


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 / 2400 Fleet Street		

TO

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

DATE: March 2, 2012

### REQUEST

The Department of Planning has received Dana Church's Board of Municipal and Zoning Appeals (BMZA) application to use the front of the first floor of the premises as a wearing apparel shop and clothing accessories shop and shoe and leather goods store. We understand that this appeal is scheduled for hearing on March 6, 2012.

### SITE

2400 Fleet Street is located on the northeast corner of the intersection with Montford Avenue. This property measures approximately 18' along Fleet Street by 98'6" along Montford Avenue and contains approximately 0.083 acre, and is currently improved with a three-story end-of-row residential mixed-use building measuring approximately 18' by 58' and a carriage house measuring approximately 18' by 17' fronting on Montford Avenue and serving as a gatehouse to an interior parking area. This site is zoned R-8 and is located within the Canton National Register Historic District.

### ANALYSIS

Use: In this zoning district, retail 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 garden supplies, tools, and seeds store, 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). Clothing shops, shoe 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).

### RECOMMENDATION

The Department of Planning has no objection to this appeal, provided that the applicant can demonstrate that the previous nonconforming use has not been discontinued or abandoned.

TJS/wya/mf

cc: Dana Church, Appellant

Southeast