


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 / 3301 Piedmont Avenue		

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

DATE: August 21, 2015

REQUEST

The Department of Planning has received Roland Smith's Board of Municipal and Zoning Appeals (BMZA) application to use the ground level of the rear building as a barbershop. The Zoning Administrator has determined that this is a prohibited use in a R-6 zoning district. We understand that this appeal is scheduled for hearing on August 25, 2015.

SITE

3301 Piedmont Avenue is located on the southwest corner of the intersection with Hilton Street. This property measures approximately 14' by 150' and is currently improved with a two-story semi-detached residential mixed-use building measuring approximately 14' by 58' and a separate two-story detached commercial building measuring approximately 14' by 42' at the rear of the property. This site is zoned R-6 and is located within the Greater Northwest Community Coalition Strategic Neighborhood Action Plan area.

ANALYSIS

Use: In this zoning district, barbershops are not listed as a permitted or conditional use, and so are not allowed (§4-901 to §4-904). In this case, the property was last authorized for use as a grocery store and delicatessen, which is a nonconforming use in this R-6 General Residence District that the application indicates will continue in the basement of the front building, by the Board's approval of appeal no. 08-105. The application does not indicate what use is authorized for the rear building in which the proposed barbershop would be located.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

The application indicates in its drawings that the proposed barbershop would occupy both levels of the existing rear building, referred to as a "carriage house" in one drawing. The drawings do not show dimensions of the floor areas in this building; nor is there a

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dimensioned floor plan for the grocery store and delicatessen. However, if the gross floor area of the delicatessen is approximately 725 square feet and the gross floor area of each floor of the rear building is approximately 480 square feet, the expansion of the total nonconforming use floor area on the property would be approximately 65% if only one level was used, and approximately 130% if both levels were used, for the barbershop. This amount of expansion of nonconforming use of the property would exceed the discretionary authority provided to the Board in the Zoning Code, and should not be approved.

TransForm Baltimore: This property would remain part of the R-6 District (Proposed Zoning Map Area 5-B) 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 recommends disapproval of this appeal, because the amount of expansion of nonconforming use of the property would exceed the Board's discretionary authority provided in the Zoning Code.

TJS/wya/mf

cc: Roland Smithha, Appellant