historic District.

ANALYSIS

Use: In this zoning district, multiple-family attached dwellings are not listed as a permitted or conditional use, and so are not allowed (§4-801 to §4-804). In this case, the property was last authorized for use as a multiple-family attached dwelling, which is a Class III nonconforming use in this R-5 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). The application indicates that the structure on this property is presently vacant.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1).

Conversion of Dwellings: In all districts except the R-2, R-4, R-5, R-6, and R-8 Districts, the Board may authorize, as a conditional use, the conversion of a building for use by more than one family, as long as the number of families permitted conforms with the applicable bulk regulations for the district in which the building is located (§3-305.b.1).

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates that nonconforming use of the property has not been discontinued and abandoned, because the Board is not authorized by the Zoning Code to approve a new nonconforming use of this property in a R-5 District.

TJS/wya/mf

cc: Hudson Defoe, Appellant

Northern