2010-267

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 / 5650 Belair Road	

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

DATE: July 27, 2010

REQUEST
The Department of Planning has received Fahad Shan's Board of Municipal and Zoning Appeals (BMZA) application to construct a rear building to be used for automobile repair and service, and an accessory office building, both to be used in conjunction with automobile sales, repair, and service, additional to existing automobile sales. We understand that this appeal is scheduled for hearing on August 3, 2010.

SITE
5650 Belair Road is located on the southwest corner of the intersection with Hamilton Avenue. This L-shaped property measures approximately 194' along Belair Road by 75' along Hamilton Avenue and contains approximately 0.523 acre, and is currently unimproved. This site is zoned B-3-1 along Hamilton Avenue and along Belair Road to an approximate lot depth of 127', and the interior portion of the lot furthest from Belair Road is zoned R-5.

ANALYSIS
Conditional Use: In the B-3 zoning district, garages, other than accessory, for storage, repair, and servicing of motor vehicles not over 1-1/2 tons capacity – including body repair, painting, and engine rebuilding, are a conditional use, requiring approval by the Board (§6-408). In the R-5 zoning district, this use is not permitted (§4-801 to 4-804).

Property Divided By Zoning District Line: Where a lot is divided into 2 or more parts by a zoning district line: (1) for all purposes except density, each part must comply with all of the regulations applicable to its zoning classification; and (2) for density purposes, the lot area computation of each part may be totaled and then distributed throughout the lot, without regard to the zoning lines (§3-307).

Required Yard: In this zoning district, a minimum front yard setback of 20' is required, and a minimum rear yard setback of 30' is required (§6-412). In this case, the proposed rear building for automobile repair and service would project to within 3'6" of the rear lot line and would lie entirely within the R-5 zoned portion of the property. The proposed office building would project to within 52' of the rear lot line and would lie partially within the R-5 zoned portion of the property.

RECOMMENDATION
The Department of Planning recommends disapproval of the appeal as presented. Constructing the rear building to be used for automobile repair and service in the proposed location of this building, at the rear of the property, would place it in a R-5 zoning district where it is prohibited, and approval would constitute creation of a nonconforming use in that zoning district, which the Board is not authorized to approve.

The Department would have no objection to approval of the portion of this appeal seeking authorization to construct the accessory office building, provided that the building would be entirely within the B-3-1 zoning district. The Department would also have no objection to approval of use of the B-3-1 portion of the property for a garage, other than accessory, for storage, repair, and servicing of motor vehicles not over 1-1/2 tons capacity – including body repair, painting, and engine rebuilding, subject to these conditions:

- There will be no parking, staging, or storing of vehicles on public rights-of-way;
- There will be no parking or storage of unlicensed vehicles on the property;
- All work must be performed indoors; and
- All materials, parts and equipment related to this use will be stored indoors.

The Department recommends that the applicant be required to obtain Site Plan Review Committee approval for a revised site lay-out and plan, including required landscaping and buffering to minimize the impact of the proposed use on the nearby residential properties, as a condition of any approval which may be given for any revision or amendment of this application.

TJS/wya/mf

cc: Fahad Shan, Appellant