


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 / 3446 Chestnut Avenue		

TO

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

DATE: January 6, 2015

REQUEST

The Department of Planning has received Don and Renee Gorman's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a bakery, including sales to restaurants, hotels, clubs and similar establishments, and with accessory outdoor table service. The Zoning Administrator has determined that this is a nonconforming use in a R-7 Zoning District. We understand that this appeal is scheduled for hearing on January 13, 2015.

SITE

3446 Chestnut Avenue is located on the southwest corner of the intersection with 35th Street. This property measures approximately 15' by 80' and is currently improved with a two-story end-of-row building measuring approximately 15' by 54'. This site is zoned R-7 and is located within the Hampden National Register Historic District.

ANALYSIS

Use: In this zoning district, bakeries are not listed as a permitted or conditional use, and so are not allowed (§4-1001 to §4-1004). In this case, the property was last authorized for use as a radio and television sales and repair shop, and as offices, which are nonconforming uses in this R-7 General Residence District.

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). A bakery is listed as a permitted use in the B-1 District, and so is eligible for a change in nonconforming use (§6-206).

Definition: "Outdoor table service", as an accessory to a restaurant, means an outdoor service area at which patrons are seated at tables for service of food and drinks (§1-168.1). The applicant should provide the Board information on how the proposed use would also operate as a restaurant or café in order for the Board to consider the request for accessory outdoor table service.

Land Use and Urban Design: The application included a sidewalk site plan showing that the sidewalk on 35th Street, alongside the existing building, would be used for an outdoor table service area. Because the sidewalk is approximately 16' wide, placement of 4 tables and 16 seats, as proposed by the applicant, would be possible while retaining a minimum of 6' width of sidewalk for pedestrians to pass the seating area. There would be no seating in front of the property.

TransForm Baltimore: This property would become part of the R-8 District with Rowhouse Mixed-Use Overlay district (Proposed Zoning Map Area 2-D) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301), but the R-MU Overlay would allow restaurants and retail goods establishments – with no alcohol sales, as permitted uses on the ground floor of a rowhouse structure (§12-1003).

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be subject to these conditions in addition to other conditions which the Board may establish:

- A minimum of six feet of the sidewalk must remain clear and unobstructed for pedestrian use;
- The capacity of the outdoor seating area will not be more than 4 tables and 16 patrons;
- The tables will be limited to those that can seat four patrons, and are to be kept against the wall of the building;
- There will be no outdoor bar;
- There will be no outdoor music, a jukebox, or other form of entertainment; and
- All patrons must be seated for dining, and served by wait staff.

TJS/wya/mf

cc: Don and Renee Gorman, Appellant