


FROM	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 / 1201 North Potomac Street		

TO

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

DATE:

May 15, 2014

**REQUEST**

The Department of Planning has received Ling Zhen's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Shi Hui Lin, to use the first floor of the premises as a grocery store, delicatessen, and liquor store. The Zoning Administrator has determined that this is a nonconforming use in a R-7 District. We understand that this appeal is scheduled for hearing on May 20, 2014.

**SITE**

1201 North Potomac Street is located on the northeast corner of the intersection with Biddle Street. This property measures approximately 16' by 70' and is currently improved with a two-story semi-detached building measuring approximately 16' by 62'. This site is zoned R-7.

**ANALYSIS**

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 applicant must demonstrate to the Board that there is a lawfully established nonconforming use of the property currently present for any part of this application to be approvable.

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 and/or delicatessen is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use; a liquor store is not listed as a permitted use in the B-1 District, and so is not eligible for a change in nonconforming use (§6-206).

TransForm Baltimore: This property would become part of the R-8 District (Proposed Zoning Map Area 8-A) in which Neighborhood Commercial Establishments would be conditional uses but Retail Goods Establishments with Alcohol Sales would be prohibited (Table 9-301). This would allow the proposed grocery store and delicatessen upon Board approval.

**RECOMMENDATION**

The Department of Planning recommends disapproval of the portion of this appeal relating to a liquor store, because a liquor store is not among the uses permitted in a B-1 District to which a nonconforming use in a R-7 District may be changed; and recommends approval of the portion of this appeal relating to a grocery store and delicatessen only if the applicant demonstrates that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Ling Zhen, Appellant

Eastern