


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 / 5109 Greenhill Avenue		

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

DATE: November 25, 2013

REQUEST

The Department of Planning has received Edward Schuler's Board of Municipal and Zoning Appeals (BMZA) conditional use application to use the premises as two dwelling units. The Zoning Administrator has determined that this is a conditional use in a R-4 District, and 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

5109 Greenhill Avenue is located on the south side of the street, approximately 247' southwest of the intersection with Cook Avenue. This property measures approximately 60' by 146'6" and is currently improved with a two-story detached residential building measuring approximately 28' by 34'. This site is zoned R-4.

ANALYSIS

Conditional Use: In this zoning district, multiple-family detached dwellings are a conditional use, requiring approval by the Board (§4-703). In this case, the property was last authorized for use as a single-family detached dwelling, which is a permitted use in this R-4 General Residence District.

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). As this property is in a R-4 District, the Board is constrained from approving this application if it is for a conversion for use by more than one family. The application states that use of the property as a multiple-family dwelling has continued for many years, mentioning its status as such in 1997 and possibly in 1958. However, there is no Use and Occupancy permit to validate this.

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).

Insufficient Lot Area: In this zoning district, multiple-family detached dwellings require 5,000 square feet of lot area per dwelling unit (§4-706.c.). In this case, for two dwelling units, 10,000 square feet of lot area is required. The lot only encloses 8,825 square feet, and so does not meet this requirement. As a result, this property, if continuing to be used for a multiple-family detached dwelling, would be considered noncomplying with regard to lot area.

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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 12%. The variance requested is within the discretionary range of the Board and so may be allowed.

TransForm Baltimore: This property would remain part of the R-4 District (Proposed Zoning Map Area 4-D) in which multi-family dwellings would be prohibited uses (Table 8-301). The R-4 Districts would have off-street parking requirements of 1 space per dwelling unit (Table 16-406A). If lawfully established as a multi-family dwelling, this would become a nonconforming use.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates to the Board that noncomplying structure use of the property has been continuing since 1971, when the current Zoning Code was adopted.

TJS/wya/mf

cc: Edward Schuler, Appellant