


FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 <sup>TH</sup> FLOOR		
	SUBJECT	BMZA / 1400 Key Highway		

TO

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

DATE: November 25, 2013

**REQUEST**

The Department of Planning has received Billy Malkin's Board of Municipal and Zoning Appeals (BMZA) conditional use application to continue to use the premises as a restaurant and add accessory outdoor table service. The Zoning Administrator has determined that this is a nonconforming use in a R-8 District. We understand that this appeal is scheduled for hearing on November 26, 2013.

**SITE**

1400 Key Highway is located on the southeast corner of the intersection with Webster Street. This property measures approximately 65' by 25'2" and is currently improved with a two-story end-of-row building measuring approximately 50' by 25'. This site is zoned R-8.

**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 and a restaurant, which are nonconforming uses in this R-8 General Residence District.

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 Zoning Code authorizes the Board to approve outdoor table service accessory to restaurants in business and commercial zoning districts, but not in residence districts.

TransForm Baltimore: This property would remain part of the R-8 District (Proposed Zoning Map Area 11-A) in which Neighborhood Commercial Establishments would be conditional uses (Table 9-301). The Commercial Districts would allow Outdoor Dining as a separate permitted use (Table 10-301), but having defined it as a separate use (§1-310 (Q)) would not permit it to be established in Residential Zoning Districts (Table 9-301).

**RECOMMENDATION**

The Department of Planning recommends disapproval of this appeal, because the Zoning Code does not authorize outdoor table service as an accessory use in the R-8 Residential Zoning District.

TJS/wya/mf

cc: Billy Malkin, Appellant