


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 / 1001 South Carey Street		

TO

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

DATE:

August 5, 2014

REQUEST

The Department of Planning has received Haider Ali's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a grocery and convenience 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

1001 South Carey Street is located on the southeast corner of the intersection with Glyndon Avenue. This property measures approximately 14' by 70' and is currently improved with a three-story semi-detached building covering the entire lot. This site is zoned R-8 and is located within the Washington Village Urban Renewal Plan area and the Pigtown National Register Historic District.

ANALYSIS

Use: In this zoning district, grocery stores and convenience 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 tavern, which is a nonconforming use in this 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).

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). Although the application dated June 20, 2014 states that the current use of the property is a bar (tavern), the property is also listed in some City of Baltimore records as "not open since 2011" and as condemned as of January 19, 2014. The applicant would need to demonstrate that nonconforming use of the property has not been discontinued or abandoned for this application to be approvable by the Board.

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). Grocery stores and variety stores are listed as permitted uses in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

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Urban Renewal Plan: This property is located in the Washington Village Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

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.

TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 6-D) 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)).

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Haider Ali, Appellant