


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 / 2606 Talbot Road		

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

DATE: November 7, 2013

REQUEST

The Department of Planning has received Lee Giroux's Board of Municipal and Zoning Appeals (BMZA) conditional use application, on behalf of PP Baltimore I LLC, to use the premises as 13 dwelling units. The Zoning Administrator has determined that this is a conditional use in a R-2 District, and that a variance of Zoning Code lot area and coverage and off-street parking requirements is needed for approval of this application. We understand that this appeal is scheduled for hearing on November 12, 2013.

SITE

2606 Talbot Road is located on the west side of the street, approximately 203' northwest of the intersection with Clifton Road. This property measures approximately 120' by 75'8" and is currently improved with a four-story detached residential building measuring approximately 75' by 40'. This site is zoned R-2 and is located within the Windsor Hills National Register Historic District.

ANALYSIS

Conditional Use: In this zoning district, multiple-family detached dwellings are a conditional use, requiring approval by the Board (§6-503). In this case, the property was last authorized for use as a multiple-family detached dwelling, which is a permitted use in this R-2 General Residence District, by the Board's decision in appeal no. 82-08X. However, this structure was condemned on November 30, 2010 and is currently vacant.

Noncompliance by Multiple-Family Structures: *Scope of part. ... (b) Structure previously erected lawfully.* This Part II does not apply to any noncomplying structure that: (1) in compliance with or before the enactment of this article, as evidenced by permits or records of the City, was originally designed and built as a multiple-family dwelling structure for 4 or more dwelling units; and (2) has not been altered, added to, or subdivided in any manner that increases the number of dwelling units to more than the maximum now allowed under this article. This building was originally constructed with thirteen dwelling units in 1913. For this reason, Planning does not object to the dwellings being renovated, and continuing.

Discontinuance or abandonment: (a) 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 one. (b) Abandonment. If, at any time, actual abandonment in fact is evidenced by removal of plumbing or kitchen facilities, by alterations that indicate an abandonment of any noncomplying dwelling unit, including

consolidation with another dwelling unit, or by the issuance of a use permit for fewer dwelling units: (1) that action constitutes an abandonment of the dwelling unit; (2) all rights to continue or reestablish the previous number of dwelling units immediately terminate; and (3) the number of dwelling units allowed to continue in the structure is reduced by one (§13-512).

Insufficient Lot Area: In this zoning district, multiple-family detached dwellings require 7,300 square feet of lot area per dwelling unit (§4-506.c.). In this case, for 13 dwelling units, 91,250 square feet of lot area is required. The lot only encloses 9,147 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 90%. The variance requested exceeds the discretionary range of the Board and so ordinarily should not be allowed. However, the structure is historic (approximately 100 years old) and was constructed on a steep-sloped lot between two public streets. Demolition of the existing structure and its replacement with a single-family detached dwelling would be required to bring this property into compliance with this Zoning Code provision, thus an unnecessary hardship would be imposed upon the applicant if the minimum lot area requirement was applied without variance.

Floor Area Ratio Variance: The Board may grant a variance to increase a basic floor area ratio factor by no more than 75% of the applicable regulation (§15-204.b). In this case, the proposed floor area ratio is approximately 1.3 which exceeds the permitted ratio of 0.4 by 225%. As the request exceeds the variable range the Board may apply, the appeal ordinarily should be disapproved. Because this is an historic structure on an existing lot it should be considered a noncomplying structure.

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 attached dwellings require one off-street parking space per dwelling unit (§10-405.1.iv). For 13 dwelling units, 13 parking spaces are required; none are provided. This structure was constructed adjoining a bus turn-out loop (on Block 8468, Lot 16 which borders this property on its southwestern side and is owned by the MTA) so residents of the apartment house were able to walk directly from their public transit to their dwelling units by way of stairways provided on this property alongside the building.

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 100%, which is greater than the variable amount the Board may authorize. Due to the steep slope of this property, and the limited amount of land not covered by the existing structure, there is no feasible way to create off-street parking on site. As this is also a designated historic district, creation of any new off-

street open-air parking facilities nearby to serve this property would be injurious to the historic fabric of Windsor Hills, and would be opposed by the Department of Planning.

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.

TransForm Baltimore: This property would become part of the R-1-D District (Proposed Zoning Map Area 5-A) in which multi-family dwellings would be prohibited uses (Table 8-301). The R-1-D Districts would require 14,520 square feet per dwelling unit and new construction would be subject to design standards (§8-501 ff.). This property's use would continue as a nonconforming use in a noncomplying structure.

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be conditional upon the applicant restoring and renovating the existing structure in accordance with standards for historic preservation tax credits.

TJS/wya/mf

cc: Lee Giroux, Appellant

