


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 / 1800 North Bond Street		

TO

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

DATE: July 15, 2013

REQUEST

The Department of Planning has received Janie Cauthorne's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a grocery store and office. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District. We understand that this appeal is scheduled for hearing on July 23, 2013.

SITE

1800 North Bond Street is located on the northwest corner of the intersection with Lafayette Avenue. This property measures approximately 18' by 85' and is currently improved with a three-story end-of-row residential mixed-use building measuring approximately 18' by 50'. This site is zoned R-8 and is located within the Oliver Neighborhood Development Program Urban Renewal Plan area and the Old East Baltimore National Register Historic District.

ANALYSIS

Use: In this zoning district, grocery stores and offices are not listed as permitted or conditional uses, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a grocery 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). The application requests approval to continue to use the premises as a grocery store, while adding an office within the first floor level.

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). Offices: business, governmental, and professional – but not including sales and bulk storage of merchandise on the premises, is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206). The applicant should provide a floor plan for the first floor of the premises to demonstrate that nonconforming use of the property would not be expanded more than 25% above the previously-authorized floor area of the grocery store.

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an

Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. The Oliver NDP Urban Renewal Plan designates this property as part of a Residential Land Use area (Land Use Plan map, Exhibit 1) which makes the existing and proposed uses non-complying uses under the Plan. The Plan states in part:

“In addition, a non-complying use – when such term is used herein – is any lawfully existing use of a building or other structure, or of land, which does not comply with the land use regulations of the Plan. These non-complying uses shall be permitted to continue for an indefinite period of time, except that:

(1) Any non-complying land use which is discontinued for a period exceeding 12 months shall not be re-established;

(2) ...

(3) No non-complying land use shall be changed to any other non-complying land use.”

-- *Plan, Land Use Plan, B.1.g.*

The Board is thus constrained to approve the proposed office use only as an accessory use to the continuing use of the grocery store.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 7-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 that the office component of this appeal only be approved as an accessory use to principal nonconforming use of the premises as a grocery store. The Department has no objection to continued use the first floor of the premises as a grocery store.

TJS/wya/mf

cc: Janie Cauthorne, Appellant