


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 / 900 – 902 East Eager Street	

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

DATE: October 21, 2010

REQUEST

The Department of Planning has received Jong Nam Kim's Board of Municipal and Zoning Appeals (BMZA) application to consolidate lots known as 900 East Eager Street and 902 East Eager Street, and continue to use the premises for a grocery store. We understand that this appeal is scheduled for hearing on October 26, 2010.

SITE

900 East Eager Street is located on the northeast corner of the intersection with Valley Street. This property measures approximately 14' by 80' and is currently improved with a three-story end-of-row building covering the entire lot. 902 East Eager Street is located on the north side of the street, approximately 14' east of the intersection with Valley Street, and adjoins 900 East Eager Street. This property measures approximately 12' by 80' and is currently improved with a two-story attached building measuring approximately 12' by 63'. This site is zoned R-8 and is located within the Johnston Square Urban Renewal Plan area and the Old East Baltimore National Register Historic District.

ANALYSIS

Use: In this zoning district, grocery 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 known as 900 East Eager Street was last authorized for use as a grocery store, which is a nonconforming use in this R-8 General Residence District. The adjoining property known as 902 East Eager Street was last authorized for use as a dwelling.

Expansion of Nonconforming Use: Except as authorized by the Board under Subtitle 7 {"Modifications and Continuances by Board"} of this title, a Class III nonconforming use may not be expanded in any manner, nor may any structure be erected or expanded on any nonconforming use of land, unless the use of the land and structure is made to conform to the regulations of the district in which the structure is located (§13-406). See also §13-702 to §13-714.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use;

(4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

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 Johnston Square Urban Renewal Plan, which does allow this use to continue in this district subject to the nonconformance provisions of the Zoning Code.

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 recommends that if this appeal is approved, approval be made conditional upon the applicant providing floor plans showing both existing conditions and proposed conditions, and conditional upon the proposed floor plans showing that the nonconforming use (grocery store) would not increase its floor area by more than 25% above its currently permitted extent.

TJS/wya/mf

cc: Jong Nam Kim, Appellant