

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 / 1010 East Preston Street		

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

DATE: November 29, 2011

REQUEST

The Department of Planning has received Hal Arnold's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Sumit Thukral, to use the premises as three dwelling units. We understand that this appeal is scheduled for hearing on December 6, 2011.

SITE

1010 East Preston Street is located on the north side of the street, approximately 79'2" east of the intersection with Ensor Street. This property measures approximately 15'10" by 80' and is currently improved with a three-story attached residential building measuring approximately 15'10" by 57'. This site is zoned R-8 and is located within the Oliver Urban Renewal Plan area and the Old East Baltimore National Register Historic District.

ANALYSIS

Use: In this zoning district, multiple-family dwellings are a permitted use, and so are allowed (§4-1101). In this case, the property was last authorized for use as a single-family attached dwelling, which is a permitted use in this R-8 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).

Insufficient Lot Area: In this zoning district, multiple-family dwellings require 750 square feet of lot area per dwelling unit (§4-1106.a.). In this case, for three dwelling units, 1,875 square feet of lot area is required. The lot only encloses 1,275 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 32%. The variance requested exceeds the discretionary range of the Board and so should not be allowed.

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the Oliver Urban Renewal Plan, which requires a minimum lot area of 1,100 square feet per dwelling unit.

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 three dwelling units, three parking spaces are required; none are or can be provided that meet accessibility requirements in the Zoning Code because the alley at the rear of the property is only 10' wide.

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.

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.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal, because the variance required would exceed the Board's discretionary authority under the Zoning Code, and for the reason stated below, because the lot area of this property is insufficient to meet the requirement of 1,100 square feet per dwelling unit contained in the Oliver Urban Renewal Plan, and because the Board is not authorized to approve variances of requirements contained in urban renewal plans.

Conflicting Provisions: *Most restrictive provision governs.* If any condition or requirement imposed by a provision of this article is either more or less restrictive than a comparable condition or requirement imposed by any other provision of this article or of any other law, rule, or regulation of any kind, including an applicable urban renewal plan, the condition or requirement that is the more restrictive governs (§1-206.b). As stated above, the Board must disapprove this request, as the provision of the Oliver Urban Renewal Plan is the more restrictive.

TJS/wya/mf

cc: Hal Arnold, Appellant