


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 / 3300 Gwynns Falls Parkway		

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

DATE: October 16, 2015

### REQUEST

The Department of Planning has received Harold Baskerville's Board of Municipal and Zoning Appeals (BMZA) application to use the ground level of the premises as a convenience store. The Zoning Administrator has determined that this is a prohibited use in a R-6 zoning district. We understand that this appeal is scheduled for hearing on October 20, 2015.

### SITE

3300 Gwynns Falls Parkway is located on the northwest corner of the intersection with Hilton Street. This property measures approximately 24' by 96' and is currently improved with a two-story end-of-row residential building measuring approximately 24' by 57'. This site is zoned R-6 and is located within the Greater Northwest Community Coalition Strategic Neighborhood Action Plan area.

### ANALYSIS

Use: In this zoning district, convenience stores are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a multiple-family attached dwelling and for a barber shop, which are nonconforming uses in this R-6 General Residence District. The application states that the ground level (which has a separate entrance formerly designated as 2800 Hilton Street) is currently vacant, but has been used for commercial purposes through May of 2015.

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 applicant should provide documentation of the nonconforming use of the property in the past two years in order for the Board to proceed with consideration of this application.

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 would be eligible for a change in nonconforming use (§6-206).

Comprehensive Planning: The community has indicated concerns about re-opening the closed basement corner store at this location. If this application is approved by the Board, the applicant should work with the community to address these concerns.

Mr. David Tanner, BMZA  
Executive Director  
Page 2  
Re: 3300 Gwynns Falls Parkway

TransForm Baltimore: This property would remain part of the R-6 District (Proposed Zoning Map Area 5-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 application unless the applicant demonstrates that non-conforming use of the premises is continuing. Should the Board determine that nonconforming use of the premises has not been discontinued and abandoned, the Department recommends that the new uses of the ground level be specified as a food store and a variety store.

TJS/wya/mf

cc: Harold Baskerville, Appellant