


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 / 633 Portland Street		

TO

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

DATE: February 5, 2016

REQUEST

The Department of Planning has received Lee Giroux's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of James Quigley, to use a portion of the second floor of the premises as a brewery in conjunction with the existing tavern and restaurant, and add accessory outdoor table service on a rooftop deck accessible from the second floor. The Zoning Administrator has determined that this is a prohibited use in a R-9 zoning district. We understand that this appeal is scheduled for hearing on February 9, 2016.

SITE

633 Portland Street is located on the southwest corner of the intersection with Emory Street. This property measures approximately 19'6" by 75' and is currently improved with a three-story semi-detached building covering approximately 90% of the lot. This site is zoned R-9 and is located within the Ridgely's Delight Urban Renewal Plan area and the Ridgely's Delight Historic District.

ANALYSIS

Use: In this zoning district, restaurants, taverns, and breweries are not listed as permitted or conditional uses, and so are not allowed (§4-1201 to §4-1204). In this case, the property was last authorized for use as a restaurant with accessory outdoor table service, which is a nonconforming use in this R-9 General Residence 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; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

The applicant has indicated that the brewery would be accessory to the operation of the restaurant and tavern, with product (beer and ale) sold strictly within the restaurant and tavern to patrons. The applicant should provide floor plans demonstrating that the proposed uses would not result in an expansion of the approved nonconforming use that would create more than a 25% increase in floor area of the nonconforming use.

Urban Renewal Plan: This property is located in the Ridgely's Delight Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict this use as a continuing nonconforming use. The Plan's Exhibit A, "Non-Conforming Uses", identifies the use of 633 Portland Street as a tavern. The Plan states that nonconforming uses may continue operations subject to the provisions of the Zoning Code.

Historic District: The subject property is located within the Ridgely's Delight District, a locally and nationally designated Baltimore City historic district. All exterior changes, including additions, demolitions, and alterations are subject to review and approval by the Commission for Historical and Architectural Preservation (CHAP). It is recommended that the applicant remain in contact with CHAP to complete the review process applicable to their project.

TransForm Baltimore: This property was originally proposed to become part of the R-8 District (Proposed Zoning Map Area 6-D) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). "Neighborhood commercial establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use" (§1-310 (I)). Among proposed amendments to this original mapping was one to designate this property as part of a C-1 District, in which Retail Goods Establishments – With Alcohol Sales, and Taverns, would be conditional uses, and Outdoor Dining would be a permitted use (Table 10-301).

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be subject to the condition that all exterior changes to the premises are completed in accordance with an Authorization To Proceed issued by the Commission for Historical and Architectural Preservation.

TJS/wya/mf

cc: Lee Giroux, Appellant