


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 / 3728 Hudson Street		

TO

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

DATE: August 21, 2015

REQUEST

The Department of Planning has received Lori Gjerde's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the first floor of the premises as a tavern and add a full-service kitchen (with fire suppression system) on the second floor of the premises. The Zoning Administrator has determined that this is an expansion of a nonconforming use in a R-8 zoning district. We understand that this appeal is scheduled for hearing on August 25, 2015.

SITE

3728 Hudson Street is located on the northwest corner of the intersection with Eaton Street. This property measures approximately 16' by 70' and is currently improved with a two-story end-of-row building covering the entire lot. 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 with live entertainment and dancing, which is a nonconforming use in this R-8 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 floor plans attached to this application indicate that the first floor contains approximately 1,129 square feet, and the proposed expansion of the nonconforming use on the second floor would use approximately 828 square feet. This amount of increased floor area would exceed the 25% maximum increase of nonconforming use floor area that the Zoning Code authorizes the Board to approve. Because the amount of increase exceeds the Board's discretionary authority, this application should be disapproved.

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TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 8-C) 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, because the amount of increase of floor area of the existing nonconforming use would exceed the Board's discretionary authority provided in the Zoning Code.

TJS/wya/mf

cc: Lori Gjerde, Appellant