


<b>FROM</b>	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 / 3728 Old Frederick Road		

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

DATE: November 29, 2010

### REQUEST

The Department of Planning has received David Lewis' Board of Municipal and Zoning Appeals (BMZA) application to use the premises for drivers' education classes. We understand that this appeal is scheduled for hearing on December 7, 2010.

### SITE

3728 Old Frederick Road is located on the north side of the street, approximately 20' west of the intersection with Kossuth Street. This property measures approximately 25' by 124' and is currently improved with a two-story-plus basement formerly residential detached building measuring approximately 24' by 55'. The adjoining vacant lot known as 3726 Old Frederick Road, at the intersection of Old Frederick Road and Kossuth Street, is under common ownership with this property and serves to provide off-street parking for the various uses in the building. This site is zoned R-5 and is located within the Edmondson Village Master Plan area.

### ANALYSIS

Use: In this zoning district, privately-owned educational institutions, business colleges and trade schools 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 single-family detached dwelling, but was also used as a carry-out food shop, a nonconforming use in this R-5 General Residence District, prior to 1971.

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). This section does not apply to any Class III nonconforming uses in an R-6, R-7, R-8, R-9, or R-10 District (§13-407.c). The Board must determine if there is still a nonconforming use of the property.

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). A business school is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206 (32a)). The Board must decide if a drivers' education school is a type of business school.

### RECOMMENDATION

The Department of Planning has no objection to this appeal.

TJS/wya/mf

Southwest

cc: David Lewis, Appellant