


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 / 1401 Riverside Avenue		

TO

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

DATE: June 19, 2012

REQUEST

The Department of Planning has received Paul Reitz's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the first floor of the premises as an ice cream parlor. We understand that this appeal is scheduled for hearing on June 26, 2012.

SITE

1401 Riverside Avenue is located on the southeast corner of the intersection with Gittings Street. This property measures approximately 13' by 78' and is currently improved with a two-story building measuring approximately 13' by 60'. This site is zoned R-8 and is located within the Federal Hill South National Register Historic District.

ANALYSIS

Use: In this zoning district, candy and ice cream 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 grocery store, which is a nonconforming use in this R-8 General Residence District, and a 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).

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). Candy and ice cream stores are listed as a permitted use in the B-1 District, and so the proposed use is eligible for a change in nonconforming use (§6-206).

Historic District: The property is located in a designated historic district, and so may be eligible for historic tax credits for restoration and renovation. The appellant is encouraged to contact the Baltimore Commission for Historical and Architectural Preservation before proceeding with any improvements which may be authorized as a result of this appeal.

RECOMMENDATION

The Department of Planning has no objection to this appeal.

TJS/wya/mf

cc: Paul Reitz, Appellant
Southern