


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 / 2900 East Oliver Street		

TO

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

DATE: March 6, 2013

REQUEST

The Department of Planning has received Wanda Williams and Janet Yancey's Board of Municipal and Zoning Appeals (BMZA) application to use a portion of the property as a hair salon. The Zoning Administrator has determined that this would be a nonconforming use in a O-R District, and that BMZA approval would be required for this application. We understand that this appeal is scheduled for hearing on March 19, 2013.

SITE

2900 East Oliver Street is located on the northeast corner of the intersection with Linwood Avenue, and extends along Oliver Street to Potomac Street, and contains approximately 0.854 acre. This property measures approximately 210'1" by 177' and is currently improved with a one-story former commercial building measuring approximately 84' by 105'. This site is zoned O-R-1.

ANALYSIS

Use: In this zoning district, beauty shops and barber shops are not listed as permitted or conditional uses, and so are not allowed (§5-201 to §5-204). In this case, the property was last authorized for use as a church, which is a permitted use in this O-R Office 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 Board would need to determine that there was an existing nonconforming use of this property or a portion thereof in order to approve the proposed use as a principal use.

Accessory use: The Board may authorize accessory uses in O-R Districts (§5-202). The applicant provided a floor plan of the existing structure on the property which indicates that less than 20% of the total floor area of the lower (basement) level of the structure would be used for a hair salon. The application did not provide additional details that would support a determination that the proposed hair salon would be an accessory use to the principal use of the property as a religious institution.

TransForm Baltimore: This property would become part of the surrounding R-6 District (Proposed Zoning Map Area 7-B), in which Neighborhood Commercial Establishments would be a conditional use (Table 9-301). A hair salon would qualify as a Neighborhood

Commercial Establishment according to its proposed definition: "... 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). The structure on this property is non-residential in its construction and original (and continuing) use.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal if the hair salon would be an additional principal use of the property, because a hair salon (beauty shop and/or barber shop) would be a nonconforming use in a Office Residence District, and the Zoning Code does not provide the Board discretionary authority to approve new nonconforming uses. The Department would have no objection to this appeal if the hair salon would be accessory to the continuing principal use of the property as a religious institution and be located on the lower level of the structure in the area stated by the applicant, and have no exterior signage.

TJS/wya/mf

cc: Wanda Williams and Janet Yancey, Appellants