

<b>FROM</b>	NAME & TITLE	THOMAS V STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 2125 Orleans Street		

**TO**

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

DATE: January 15, 2013

**REQUEST**

The Department of Planning has received Regan Harycki's Board of Municipal and Zoning Appeals (BMZA) conditional use application, on behalf of Skyline NH Res 3 LP, to use the premises as two dwelling units. We understand that this appeal is scheduled for hearing on January 22, 2013.

**SITE**

2125 Orleans Street is located on the southwest corner of the intersection with Collington Avenue. This property measures approximately 16' by 75' and is currently improved with a two-story end-of-row residential building covering the entire lot. This site is zoned R-8 and is located within the East Monument National Register Historic District.

**ANALYSIS**

Use: In this zoning district, multiple-family dwellings are a permitted use, and so are allowed (§4-1101). In this case, the applicant has indicated that the property is currently vacant.

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). In the R-7 and R-8 Districts, the conversion of a 1- or 2-family dwelling to additional dwelling units may be authorized, but only by a conditional-use ordinance.

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 applicant must demonstrate that multiple-family use of the property has not been discontinued or abandoned in order for the Board to be able to approve this application.

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).

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 two dwelling units, 1,500 square feet of lot area is required. The lot only encloses 1,200 square feet, and so does not meet this requirement.

Mr. David Tanner, BMZA  
Executive Director  
Page 2  
Re: 2125 Orleans Street

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 20%. The variance requested is within the discretionary range of the Board and so could be allowed if the applicant can demonstrate that ~~multiple-family use of the premises has not been discontinued or abandoned.~~

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). If 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). In this zoning district, multiple-family dwellings require one off-street parking space per dwelling unit (§10-405.1.iv). For two dwelling units, two parking spaces are required; none are or can be provided.

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 75%, which is the maximum variable amount the Board may authorize if the applicant can demonstrate that multiple-family use of the premises has not been discontinued or abandoned.

Historic District: The property is located in a designated historic district, and so may be eligible for historic tax credits for restoration and renovation. The appellant is encouraged to contact the Baltimore Commission for Historical and Architectural Preservation before proceeding with any improvements which may be authorized as a result of this appeal.

### **RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal if the applicant is unable to demonstrate that multiple-family dwelling use of the property in the R-8 Zoning District has not been discontinued or abandoned, because absent such evidence the application could only be approved by ordinance.

TJS/wya/mf

cc: Regan Harycki, Appellant