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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 / 2339 West North Avenue		

TO

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

DATE: November 30, 2009

REQUEST

The Department of Planning has received Margo McIntyre's Board of Municipal and Zoning Appeals (BMZA) application to use the premises for three dwelling units and an office: one dwelling unit on the first floor, one dwelling unit on the second floor, one dwelling unit on the third floor, and an office in the basement. We understand this appeal was scheduled for hearing on November 24, 2009, but has been postponed to December 8, 2009.

SITE

2339 West North Avenue is located on the southwest corner of the intersection with Ruxton Avenue. This property measures approximately 16' by 90' and is currently improved with a three-story end-of-row attached dwelling. This site is zoned R-8.

ANALYSIS

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).

Insufficient Lot Area: In this zoning district, multiple-family dwellings require 1,100 square feet of lot area per dwelling unit (§4-1106). In this case, for three dwelling units, 1,875 square feet of lot area is required. The lot only encloses 1,440 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 23.2%. The variance requested lies within the discretionary range of the Board.

Off-Street Parking: In this zoning district, multiple-family attached dwellings require one off-street parking space per dwelling unit (§10-405.1.iv). For three dwelling units, three parking spaces are required; none are 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.

Change in Nonconforming Use: In accordance with Subtitle 7 {"Modifications and Continuances by Board"} of this title, the Board may authorize a Class III nonconforming use in a Residence or Office-Residence District to be changed to a use permitted in a B-1 District (§13-405.b). Offices are listed as a permitted use in the B-1 District, and so are eligible for a change in nonconforming use (§6-206). The appellant will need to show what portion of the property was last lawfully approved for use as the prior barber shop, which is a nonconforming use in this District.

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; ... (§13-714).

RECOMMENDATION

The Department of Planning recommends disapproval of the appeal, because the proposed mix of uses is too dense and intense for this residential property.

TJS/ewt

cc: Margo McIntyre, Appellant