


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 / 2103 and 2105 West North Avenue		

TO

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

DATE: October 23, 2013

REQUEST

The Department of Planning has received Timothy Fraser's Board of Municipal and Zoning Appeals (BMZA) application to consolidate properties known as 2103 and 2105 West North Avenue, and continue to use the premises for a restaurant with live entertainment and dancing and a banquet hall, and add after-hours use to both the restaurant with live entertainment and dancing and the banquet hall. We understand that this appeal is scheduled for hearing on October 29, 2013.

SITE

2103 West North Avenue is located on the south side of the street, approximately 15' west of the intersection with Pulaski Street. This property measures approximately 15' by 83' and is currently improved with a three-story attached building measuring approximately 15' by 52'. 2105 West North Avenue is located on the south side of the street, approximately 30' west of the intersection with Pulaski Street. This property measures approximately 15' by 83' and is currently improved with a three-story attached building measuring approximately 15' by 52'. Floor plans provided by the applicant in support of his previous application in 2010 showed that these buildings had been united by means of openings made in their party wall; however, 2103 and 2105 West North Avenue had not and still have not been legally consolidated. On August 5, 2013 the applicant conveyed 2105 West North Avenue to the Mayor and City Council of Baltimore, according to records available to this Department, thereby rendering consolidation moot. This site is zoned B-2-3.

ANALYSIS

Use: In this zoning district, restaurants – but not including live entertainment or dancing, and not including accessory outdoor table service, are listed as a permitted use (§6-306). In this case, the property also was last authorized for use as a banquet hall by Ordinance 08-92, which was enacted on December 11, 2008. The Department notes that the Board's area of consideration of this newest application is limited to a use other than a banquet hall, as any change of or modification to that conditional use must be authorized by an amendment to Ordinance 08-92. The applicant must show authorization from the Mayor and City Council allowing him to request the proposed use at 2105 West North Avenue, as he is no longer the owner of that property.

Conditional Use: In this zoning district, restaurants and taverns – including live entertainment and dancing, are listed as conditional uses, requiring approval by the Board (§6-308). The applicant is proposing to extend the hours of operation of the existing approved conditional use beyond 2:00 a.m. nightly, and requests that this be treated as a modification of a conditional use. However, the change proposed would require authorization of a new use as an after-hours establishment.

Definition: "After-hours establishment" means any of the following that remains open after 2 a.m. on any day: (1) a banquet hall, dance hall, private club or lodge, or similar place; or (2) a restaurant that provides live entertainment or dancing (§1-107). After-hours establishments are not permitted in B-2 Districts (§6-306 to §6-309). The Zoning Code does not authorize creation of new nonconforming uses, which an after-hours establishment would be in a B-2 District, where this property is located.

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal because the proposed addition of after-hours operation to the existing conditional use would require approval of use of the property for an after-hours establishment, which would be a new nonconforming use of the property, and the Zoning Code does not provide the Board authority to approve new nonconforming uses.

TJS/ewt/mf

cc: Timothy Fraser, Appellant