2010-479

TJS

FROM		
NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE **MEMO**
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8TH FLOOR	
SUBJECT	BMZA / 3500 Chestnut Avenue	DATE: November 16, 2010

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

REQUEST
The Department of Planning has received Julie Tice's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor and basement of the premises for a bakery and delicatessen. We understand that this appeal is scheduled for hearing on November 23, 2010. This property was previously the subject of BMZA appeal 2010-355 for a residential addition to the rear of the building, heard on October 12, 2010, at which time it was stated that there is a vacant formerly commercial space on the ground floor of the same building.

SITE
3500 Chestnut Avenue is located on the northwest corner of the intersection with 35th Street. This property measures approximately 15' by 80' and is currently improved with a two-story end-of-row building measuring approximately 15' by 68'. This site is zoned R-7 and is located within the Hampden National Register Historic District.

ANALYSIS
Use: Any use that is not expressly allowed in a district is prohibited (§3-106). In this zoning district, bakeries and delicatessens are not listed as permitted or conditional uses, and so are not allowed (§4-1001 to §4-1004). In this case, the property was used as a repair shop, which is a nonconforming use in this R-7 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).

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). Bakeries and delicatessens are listed as permitted uses in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

RECOMMENDATION
The Department of Planning has no objection to this appeal provided that the proposed nonconforming use does not occupy an area more than 25% larger than the existing area used by previously approved nonconforming uses. The applicant should provide a floor plan for the entire street level and basement of the structure to verify this.

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cc: Julie Tice, Appellant