


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>JTS/fm TJS</i>	CITY of BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 1616-1626 Cole Street		

TO

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

DATE: June 16, 2010

**REQUEST**

The Department of Planning has received Eugene Henson's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a garage for storage, repair, and servicing of motor vehicles – not including body repair and spray painting. We understand that this appeal is scheduled for hearing on June 22, 2010.

**SITE**

1616-1626 Cole Street is located on the northwest corner of the intersection with Vincent Street. This property measures approximately 78' by 81' and is currently improved with a one-story commercial building covering the entire lot. This site is zoned R-8 and is located within the Operation Reach Out Southwest (OROSW) Master Plan area.

**ANALYSIS**

Use: In this zoning district, garages, other than accessory, for storage, repair, and servicing of motor vehicles not over 1-1/2 tons capacity – but not including body repair, painting, or engine rebuilding, 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 garage for storage, repair, and servicing of motor vehicles, which is a nonconforming use in this R-8 General Residence District.

Discontinuance of Use:

(1) Except as specified in paragraph (2) of this subsection, whenever the active and continuous operation of any Class II nonconforming use, or any part of that use, has been discontinued for 18 consecutive months:

- (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use, regardless of any reservation of an intent to resume active operations or otherwise not abandon the use; and
- (ii) the discontinued part of that use:
  - (A) may not be reestablished; and
  - (B) any subsequent use of any part of the land or structure previously used for the discontinued use, or discontinued part of that use, must conform to the regulations of the district in which the land or structure is located.

(2) In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may extend the time limit for discontinuance for 1 or more additional periods. In no case, however, may the total of the additional time exceed 18 months (§13-307).

**RECOMMENDATION**

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

TJS/wya/mf

cc: Eugene Henson, Appellant