


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 / 3403 Reisterstown Road		

TO

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

DATE: October 17, 2014

REQUEST

The Department of Planning has received Danyelle Davis' Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a convenience store selling package goods and tobacco, while continuing to use the two upper floors of the premises as dwelling units. The Zoning Administrator has determined that this is a nonconforming use in a R-6 Zoning District. We understand that this appeal is scheduled for hearing on October 21, 2014.

SITE

3403 Reisterstown Road is located on the east side of the street, approximately 320' north-northwest of Park Circle. This property measures approximately 21' by an average depth of 78' and is currently improved with a two-story residential mixed-use building measuring approximately 21' by 66' (inclusive of its basement front extension built as a storefront). This site is zoned R-6 and is located within the Park Heights Urban Renewal Plan area and the Park Circle National Register Historic District.

ANALYSIS

Use: In this zoning district, convenience stores, package goods liquor stores, and tobacco stores are not listed as permitted or conditional uses, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a beauty shop, which is a nonconforming 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).

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). Candy, tobacco, 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). A package goods liquor store is not eligible for a change in nonconforming use.

Urban Renewal Plan: This property is located in the Park Heights 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 the R-6 District (Proposed Zoning Map Area 2-C) 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 the portion of this appeal relating to a package goods liquor store, because liquor stores: package goods, are not among the uses listed as permitted in a B-1 district to which nonconforming use of this property may be changed. The Department has no objection to approval of a convenience store consisting of a candy, tobacco and variety store provided that the applicant demonstrates that nonconforming use of this property has not been discontinued or abandoned.

TJS/wya/mf

cc: Danyelle Davis, Appellant