


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 / 3242 Foster Avenue		

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

DATE: September 16, 2015

REQUEST

The Department of Planning has received Pig & Rooster Smokehouse LLC's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor of the premises as a tavern – including live entertainment. 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 September 22, 2015.

SITE

3242 Foster Avenue is located on the northwest corner of the intersection with Clinton Street. This property measures approximately 16' by 140'4" and contains approximately 0.070 acre, and is currently improved with a two-story semi-detached building covering the entire lot. This site is zoned R-8 and is located within the Canton National Register Historic District.

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 this R-8 General Residence District, and for accessory outdoor table service, which must be accessory to a restaurant and not to a tavern. The application states that the live entertainment is sought for a tavern, not for a restaurant, and thus authorization for accessory outdoor table service should not be continued.

Changes in use: In no event ... may a Class III nonconforming use in a Residence or Office-Residence District be changed to any use in connection with which live entertainment or dancing is provided (§13-405.b.). The Board is thus not authorized to consider approving the application as presented.

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 Zoning Code does not authorize nonconforming uses in Residential zoning districts, such as the R-8 District containing this property, to be changed to include live entertainment or dancing.

TJS/wya/mf

cc: Pig & Rooster Smokehouse LLC, Appellant

East