


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 / 301 East 29 th Street		

TO

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

DATE: November 5, 2013

REQUEST

The Department of Planning has received John Chalk's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as six dwelling units: 1st floor, two apartments; 2nd floor, two apartments; and 3rd floor, two apartments; and to construct a two-story rear addition measuring 17'9" by 25' on the second and third floors. We understand that this appeal is scheduled for hearing on November 12, 2013.

SITE

301 East 29th Street is located on the south side of the street, approximately 152' east of the intersection with Guilford Avenue. This property measures approximately 25' by 85' and is currently improved with a three-story building measuring approximately 25' by 80'. This site is zoned R-7.

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 1,100 square feet of lot area per dwelling unit (§4-906). In this case, for six dwelling units, 6,050 square feet of lot area is required. The lot only encloses 2,125 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 65%. The variance requested exceeds the discretionary range of the Board and so should not be allowed.

Comprehensive Planning: The Department of Planning notes that this application appears to be an effort to revive a previous application, appeal no. 416-09 for the same number of dwelling units, which was amended to a request for five dwelling units by this same applicant after both this Department and the community objected to six dwelling units. Since the 1st floor was originally a grocery, then was used for other nonconforming uses, this 1st floor would revert to the status of a single dwelling unit. The dwelling units on the upper two floors predate the existing zoning. The Department notes that there have been no changes in the property or the surrounding area that would justify revisiting the previously agreed-upon authorization by the Board of five dwelling units on this property.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). This section does not apply to any Class III nonconforming uses in an R-6, R-7, R-8, R-9, or R-10 District (§13-407.c). Use of the first floor of the premises for vending machine storage and repair remains on record as a use of the property, even though testimony at the July 21, 2009 hearing on the previous appeal for the same multiple-family use of this property indicated that the first floor was vacant.

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). Dwellings are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206).

Off-Street Parking: In this zoning district, multiple-family attached dwellings require one off-street parking space per dwelling unit (§10-405.1.iv). For six dwelling units, six parking spaces are required; none are or can be provided that would conform to Zoning Code requirements for accessibility due to the narrowness of the alleys beside and behind this property. The fifth dwelling unit, which would replace the previous nonconforming use whose parking requirement was previously waived, would not require an additional parking space. However, the sixth dwelling unit, or second dwelling unit proposed for the 1st floor, would be new and require provision of an off-street parking space. 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).

TransForm Baltimore: This property would remain part of the R-7 District (Proposed Zoning Map Area 3-C) in which multi-family dwellings would be permitted uses (Table 9-301). The R-7 Districts, like all districts, would have off-street parking requirements of 1 space per dwelling unit (Table 16-406A). This property would not meet this requirement.

RECOMMENDATION

The Department of Planning recommends disapproval of the application for six dwelling units on the premises. Due to the unusual nature of the structure on this property, the Department would have no objection to reinstatement of the Board's previous approval of five dwelling units on the premises.

TJS/ewt/mf

cc: John Chalk, Appellant