2010-262

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 / 504 North Castle Street	DATE: July 27, 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 Juan Utrera's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as 3 dwelling units and erect a third floor addition. We understand that this appeal is scheduled for hearing on August 3, 2010.

SITE
504 North Castle Street is located on the west side of the street, approximately 93' north of the intersection with Jefferson Street. This property measures approximately 12'6" by 90' and is currently improved with a two-story row-house building measuring approximately 12'6" by 39'. This site is zoned R-8 and is located within the Middle East Urban Renewal Plan area.

ANALYSIS
Conversion of Dwellings: In all districts except the R-2, R-4, R-5, and R-6 Districts, the Board may authorize, as a conditional use, the conversion of a building for use by more than one family, as long as the number of families permitted conforms with the applicable bulk regulations for the district in which the building is located (§3-305.b.1).

Insufficient Lot Area: In this zoning district, multiple-family dwellings require 750 square feet of lot area per dwelling unit (§4-1106.a). In this case, for 3 dwelling units, 1,875 square feet of lot area is required. The lot only encloses 1,125 square feet, and so does not meet this requirement.

Lot Area Variance: The Board may grant a variance to reduce the applicable minimum lot area requirements by no more than: (1) 25% of the applicable regulation (§15-202). In this case, the proposed amount of variance would be 40%. The variance requested exceeds the discretionary range of the Board and so should not be allowed.

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). As 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).

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 50%, which is within the variable amount the Board may authorize.

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 Middle East Urban Renewal Plan, which does allow this use in this district.

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal, because the amount of lot area variance required exceeds the discretionary authority of the Board provided in the Zoning Code.

TJS/wya/mf

cc: Juan Utrera, Appellant