


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 / 32 North Chester Street		

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

DATE: June 9, 2015

REQUEST

The Department of Planning has received Stefan Popescu's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of 32 North Chester LLC, to use the first floor of the premises as a restaurant with accessory outdoor table service. The Zoning Administrator has determined that this is a prohibited use in a R-8 zoning district. We understand that this appeal is scheduled for hearing on June 16, 2015.

SITE

32 North Chester Street is located on the southwest corner of the intersection with Fairmount Avenue. This property measures approximately 16' by 77' and is currently improved with a two-story building covering the entire lot. This site is zoned R-8 and is located within the Butchers Hill National Register Historic District.

ANALYSIS

Use: In this zoning district, restaurants 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.

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 applicant should provide the Board information to demonstrate that nonconforming use of this property has not been discontinued or abandoned.

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 restaurant – including live entertainment and dancing, and including accessory outdoor table service, is listed as a conditional 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 is proposing to use both of the frontages of the existing structure for this purpose.

Land Use and Urban Design: The sidewalk site plan provided with the application shows one 4-top table in front of the building, between the corner doorway and the adjoining property, and two 4-top tables along the Fairmount Avenue side of the building. The plan shows that there would be over 7' wide unimpeded pedestrian passage in front of the building, and at least 5' wide unimpeded pedestrian passage along the Fairmount Avenue sidewalk. This plan is approvable.

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 the R-8 District (Proposed Zoning Map Area 7-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)).

RECOMMENDATION

The Department of Planning recommends disapproval of this appeal unless the applicant demonstrates that nonconforming use of the property has not been discontinued or abandoned. If nonconforming use is continuing, the Department would have no objection to approval of this application subject to these conditions in addition to any 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 3 tables and 12 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: Stefan Popescu, Appellant