


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 / 726 North Fremont Avenue		

TO

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

DATE: January 8, 2016

REQUEST

The Department of Planning has received Kim Brown's Board of Municipal and Zoning Appeals (BMZA) application to use the basement of the premises as a unisex barber shop. (Use of the remainder of the premises as four dwelling units would continue.) The Zoning Administrator has determined that this is a prohibited use in a R-8 zoning district. We understand that this appeal is scheduled for hearing on January 26, 2016.

SITE

726 North Fremont Avenue is located on the southwest corner of the intersection with Lanvale Street. This property measures approximately 103'8" along Fremont Avenue by 9'5" along Lanvale Street but widens to 46' at its south side adjoining a 3' wide pedestrian alley, and is currently improved with a three-story formerly semi-detached building measuring approximately 58' along Fremont Avenue by 9'5" at its north end and 30' at its south end. This site is zoned R-8 and is located within the Harlem Park II Urban Renewal Plan area and the Old West Baltimore National Register Historic District.

ANALYSIS

Use: In this zoning district, barber shops 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 grocery store with an outdoor public telephone, 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 application states that a "convenient store" on the premises has been vacant since February 2015 and is proposed for re-use as a unisex barber 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). A barber shop and/or a beauty shop are/is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

Urban Renewal Plan: This property is located in the Harlem Park II Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district. However, the Plan does include specific restrictions to which the applicant's proposed use must adhere:

- (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.**
- (b) The non-conforming use shall not be extended, expanded, enlarged, or added to in any manner.
- (c) No exterior sale or display of merchandise shall be permitted in connection with a non-conforming use.
- (d) One identification sign shall be permitted for each non-conforming use provided:
 - i. that such identification sign shall be limited to the name or description of the business or nature of the non-conforming use;
 - ii. that only one such identification sign shall exist for each non-conforming use and shall not in gross area exceed one (1) foot times the frontage of the non-conforming use, or twenty (20) square feet, whichever is less, and further provided, however, that the aggregate gross area of all such signs on a building or structure containing more than one non-conforming use shall not exceed sixty (60) square feet;
 - iii. that such identification sign shall be located flat against the building or structure containing the non-conforming use and project not more than twelve (12) inches from the building or structure; nor project higher than 15 feet above the mean level of the curb or one (1) foot above the floor level of the second story, whichever is lower;
 - iv. that no pulsating or animated sign shall be permitted.
- (e) In the event of discontinuance or abandonment of any non-conforming use for a period of six (6) consecutive months, such non-conforming use shall not there-after be re-established except that a use specified above in Section C.2.a(2)(a) (page 4) may be re-established.

TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 6-D) 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 that approval of this appeal, if granted, be subject to the condition that any signage placed on the building must be in accordance with the requirements of the Harlem Park II Urban Renewal Plan.

TJS/wya/mf

cc: Kim Brown, Appellant