


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 / 646 South Newkirk Street		

TO

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

DATE:

August 7, 2014

REQUEST

The Department of Planning has received Abe Hurdle's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Russell Schaeffer, to continue to use the premises as a tavern. The Zoning Administrator has determined that this is a nonconforming use in a R-8 Zoning District. We understand that this appeal is scheduled for hearing on August 12, 2014.

SITE

646 South Newkirk Street is located on the northwest corner of the intersection with Foster Avenue. This property measures approximately 14' by 70' and is currently improved with a two-story end-of-row residential mixed-use building measuring approximately 14' by 53'. This site is zoned R-8.

ANALYSIS

Use: In this zoning district, 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 a R-8 General Residence District.

Determination of nonconformity or noncompliance: (a) Whether a nonconforming use, noncomplying density or other form of nonconformity exists is a question of fact that, except as specified in subsection (b) of this section, must be decided by the Board after public notice and hearing in accordance with the rules of the Board (§13-107). The application indicates that the previously-approved nonconforming use will be continuing.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). The applicant should provide information indicating that nonconforming use of the property has not been discontinued or abandoned.

TransForm Baltimore: This property would remain part of a R-8 District (Proposed Zoning Map Area 7-B) 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)).

RECOMMENDATION

The Department of Planning has no objection to this appeal provided that nonconforming use of the property has not been discontinued or abandoned.

TJS/wya/mf

cc: Abe Hurdle, Appellant