


| | | | | |
|------|-----------------------|--|-------------------------------------|---|
| 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 / 3243 Elliott Street | | |

TO

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

DATE: May 15, 2015

REQUEST

The Department of Planning has received Christopher Celmer's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of The Celmer Group LLC, to the first floor of the premises to provide keepsake 3D/4D ultrasound images of babies for pregnant women, with no medical or diagnostic services provided. The Zoning Administrator has determined that this is a prohibited use in a R-8 Zoning District. We understand that this appeal is scheduled for hearing on May 19, 2015.

SITE

3243 Elliott Street is located on the southwest corner of the intersection with Clinton Street. This property measures approximately 16' by 75' and is currently improved with a three-story semi-detached residential mixed-use building measuring approximately 16' by 62'. This site is zoned R-8 and is located within the Canton National Register Historic District.

ANALYSIS

Use: In this zoning district, the proposed use, as well as business or professional offices and photographers' studios, are not listed as permitted or conditional uses, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a grocery store and a carry-out food shop, which are nonconforming uses in this R-8 General Residence District, and a single-family dwelling (a permitted use).

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 indicates that the first floor is currently vacant but does not indicate how long this vacancy has lasted. The applicant should provide the Board information to allow this determination.

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). Offices: business, governmental, and professional – but not including sales and bulk storage of merchandise on the premises; and/or video movies: sales and rentals, are listed as a permitted use in the B-1 District, and so would be eligible for a change in nonconforming use if the Board determines that the proposed use most nearly fits in either or both of these use categories (§6-206) which predate by several decades the development of the ultrasound technology that the applicant proposes to utilize at this location.

Mr. David Tanner, BMZA
Executive Director
Page 2
Re: 3243 Elliott Street

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 8-C) 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)).

RECOMMENDATION

The Department of Planning has no objection to this appeal provided that the applicant demonstrates that nonconforming use of the premises has not been discontinued or abandoned.

TJS/wya/mf

cc: Christopher Celmer, Appellant