


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 / 1815 Clifton Avenue		

TO

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

DATE: September 18, 2014

REQUEST

The Department of Planning has received Oluwatumininu Ajagunna's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor front portion of the premises as a grocery store. The Zoning Administrator has determined that this is a nonconforming use in a R-7 Zoning District. We understand that this appeal is scheduled for hearing on September 23, 2014.

SITE

1815 Clifton Avenue is located on the southwest corner of the intersection with McKean Avenue. This property measures approximately 14' by 80' and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 14' by 54'. This site is zoned R-7.

ANALYSIS

Use: In this zoning district, grocery stores are not listed as a permitted or conditional use, and so are not allowed (§4-1001 to §4-1004). In this case, the property was last authorized for use as a barber shop, which is a nonconforming use in this R-7 General Residence District, and a single-family attached dwelling.

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 barber shop portion of the property is vacant, but does not state how long a vacancy has existed.

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). A grocery store is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

Comprehensive Planning: The community has indicated opposition to the proposed use.

TransForm Baltimore: This property would become part of a R-8 District (Proposed Zoning Map Area 8-C) 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)).

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RECOMMENDATION

The Department of Planning recommends disapproval of this appeal if nonconforming use of the property has been discontinued and abandoned, because the Zoning Code does not authorize creation of new nonconforming uses.

TJS/wya/mf

cc: Oluwatumininu Ajagunna, Appellant