


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR <i>Shole / Mr T. J.</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	BMZA / 2045 North Fulton Avenue		

TO

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

DATE: May 4, 2012

REQUEST

The Department of Planning has received Stacie Locust's Board of Municipal and Zoning Appeals (BMZA) application to use the property for a barber shop/ beauty shop/ unisex hair salon and a dwelling unit. We understand that this appeal is scheduled for hearing on May 15, 2012.

SITE

2045 North Fulton Avenue is located on the southeast corner of the intersection with Clifton Avenue. This property measures approximately 15' by 80' and is currently improved with a two-story end-of-row residential building measuring approximately 15' by 60'. This site is zoned R-8 and is located within the Penn North Transit Station Urban Renewal Plan area.

ANALYSIS

Use: In this zoning district, barber shops and beauty shops are not listed as permitted or conditional uses, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a multiple-family attached dwelling, which is a permitted 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). This property was authorized for use as a two-dwelling unit building by the Board's decision in appeal no. 556-08. The exterior of the building does not indicate past conversion of the lower level of the structure to a non-residential use.

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Penn North Transit Station Urban Renewal Plan, which does not allow this use in this district. The property is part of an area designated Residential on the Land Use Plan map for the Urban Renewal Area, in which non-residential uses are excluded.

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RECOMMENDATION

The Department of Planning recommends disapproval of this appeal, because the Board is not authorized by the Zoning Code to approve new nonconforming uses, which the proposed use would be in a Residential District, and because the Urban Renewal Plan reinforces this limitation.

TJS/wya/mf

cc: Stacie Locust, Appellant