


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 / 3825 Fairview Avenue		

TO

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

DATE:

July 17, 2013

REQUEST

The Department of Planning has received Brandon Smith's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a multiple-family attached dwelling with four dwelling units. The Zoning Administrator has determined that this is a nonconforming use in a R-5 District. We understand that this appeal is scheduled for hearing on July 23, 2013.

SITE

3825 Fairview Avenue is located on the southeast corner of the intersection with Chelsea Terrace. This property measures approximately 28' by 95' and is currently improved with a three-story semi-detached residential building measuring approximately 28' by 50'. This site is zoned R-5 and is located within the Greater Northwest Community Coalition Strategic Neighborhood Action Plan area.

ANALYSIS

Use: In this zoning district, multiple-family attached dwellings are not listed as a permitted or conditional use, and so are not allowed (§4-801 to §4-804). In this case, the property was last authorized for use as a multiple-family attached dwelling, which is a nonconforming use in this R-5 General Residence District; however, the application indicates that this property is vacant at this time.

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 nonconforming use of the property as a multiple-family dwelling has not been discontinued or abandoned for more than 12 consecutive months for this application to be approvable.

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). The width of the rear yard of this property would allow up to three off-street parking spaces to be created, accessible from the alley at the rear of the property.

Comprehensive Planning: This property has an attached end-of-row building that was built as a multiple-family dwelling at the end of a row of single-family porch-front houses. There were originally three dwelling units, one per floor, and a commercial use in the basement with direct access to Chelsea Terrace due to the grade change on the lot. The nonconforming commercial use has been absent for many years, but to convert this building to a single-family dwelling would be impractical as it would require significant interior alterations. As the floor area of each floor is also substantial, there would be no market for a very large single-family dwelling here. The highest and best use of this property is thus a multiple-family dwelling, including conversion of the basement level to a dwelling unit.

TransForm Baltimore: This property would remain part of the R-5 District (Proposed Zoning Map Area 5-B) in which multi-family dwellings would be permitted uses (Table 9-301). The R-5 Districts would have 2,500 square feet/ dwelling unit of lot area required (Table 9-401). As this would only allow one dwelling unit on this property, multi-family use of it would need to be “grand-fathered”.

RECOMMENDATION

The Department of Planning has no objection to approval of this appeal if nonconforming use of the property as a multiple-family attached dwelling has not been discontinued or abandoned.

TJS/wya/mf

cc: Brandon Smith, Appellant