


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 / 1272 James Street		

TO

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

DATE:

August 6, 2014

REQUEST

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

1272 James Street is located on the northeast corner of the intersection with Carey Street. This property measures approximately 14' by 65' 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 Washington Village Urban Renewal Plan area and the Pigtown 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 in 1966, creating what has become a 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 property is presently vacant.

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 in order for this application to be considered approvable by the Board.

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.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 6-D) in which Neighborhood Commercial Establishments would be conditional

Mr. David Tanner, BMZA
Executive Director
Page 2
Re: 1272 James Street

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, because the Zoning Code does not authorize creation of nonconforming uses, unless the applicant demonstrates that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Young Kwan, Appellant