


FROM	NAME & TITLE	THOMAS J. 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 / 4006 Penhurst Avenue		

TO

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

DATE: February 1, 2013

### REQUEST

The Department of Planning has received James Hilaire's Board of Municipal and Zoning Appeals (BMZA) conditional use application to continue to use the premises as three dwelling units. We understand that this appeal is scheduled for hearing on February 5, 2013.

### SITE

4006 Penhurst Avenue is located on the north side of the street, approximately 215' west of the intersection with Garrison Boulevard. This property measures approximately 62'6" by 150' and is currently improved with a two-story-plus-attic detached residential building measuring approximately 32' by 42'. This site is zoned R-2 and is located within the Greater Northwest Community Coalition Strategic Neighborhood Action Plan area.

### ANALYSIS

Conditional Use: In this zoning district, multiple-family detached dwellings are a conditional use, requiring approval by the Board (§4-503).

Insufficient Lot Area: In this zoning district, multiple-family dwellings require 7,300 square feet of lot area per dwelling unit (§4-506.c). In this case, for 3 dwelling units, 18,250 square feet of lot area is required. The lot only encloses 9,375 square feet, and so does not meet this requirement. This property would thus have a noncomplying structure if the structure contained three dwelling units.

Discontinuance: Whenever the active and continuous use of a dwelling unit in a non-complying multiple-family structure subject to this Part II has been discontinued for 12 consecutive months: (1) the discontinuance constitutes an abandonment of that dwelling unit, regardless of any reservation of an intent to resume active use of or to reoccupy the unit or otherwise not to abandon it; and (2) the number of dwelling units allowed to continue in the structure is reduced by 1 (§13-512.a). The application indicates that this property is currently vacant. The applicant must demonstrate to the Board that the period of vacancy for one of the dwelling units has not exceeded 12 consecutive months or the number of dwelling units in the structure, if previously permitted to be three, would need to be reduced. If all three dwelling units in the structure have been vacant for 12 consecutive months, the property has reverted to single-family status under the Zoning Code, and the Board would have no authority to approve conversion of the structure to multiple-family dwelling use. 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).

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**RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates that use of the property as a multiple-family dwelling has not been discontinued or abandoned.

TJS/wya/mf

cc: James Hilaire, Appellant