


<b>FROM</b>	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 / 5418 Reisterstown Road		

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

DATE: November 25, 2013

### REQUEST

The Department of Planning has received Joseph Woolman's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of 5418 Reisterstown Road LLC, to use the upper two floors of the premises as four dwelling units, and continue to use the basement level for commercial use. The Zoning Administrator has determined that a variance of Zoning Code lot area requirements is needed for approval of this application. We understand that this appeal is scheduled for hearing on November 26, 2013.

### SITE

5418 Reisterstown Road is located on the southwest corner of the intersection with Rockfield Avenue. This property measures approximately 22' by 100' and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 22' by 78'. This site is zoned B-3-2 and is located within the Park Heights Urban Renewal Plan area.

### ANALYSIS

Use: In this zoning district, dwellings are a permitted use, and so are allowed (§6-406). In this case, the property was last authorized for use as a multiple-family attached dwelling, an appliance store, and a sign painting shop, which are permitted use in this B-3 Community Commercial District. The applicant is proposing to use the property for four dwelling units.

Conversion of Dwellings: 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). The application states that conversion already occurred unaccompanied by a Use & Occupancy permit.

Insufficient Lot Area: In this zoning district, multiple-family dwellings require 1,100 square feet of lot area per dwelling unit (§6-411.c.). In this case, for 4 dwelling units, 4,400 square feet of lot area is required. The lot only encloses 2,200 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 50%. The variance requested exceeds the discretionary range of the Board and so should not be allowed.

Urban Renewal Plan: This property is located in the Park Heights Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district.

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 asserts that previous use of the premises as four dwelling units, unaccompanied by a Use & Occupancy permit for that amount of units, gives this property nonconforming use status. The applicant must provide evidence of lawful use of the premises to sustain a determination of nonconformity.

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 2 dwelling units (§10-405.1.iv). For 4 dwelling units, 2 parking spaces are required; none are or can be provided.

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.

TransForm Baltimore: This property would become part of the C-2 District (Proposed Zoning Map Area 1-D) in which multi-family dwellings would be permitted uses (Table 10-301). The C-2 Districts would have minimum lot area requirements of 300 square feet per dwelling unit (Table 10-401). The proposed four dwelling units would thus be permitted without any variance of lot area being needed.

## **RECOMMENDATION**

The Department of Planning has no objection to this appeal provided that the applicant demonstrates that nonconforming use of the premises as four dwelling units has been established.

TJS/wya/mf

cc: Joseph Woolman, Appellant