


TJS

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 / 1269 WASHINGTON BOULEVARD		

TO

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

DATE: March 13, 2009

REQUEST

The Department of Planning has received Hal Arnold's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor for a liquor store and grocery. We understand that this appeal is scheduled for hearing on April 14, 2009.

SITE

1269 Washington Boulevard is located on the southeast side of the street, approximately 30' northeast of the intersection with South Carey Street. This property measures approximately 13' by 75' and is currently improved with a three-story attached dwelling. This site is zoned R-9.

ANALYSIS

Use: In this zoning district, neither liquor stores nor grocery stores are listed as a permitted or conditional use, and so they are not allowed (§4-1201 to §4-1204). In this case, the property was last authorized for use as a barber shop and two dwelling units. The barber shop use is a nonconforming use in this R-9 General Residence District.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). This section does not apply to any Class III nonconforming uses in an R-6, R-7, R-8, R-9, or R-10 District (§13-407.c).

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). Grocery stores are listed as a permitted use in the B-1 District, and so they are eligible for a change in nonconforming use (§6-206). However, liquor stores are not listed as a permitted use in the B-1 District, and so they are not eligible. Further, the retail grocery store would most likely increase the relative degree of impact this nonconforming property imposes on the surrounding residential area. For this reason, the appeal should be denied.

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal.

TJS/ewt

cc: Mr. Hal Arnold, Appellant