


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 / 3940-3942 Park Heights 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 Nathaniel Ringgold's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a restaurant. We understand that this appeal is scheduled for hearing on June 26, 2012.

SITE

3940-3942 Park Heights Avenue is located on the west side of the street, approximately XX' north of the intersection with Keyworth Avenue. This property measures approximately 46'2" along Park Heights Avenue by 63'9" on its north side and is currently improved with a two-story detached building. This site is zoned R-6 and is located within the Park Heights Urban Renewal Plan area and the Park Circle National Register Historic District.

ANALYSIS

Use: In this zoning district, 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 dry cleaning establishment, which is a nonconforming use in this R-6 General Residence District.

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 (§6-208).

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 the subject of the Board's decision in appeal no. 395-09 approving a restaurant on the premises.

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).

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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Historic District: The property is located in a designated historic district, and so may be eligible for historic tax credits for restoration and renovation. The appellant is encouraged to contact the Baltimore Commission for Historical and Architectural Preservation before proceeding with any improvements which may be authorized as a result of this appeal.

RECOMMENDATION

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

TJS/wya/mf

cc: Nathaniel Ringgold, Appellant