


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 / 527 Oldham Street		

TO

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

DATE: December 28, 2011

REQUEST

The Department of Planning has received Dian Fei Jiang's Board of Municipal and Zoning Appeals (BMZA) application to use the basement portion of the premises for a grocery store. We understand that this appeal is scheduled for hearing on January 10, 2012.

SITE

527 Oldham Street is located on the northeast corner of the intersection with Fleet Street. This property measures approximately 14'4" by 74' and is currently improved with a two-story end-of-row building measuring approximately 14'4" by 43'. This site is zoned R-8 and is located within the Southeast Neighborhoods Development (SEND) Strategic Neighborhood Action Plan area.

ANALYSIS

Use: In this zoning district, grocery stores are not listed as a permitted or conditional use, and so are not allowed (§4-1101 to §4-1104). In this case, the basement of this property (and of 523 and 525 Oldham Street, as a consolidated property designated as 523-525-527 Oldham Street) was last authorized for use as a coffee shop, which is a nonconforming use in this R-8 General Residence District, in 1996. The lot consolidation needed to effectuate that approval has not occurred.

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).

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).

RECOMMENDATION

The Department of Planning has no objection to this appeal provided that the applicant demonstrates to the Board that there is a legally established nonconforming use of this property in existence, and that nonconforming use has not been discontinued or abandoned.

TJS/wya/mf

cc: Dian Fei Jiang, Appellant
Southeast