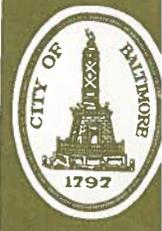


<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 600 North Highland Avenue		

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

DATE: October 10, 2013

**REQUEST**

The Department of Planning has received Doris Ramos' Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a delicatessen. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District. We understand that this appeal is scheduled for hearing on October 15, 2013.

**SITE**

600 North Highland Avenue is located on the northwest corner of the intersection with McElderry Street. This property measures approximately 18' by 75' and is currently improved with a two-story attached building covering the entire lot. This site is zoned R-8.

**ANALYSIS**

Use: In this zoning district, a delicatessen is not listed as a permitted or conditional use, and so is not allowed (§4-1101 to §4-1104). In this case, the property was last authorized, in 2010, for use as a non-resident's professional office, which is a conditional use in this R-8 General Residence District. The application indicates that the property is currently vacant.

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). The approved office use is not represented by a Use and Occupancy permit for that purpose, thus the effectiveness of the Board's decision in 2010 may have lapsed. Testimony at the May 25, 2010 hearing concerning this same property indicated that the premises was then vacant and had lost its nonconforming use status. Unless this applicant demonstrates that there is a lawfully established nonconforming use on this property, this application may be unapprovable, because the Zoning Code does not authorize creation of new nonconforming uses.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 8-C) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). "Neighborhood Commercial Establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use (§1-310 (I))."

**RECOMMENDATION**

If there is no nonconforming use now on this premises, the Department of Planning recommends disapproval of this appeal, because the Zoning Code does not authorize creation of new nonconforming uses, which a delicatessen would be in a R-8 Residential District.

TJS/wya/mf

cc: Doris Ramos, Appellant

Eastern