


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 Wyman Park Drive and 2902 Wyman Parkway		

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

DATE: April 21, 2010

REQUEST

The Department of Planning has received the Baltimore Alumni Chapter of Sigma Phi Epsilon's Board of Municipal and Zoning Appeals (BMZA) application to consolidate lots and construct a three-story rear addition (26' by 32'), and use the entire premises as a fraternity house. We understand that this appeal is scheduled for hearing on April 27, 2010.

SITE

2900 Wyman Park Drive is located on the northwest corner of the intersection with 29th Street. This property measures approximately 47' by 108' and is currently improved with a three-story end-of-row building measuring approximately 25' by 42'. 2902 Wyman Parkway, which adjoins this property and building, measures approximately 21' by 108' and is improved with a two-story row-house building measuring approximately 21' by 42'. This site, comprised of two lots, is zoned R-6.

ANALYSIS

Use: In this zoning district, fraternity houses are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property at 2900 Wyman Park Drive was last authorized for use as an off-campus fraternity house, which is a nonconforming use in this R-6 General Residence District. The property at 2902 Wyman Parkway is currently authorized as a single-family residence, its original use since construction in the early 1920s. Consolidation of the lots would have the practical effect of allowing expansion of the nonconforming use at 2900 Wyman Park Drive.

Expansion of Nonconforming Use: Except as authorized by the Board under Subtitle 7 {"Modifications and Continuances by Board"} of this title, a Class III nonconforming use may not be expanded in any manner, nor may any structure be erected or expanded on any nonconforming use of land, unless the use of the land and structure is made to conform to the regulations of the district in which the structure is located (§13-406). See also §13-702 to §13-714.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health,

safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714). The square footage of the existing nonconforming use, the fraternity house, is approximately 3,000; the square footage of 2902 Wyman Parkway with which consolidation is proposed is approximately 1,506. Hence, excluding consideration of the proposed rear addition, an approximately 50% extension of the nonconforming use is proposed, in which the increase in floor area exceeds the Board's discretionary range.

The proposed rear addition is described by the applicant as a three-story structure with dimensions 26' by 32', or approximately 832 square feet per floor, yielding approximately 2,496 square feet to be added to the existing nonconforming use. This addition by itself would constitute an over 80% increase in the floor area of the existing fraternity house, which also exceeds the Board's discretionary range.

The cumulative effect of combining the applicant's proposed extensions of the existing nonconforming use would be to more than double its floor area. Such an increase would be inconsistent with the intent and purposes of the Zoning Code.

Off-Street Parking: ... if the intensity in use of a structure or premises is increased through the addition of dwelling, efficiency, or rooming units, floor area, seating capacity, or other units of measurement, off-street parking facilities must be provided for that increased intensity, as required by this title (§10-202.a). If the structure was lawfully erected before April 20, 1971, additional off-street parking facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use (§10-203.b). For fraternity houses, the off-street parking required is 1 space per 4 persons of rated capacity (§10-405 (9)). While the rated capacity of the proposed rear addition is unknown at this time, its per-floor square footage could accommodate 8 persons, using 100 square feet as a typical bedroom floor area. This addition, if built to house 24 persons, would require 6 additional off-street parking spaces be provided on premises. The alley behind both properties proposed for consolidation is of sufficient width to be used for access to this parking.

Accessory off-street parking facilities that existed on April 20, 1971, and still serve a structure or use may not be reduced below – or if already below, may not be further reduced below – the minimum requirements of this title for a similar new structure or use (§10-204). 2900 Wyman Park Drive has a garage fronting on 29th Street; a presumption exists that it is still used for, or available for use as, accessory parking.

Off-Street Parking Variance: ... the Board may grant a variance to reduce by no more than 75% the number of off-street parking spaces otherwise required by the applicable regulation (§15-208.b). In this case the reduction proposed is 100%, which is greater than the variable amount the Board may authorize.

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Floor Area Ratio: The Board may grant a variance to increase a basic floor area ratio factor by no more than 75% of the applicable regulation (§15-204.b). In this case, the proposed floor area ratio is 0.95 which is less than the permitted ratio of 1.0 (§4-908). No floor area ratio variance would be required.

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal, because the proposed consolidation of the adjoining properties into a single fraternity house would require the Board to increase a nonconforming use by a percentage far in excess of the Board's authority under the Zoning Code.

TJS/ewt/mf

cc: Baltimore Alumni Chapter, Sigma Phi Epsilon, Appellant
c/o J. R. Woolman