2010-254

TJS

FROM		
NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE **MEMO**
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8TH FLOOR	
SUBJECT	BMZA / 801 North Bentalou Street	

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

DATE: July 27, 2010

REQUEST
The Department of Planning has received Marjorie Williams' Board of Municipal and Zoning Appeals (BMZA) application to use the basement portion of the premises as a convenience store. We understand that this appeal is scheduled for hearing on August 3, 2010.

SITE
801 North Bentalou Street is located on the northeast corner of the intersection with Lanvale Street. This property measures approximately 17' by 95' and is currently improved with a two-story end-of-row building measuring approximately 17' by 60' which is connected to a garage which occupies the entire rear yard area of the lot. This site is zoned R-6 and is located within the West Baltimore MARC Station Plan area.

ANALYSIS
Use: In this zoning district, convenience stores 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 dwelling, which is a permitted use 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). The basement level of this end-of-row house building was altered in the past to create a large display window area in the end wall and an exterior entrance to the basement. The garage attached to the rear of the building does not constitute part of this basement. Although the basement was occupied by a delicatessen and a liquor store prior to adoption of the current Zoning Code, those nonconforming uses have since lapsed.

RECOMMENDATION
The Department of Planning recommends disapproval of the appeal unless the applicant can demonstrate to the Board that the previous nonconforming use has not been discontinued.

TJS/wya/mf

cc: Marjorie Williams, Appellant

Western