


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 / 1939 East North Avenue	

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

DATE:

July 13, 2010

REQUEST

The Department of Planning has received AB Associates' Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Joel and Nelia Jaro, to use the first floor portion of the premises as a delicatessen and grocery. We understand that this appeal is scheduled for hearing on July 20, 2010.

SITE

1939 East North Avenue is located on the southwest corner of the intersection with Washington Street. This property measures approximately 16' by 80' and is currently improved with a two-story end-of-row building covering the entire lot. This site is zoned R-7 and is located within the Broadway East Urban Renewal Plan area and the Baltimore East/South Clifton Park National Register Historic District.

ANALYSIS

Use: In this zoning district, grocery stores and delicatessens are not listed as a permitted or conditional use, and so are not allowed (§4-1001 to §4-1004). In this case, the property was last authorized for use as a grocery store, which is a nonconforming use in this R-7 General Residence District.

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). Food stores, grocery stores, and delicatessens are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Broadway East Urban Renewal Plan, which does allow this use to continue as a nonconforming use subject to Board approval in this district.

RECOMMENDATION

The Department of Planning has no objection to this appeal.

TJS/wya/mf

cc: AB Associates, Appellant