

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 / 4225 Park Heights Avenue		

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

DATE: December 5, 2013

REQUEST

The Department of Planning has received Trina Branch's Board of Municipal and Zoning Appeals (BMZA) application to use the basement of the premises as a grocery store. The Zoning Administrator has determined that this is a nonconforming use in a R-6 District. We understand that this appeal is scheduled for hearing on December 10, 2013.

SITE

4225 Park Heights Avenue is located on the east side of the street, approximately 64' north of the intersection with Park Heights Terrace. This property measures approximately 20'2" by 83'8" and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 20' by 45'. This site is zoned R-6 and is located within the Park Heights Urban Renewal Plan area.

ANALYSIS

Use: In this zoning district, grocery 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 beauty shop, which is a nonconforming use in this R-6 General Residence District, and a dwelling unit.

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).

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 states that the basement of the premises is currently vacant. The applicant must demonstrate to the Board that nonconforming use of the property has not been discontinued or abandoned.

Urban Renewal Plan: This property is located in the Park Heights Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict this use as a continuing nonconforming use.

TransForm Baltimore: This property would remain part of a R-6 District (Proposed Zoning Map Area 2-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 if the applicant demonstrates that nonconforming use of the premises has not been discontinued or abandoned.

TJS/wya/mf

cc: Trina Branch, Appellant