


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 / 1415-1419 Washington Boulevard		

TO

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

DATE: February 21, 2014

REQUEST

The Department of Planning has received Michael Felner's Board of Municipal and Zoning Appeals (BMZA) application to use the premises as a restaurant and tavern, erect a 168 square feet addition to the existing structure to serve as a kitchen for the business, and add accessory outdoor table service on a proposed second floor deck to be placed atop the roofs of the first floor rear additions. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District, and that a variance of Zoning Code nonconforming use expansion limitations is needed for approval of this application. We understand that this appeal is scheduled for hearing on February 25, 2014.

SITE

1415-1419 Washington Boulevard is located on the south side of the street, approximately 89' southwest of the intersection with Bayard Street. This property measures approximately 35'9" by 80' and is currently improved with a two-story attached building measuring approximately 35'9" by 64'. This site is zoned R-8 and is located within the Washington Village Urban Renewal Plan area and the Pigtown National Register Historic District.

ANALYSIS

Use: In this zoning district, restaurants and taverns are not listed as a permitted or conditional use, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a tavern, which is a nonconforming use in this R-8 General Residence District.

Urban Renewal Plan: This property is located in the Washington Village Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict this use as a continuing nonconforming use.

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 provided floor plans showing both the proposed first floor rear addition measuring approximately 168 square feet, and the proposed use of the entire second floor of the premises as part of the restaurant and tavern including storage areas supporting those uses. The applicant should provide a floor plan of existing conditions on the second floor to allow the Board to determine if the proposed addition combined with the proposed use of the entire second floor would cause the nonconforming use to be increased by an amount within the 25% discretionary range that the Zoning Code authorizes the Board to approve.

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). As this application is for outdoor table service accessory to a restaurant and tavern, the Board must determine that the principal use of the property will be a restaurant in order to be able to consider the part of the application relating to accessory outdoor table service on the rear deck.

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.

TransForm Baltimore: This property would remain part of a 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)). The structure on this property has a storefront appearance suggesting that it was used for both commercial and residential purposes in the past.

RECOMMENDATION

The Department of Planning has no objection to this application if the applicant demonstrates that nonconforming use of the property would not increase more than 25% above the level of the currently-existing nonconforming use; and recommends that approval of this appeal, if granted, be subject to these conditions in addition to any conditions which the Board may establish:

- The capacity of the outdoor seating area on the rear deck will not be more than 4 tables and 16 patrons;
- The tables will be limited to those that can seat 4 patrons, and are to be kept away from the fire escape route that crosses the deck;
- 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