2011-528

TJS

FROM		
NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE **MEMO**
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8TH FLOOR	
SUBJECT	BMZA / 532-534 North Belnord Avenue	DATE: December 12, 2011

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

REQUEST
The Department of Planning has received Mohammad Saifuddin's Board of Municipal and Zoning Appeals (BMZA) application to change the use of the first floor of the premises from a tavern to a grocery store. We understand that this appeal is scheduled for hearing on December 20, 2011.

SITE
532-534 North Belnord Avenue is located on the southwest corner of the intersection with McElderry Street. This property measures approximately 25'5" by 66' and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 25'5" by 50'. This site is zoned R-8.

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 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).

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 grocery store is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

RECOMMENDATION
The Department of Planning has no objection to approval of this appeal, provided that the applicant demonstrates that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Mohammad Saifuddin, Appellant

Northwestl