


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Shole / for TJS</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 1611 Bank Street		

TO

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

DATE: August 17, 2009

REQUEST

The Department of Planning has received Joe Lurz's amended Board of Municipal and Zoning Appeals (BMZA) application to convert an existing building into a seafood restaurant/delicatessen. He is amending his previous application of June 25, 2009 to delete an appeal for a carryout. We understand that this appeal is rescheduled for hearing on September 15, 2009.

SITE

Please refer to our previous memorandum of July 20, 2009.

ANALYSIS

Change in Nonconforming Use: Except as specified in subsection (b) or (c) of this section, a Class III nonconforming use in any district may not be changed to any other nonconforming use (13-405.a). 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, bakeries, and delicatessens are listed as permitted uses in the B-1 District, and so are eligible for a change in nonconforming use (§6-206). The delicatessen proposed by the appellant may thus be authorized by the Board. However, a restaurant is a conditional use in a B-1 District (§6-208) rather than a permitted use, and so may not be eligible for a change in nonconforming use (please refer to our previous memorandum of July 20, 2009).

RECOMMENDATION

The Department of Planning does not object to approval of changing the nonconforming use to a delicatessen.

TJS/ewt/mf

cc: Joe Lurz, Appellant