


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 / 2400 Frederick Avenue		

TO

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

DATE: February 4, 2014

REQUEST

The Department of Planning has received Yunjin Zheng's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a grocery store. 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 February 11, 2014.

SITE

2400 Frederick Avenue is located on the northwest corner of the intersection with Willard Street. This property measures approximately 24' by 50'1" and contains approximately 0.028 acre, and is currently improved with a three-story semi-detached residential mixed-use building covering the entire lot. This site is zoned R-8 and is located within the Operation Reach Out Southwest (OROSW) Strategic Neighborhood Action Plan area.

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 was last authorized for use as a carry-out food shop, which is a nonconforming use in this R-8 General Residence District, and a dwelling unit.

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 application states that this property has recently been used as the Fortune Star grocery and carry-out shop.

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

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 6-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

The Department of Planning recommends approval of this appeal if nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf