


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 / 4100 Norfolk Avenue		

TO

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

DATE: January 27, 2012

REQUEST

The Department of Planning has received Linwood Neaves' Board of Municipal and Zoning Appeals (BMZA) application to use the basement portion of the premises as a mini-market. We understand that this appeal is scheduled for hearing on February 7, 2012.

SITE

4100 Norfolk Avenue is located on the northwest corner of the intersection with Oakfield Avenue. This property measures approximately 29' by 100' and is currently improved with a two-story end-of-row multiple-family residential building measuring approximately 20' by 45'. This site is zoned R-6 and is located within the Greater Northwest Community Coalition Strategic Neighborhood Action Plan area.

ANALYSIS

Use: In this zoning district, food stores and/ or variety stores are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as an attached multiple-family dwelling and as a dry cleaners, which are nonconforming uses in this R-6 General Residence District.

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). Food stores 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).

Expansion of Nonconforming Use: Except as authorized by the Board under Subtitle 7 {"Modifications and Continuances by Board"} of this title, a Class III nonconforming use may not be expanded in any manner, nor may any structure be erected or expanded on any nonconforming use of land, unless the use of the land and structure is made to conform to the regulations of the district in which the structure is located (§13-406). See also §13-702 to §13-714. The applicant should provide a floor plan for the basement area that demonstrates that the proposed use would not enlarge the floor area used by the previous dry cleaning use.

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 Zoning Administration office has indicated that the dry cleaning business has been closed for less than a year.

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RECOMMENDATION

The Department of Planning has no objection to approval of this appeal, provided that the applicant demonstrates that the previous nonconforming use of the property has not been discontinued or abandoned, and that the proposed nonconforming use would not occupy a larger portion of the property than the previous nonconforming use.

TJS/wya/mf

cc: Linwood Neaves, Appellant