


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 1300 North Caroline Street		

TO

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

DATE: August 7, 2014

### REQUEST

The Department of Planning has received David Bernard's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the premises as a grocery store. The Zoning Administrator has determined that this is a nonconforming use in a R-8 Zoning District. We understand that this appeal is scheduled for hearing on August 12, 2014.

### SITE

1300 North Caroline Street is located on the northwest corner of the intersection with Preston Street. This property measures approximately 16' by 75' and is currently improved with a two-story semi-detached building covering the entire lot. This site is zoned R-8 and is located within the Oliver NDP Urban Renewal Plan area and the Old East Baltimore National Register Historic District.

### ANALYSIS

Use: In this zoning district, grocery stores 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 grocery store by the Board's approval of appeal no. 2010-50, heard March 30, 2010, which authorized this nonconforming use in a R-8 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 previously-approved nonconforming use will be continuing.

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). The applicant should provide information indicating that nonconforming use of the property has not been discontinued or abandoned.

Urban Renewal Plan: This property is located in the Oliver Neighborhood Development Program (NDP) Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 7-B) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). "Neighborhood commercial establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use" (§1-310 (I)).

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**RECOMMENDATION**

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

TJS/wya/mf

cc: David Bernard, Appellant