


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 / 2000 Harlem Avenue		

TO

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

DATE: October 29, 2015

REQUEST

The Department of Planning has received Bernadette Stewart's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor portion of the premises as a grocery and produce store. The Zoning Administrator has determined that this is a prohibited use in a R-8 zoning district. We understand that this appeal is scheduled for hearing on November 3, 2015.

SITE

2000 Harlem Avenue is located on the northwest corner of the intersection with Payson Street. This property measures approximately 13'9" by 76' and is currently improved with a three-story semi-detached residential mixed-use building covering the entire lot. This site is zoned R-8.

ANALYSIS

Use: In this zoning district, grocery and food 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 tavern, which is a nonconforming use in this R-8 General Residence District, and a single-family 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 tavern is vacant but does not indicate how long this 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 or food store is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 6-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 has no objection to this appeal provided that nonconforming use of the premises has not been discontinued or abandoned.

TJS/wya/mf

cc: Bernadette Stewart, Appellant