


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Shule/for T.J.S.</i>	CITY of BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 901 Harlem Avenue		

TO

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

DATE: June 14, 2010

**REQUEST**

The Department of Planning has received Abdulla Al-Jaradi's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a grocery store. We understand that this appeal is scheduled for hearing on June 22, 2010.

**SITE**

901 Harlem Avenue is located on the southwest corner of the intersection with Fremont Avenue. This trapezoidal-shape property measures approximately 14'6" along Harlem Avenue by 72' along Fremont Avenue, and is currently improved with a three-story end-of-row building and a one-story commercial rear addition together covering the entire lot. This site is zoned R-8 and is located within the Harlem Park II Urban Renewal 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.

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 grocery store is listed as a permitted use in the B-1 District, and so is eligible under the Zoning Code for a change in nonconforming use (§6-206).

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 Harlem Park II Urban Renewal Plan ("the Plan"), which does allow this use in this district provided that it is referred to as a food store. The Plan states, in part, in its section C, Land Use Plan:

“Permitted Uses ...

(2) Mixed Residential (Residential containing NonConforming Uses)

Current uses classified as non-conforming by Zoning Enforcement shall abide by the existing regulations listed under this section.

(a) The non-conforming use shall not be changed to any use except those permitted within the R-8 Zoning District of the project area as specified above or to any of the following uses: barber shop; beauty shop; clothing store; drug store; food store; laundry and dry-cleaning pick-up station; office, business or professional; shoe store; shoe repair shop; tailor shop.”

As a grocery store and a food store may be considered identical, the requested use is not inconsistent with the Urban Renewal Plan.

**RECOMMENDATION**

The Department of Planning recommends approval of the appeal.

TJS/wya/mf

cc: Abdulla Al-Jaradi, Appellant