


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 Gough Street		

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

DATE: August 14, 2013

### REQUEST

The Department of Planning has received Lisa Junker's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Malachy Holding Company LLC, to use the existing structure as four dwelling units and a commercial use. The Zoning Administrator has determined that this is a nonconforming use in a M-2 District, and that a variance of Zoning Code parking requirements is needed for approval of this application. We understand that this appeal is scheduled for hearing on August 20, 2013.

### SITE

1300 Gough Street is located on the northeast corner of the intersection with Central Avenue. This property measures approximately 28'11" by 40' and is currently improved with a three-story building covering the entire lot. This site is zoned M-2-2 and is located within the South Central Avenue National Register Historic District.

### ANALYSIS

Use: In this zoning district, dwellings are not listed as a permitted or conditional use, and so are not allowed (§7-306 to §7-309). In this case, the property was last authorized for use as a carry-out food shop, which is a permitted use, and an attached dwelling unit, which is a nonconforming use in this M-2 Industrial District. The applicant is proposing to divide the floor area used by the dwelling unit into three dwelling units, and convert a portion of the first floor commercial floor area to a fourth dwelling unit.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714). Floor plans submitted with this application show that the amount of enlargement of the portion of the structure used for dwelling units would be approximately 25% of the existing floor area of the currently authorized dwelling unit.

**Off-Street Parking:** ... if the intensity in use of a structure or premises is increased through the addition of dwelling, efficiency, or rooming units, floor area, seating capacity, or other units of measurement, off-street parking facilities must be provided for that increased intensity, as required by this title (§10-202.a). ... whenever the existing use of a structure is changed to a new use, off-street parking facilities must be provided, as required by this title, for that new use (§10-203.a). If the structure was lawfully erected before April 20, 1971, additional off-street parking facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use (§10-203.b). In this zoning district, multiple-family attached dwellings require one off-street parking space per 2 dwelling units (§10-405.1.iv). For 4 dwelling units, 2 parking spaces are required; none are or can be provided.

**Off-Street Parking Variance:** ... the Board may grant a variance to reduce by no more than 75% the number of off-street parking spaces otherwise required by the applicable regulation (§15-208.b). In this case the reduction proposed is 100%, which is greater than the variable amount the Board may authorize. However, there is practical difficulty associated with providing on-site parking, as a curb cut would be required on either of two well-trafficked streets at a close distance to their intersection, which would be opposed for traffic safety reasons.

**TransForm Baltimore:** This property would become part of the I-MU (Industrial Mixed Use) District (Proposed Zoning Map Area 7-C) in which dwellings above the ground floor and multi-family dwellings would be permitted uses (Table 11-301). The proposed conversion of the existing structure would be consistent with the proposed new zoning of the block where this property is located.

**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.

#### **RECOMMENDATION**

The Department of Planning has no objection to this appeal.

TJS/wya/mf

cc: Lisa Junker, Appellant