


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 / 1909 North Pulaski Street		

TO

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

DATE: July 31, 2013

REQUEST

The Department of Planning has received Lillie Driver's Board of Municipal and Zoning Appeals (BMZA) application to use the second floor of the premises as a barber shop. The Zoning Administrator has determined that this is a nonconforming use in a R-7 District. A variance of Zoning Code requirements governing nonconforming use expansion is also needed for approval of this application. We understand that this appeal is scheduled for hearing on August 6, 2013.

SITE

1909 North Pulaski Street is located on the southeast corner of the intersection with Herbert Street. This property measures approximately 14' by 70' and is currently improved with a two-story end-of-row building covering the entire lot. This site is zoned R-7.

ANALYSIS

Use: In this zoning district, barber shops are not listed as a permitted or conditional use, and so are not allowed (§4-1001 to §4-1004). In this case, the property is currently used as a tavern, which is a nonconforming use in this R-7 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). The application does not indicate what portion of the structure is currently authorized for use as a tavern, but summarizes the use is continuing as a tavern on the first floor.

Change in Nonconforming Use: In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may authorize a Class III nonconforming use in a Residence or Office-Residence District to be changed to a use permitted in a B-1 District (§13-405.b). A barber shop is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206). The applicant met with Planning Department staff and indicated that her interest was in converting a portion of the floor area of the tavern to a barber shop. This approach would require approval of use of at least a portion of the second floor of the premises as part of the tavern first, in order for consideration to be given to changing that part of the nonconforming use from tavern use to barber shop use. The applicant should be required to provide floor plans showing existing conditions and proposed conditions within the structure in order for the Board to consider this request.

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 applicant’s floor plans for proposed use of the premises should demonstrate that no more than a 25% increase in nonconforming use floor area would occur if the Board approved this application.

TransForm Baltimore: This property would become part of a R-8 District (Proposed Zoning Map Area 6-A) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). “Neighborhood commercial establishment” 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 (I)). This definition would encompass the proposed use of a portion of the property as a barber shop.

RECOMMENDATION

The Department of Planning has no objection to approval of conversion of a portion of the existing nonconforming use, i.e., tavern, to a barber shop, provided that the total amount of nonconforming use of the property does not increase by more than 25% as a result of that approval.

TJS/wya/mf

cc: Lillie Driver, Appellant