


TJS

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 / 2452 Druid Hill Avenue		

TO

DATE:

October 9, 2012

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

REQUEST

The Department of Planning has received Robbyn Bland's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a grocery store and delicatessen. We understand that this appeal is scheduled for hearing on October 16, 2012.

SITE

2452 Druid Hill Avenue is located on the southwest corner of the intersection with Traction Street. This property measures approximately 17' along Druid Hill Avenue tapering to 6' at the rear alley, by 118' along Traction Street, and is currently improved with a three-story semi-detached residential mixed-use building measuring approximately 17' by 55'. This site is zoned R-8 and is located within the Penn North Urban Renewal Plan area.

ANALYSIS

Use: In this zoning district, grocery stores and delicatessens are not listed as permitted or conditional uses, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a multiple-family dwelling, a permitted use, and a grocery store, which is a nonconforming use in this R-8 General Residence District.

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 first floor of this property was previously altered and approved for use as a grocery store, and the applicant must demonstrate that the nonconforming use has not been discontinued or abandoned.

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). A delicatessen is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

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. The applicant should provide a floor plan indicating the dimensions of the area proposed for use as a grocery store and delicatessen, and indicate if the proposed uses would use a larger floor area than the previous nonconforming use.

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Urban Renewal Plan: This property is located in the Penn North Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

RECOMMENDATION

The Department of Planning has no objection to this appeal provided that the applicant demonstrates to the Board that nonconforming use of the property has not been discontinued or abandoned, and that if the nonconforming use is continuing the proposed grocery store and delicatessen would not cause an enlargement of the nonconforming use of the property.

TJS/wya/mf

cc: Robbyn Bland, Appellant