


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 / 428 Mosher Street		

TO

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

DATE: March 20, 2015

REQUEST

The Department of Planning has received James Weinman's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a food and variety store. The Zoning Administrator has determined that this is a nonconforming use in a R-8 Zoning District. We understand that this appeal is scheduled for hearing on March 24, 2015.

SITE

428 Mosher Street is located on the northeast corner of the intersection with Druid Hill Avenue. This property measures approximately 16' by 90' and is currently improved with a three-story end-of-row building measuring approximately 16' by 60'. This site is zoned R-8 and is located within the Upton's Marble Hill Historic District.

ANALYSIS

Use: In this zoning district, food stores and variety 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 beauty parlor, 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). The application indicates that the property is currently vacant.

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 each is eligible for a change in nonconforming use (§6-206).

Historic District: The subject property is located within the Upton's Marble Hill District, a locally designated Baltimore City historic district. All exterior changes, including additions, demolitions, and alterations are subject to review and approval by the Commission for Historical and Architectural Preservation (CHAP). It is recommended that the applicant contact CHAP to determine the review process applicable to their project.

Comprehensive Planning: The community has indicated opposition to the proposed re-use of the first floor of the premises. The applicant is encouraged to meet with the community to discuss their concerns and possible responses to them.

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TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 6-B) 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 this appeal unless the applicant demonstrates that nonconforming use of the premises has not been discontinued and abandoned.

TJS/wya/mf

cc: James Weinman, Appellant