


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 / 1725 East Lombard Street		

TO

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

DATE: September 8, 2014

REQUEST

The Department of Planning has received Lisa Junker's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Trishul Real Estate LLC, to use the first floor of the premises as a restaurant with accessory outdoor table service, and use the upper two floors as two dwelling units. The Zoning Administrator has determined that a restaurant with accessory outdoor table service is a nonconforming use in a R-8 Zoning District, and that an ordinance is needed for approval of the proposed dwelling units. We understand that this appeal is scheduled for hearing on September 9, 2014.

SITE

1725 East Lombard Street is located on the southeast corner of the intersection with Regester Street. This property measures approximately 30'4" by 60'6" and is currently improved with a three-story semi-detached residential mixed-use building covering the entire lot. This site is zoned R-8 and is located within the Upper Fells Point 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, and a single-family attached dwelling.

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).

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 is listed as a conditional use in the B-1 District, and so is eligible for a change in nonconforming use (§6-208). However, although the full listing of uses at §6-208 includes restaurants with accessory outdoor table service, the Zoning Code does not authorize the Board to approve accessory outdoor table service in Residential zoning districts.

Conversion of Dwellings: In all districts except the R-2, R-4, R-5, and R-6 Districts, the Board may authorize, as a conditional use, the conversion of a building for use by more than one family, as long as the number of families permitted conforms with the applicable bulk regulations for the district in which the building is located (§3-305.b.1). In this R-8 zoning district, multiple-family dwellings require 750 square feet of lot area per dwelling unit

(§4-1106.a). In this case, for two dwelling units, 1,500 square feet of lot area is required. The lot encloses 1,835 square feet, and so does meet this requirement. In the R-7 and R-8 Districts, the conversion of a 1- or 2-family dwelling to additional dwelling units may be authorized, but only by a conditional-use ordinance. For this reason, the Board does not have discretionary authority to approve the portion of this application relating to establishing two dwelling units on a property last authorized for use in part as a single-family dwelling.

Off-Street Parking: ... whenever the existing use of a structure is changed to a new use, off-street parking facilities must be provided, as required by this title, for that new use (§10-203.a). If the structure was lawfully erected before April 20, 1971, additional off-street parking facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use (§10-203.b). The amount of off-street parking required for a restaurant is one parking space per 200 square feet of floor area (§10-405.21). The first floor of the premises contains approximately 1,800 square feet, which would generate a requirement for 9 off-street parking spaces. Use of the property as a tavern did not require any off-street parking to be provided. This property has no area available for off-street parking, and so the applicant must seek off-street parking on any available lot nearby, or demonstrate that there is a practical difficulty involved in meeting this requirement.

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). Restaurants would have off-street parking requirements of 1 space per 100 square feet of indoor public seating area (Table 16-406A).

RECOMMENDATION

The Department of Planning recommends disapproval of the portions of this appeal relating to accessory outdoor table service, because this property is located in a R-8 Zoning District and the Zoning Code does not authorize the Board to approve accessory outdoor table service in Residential Zoning Districts; and relating to conversion of the residential portion of the premises from a single-family dwelling unit to a two-family dwelling unit, because the Zoning Code requires that such a conversion be approved by a conditional-use ordinance. The Department has no objection to approval of changing the nonconforming use of the first floor of the premises from a tavern to a restaurant, provided that the applicant provides off-street parking to serve the restaurant according to the requirements of the Zoning Code, or that the Board determines that there is a practical difficulty involved in providing the required amount of off-street parking.

TJS/wya/mf

cc: Lisa Junker, Appellant