


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 / 2600 East Oliver Street		

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 Mohammed Al-Sanabani's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a convenience store and carry-out food shop. We understand that this appeal is scheduled for hearing on June 26, 2012.

SITE

2600 East Oliver Street is located on the northeast corner of the intersection with Luzerne Avenue. This property measures approximately 15' by 80' and is currently improved with a two-story end-of-row residential mixed-use building covering the entire lot. This site is zoned R-7.

ANALYSIS

Use: In this zoning district, convenience stores and carry-out food shops are not listed as permitted or conditional uses, and so are not allowed (§4-1001 to §4-1004). In this case, the property was last authorized for use as a grocery store, which is a nonconforming use in this R-7 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 this property is currently vacant and may have been so for more than a year.

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 grocery store or a variety store is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206). A carry-out food shop is a use not permitted in a B-1 District (but is permitted in a B-2 District) and thus cannot be authorized as a change in nonconforming use.

RECOMMENDATION

The Department of Planning has no objection to approval of grocery store or variety store use of the first floor of this property, provided that the previous nonconforming use of the property has not been discontinued or abandoned. The Department recommends disapproval of the portion of this application relating to a carry-out food shop, because the Zoning Code does not authorize the Board to approve that use as a change of nonconforming use in a Residence District.

TJS/wya/mf

cc: Mohammed Al-Sanabani, Appellant
Eastern