


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 / 4619 Eastern Avenue		

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

DATE: May 7, 2010

REQUEST

The Department of Planning has received Gabriela Salas' Board of Municipal and Zoning Appeals (BMZA) application to continue to use the first floor of the premises as a restaurant and tavern, to use the second floor of the premises as part of that restaurant/ tavern, and to add accessory outdoor table service on the Newkirk Avenue side of the building. We understand that this appeal is scheduled for hearing on May 11, 2010.

SITE

4619 Eastern Avenue is located on the southwest corner of the intersection with Newkirk Street. This property measures approximately 30' by 70' and is currently improved with a two-story row building covering the entire lot. The sidewalk on the east wall of the building, along Newkirk Street, has a width of approximately 10' after allowance for tree pits and sign and light poles. This site is zoned B-2-2 and is located within the East Highlandtown Business Urban Renewal Plan area.

ANALYSIS

Conditional Use: In this zoning district, restaurants – but not including live entertainment or dancing, and not including accessory outdoor table service, are a permitted use; and taverns – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-306 and 6-308).

Change in Conditional Use: Any change to that use, including any expansion, relocation, or structural alteration, is subject to the procedures and requirements imposed by this article on conditional uses (§3-306.b.2).

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).

Renewal Plans: Ordinance #01-0165 was approved May 14, 2001 for the purpose of, among other things, clarifying the relationship between conditions or requirements imposed by an Urban Renewal Plan or Conservation Plan, such that the condition or requirement that is more restrictive will govern. Additionally, the ordinance prohibits the approval of a conditional use or a variance if that conditional use or variance is precluded by an applicable renewal plan or master plan.

Required Findings: The Board may not approve a conditional use unless, after public notice and hearing and on consideration of the standards prescribed in this title, it finds that: ... (2) the use is not in any way precluded by any other law, including an applicable urban renewal plan; (§14-204). For this reason, the Board must consider the requirements of the East Highlandtown Business Urban Renewal Plan, which does allow this use in this district.

Off-Street Parking: In this zoning district, restaurants require one off-street parking space per 400 square feet of floor area (§10-405.21.i). For an expansion of the restaurant use by an additional 2,000 square feet on the upper floor of the building, 5 off-street parking spaces are required.

Off-Street Parking: 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).

Off-Street Parking Variance: ... the Board may grant a variance to reduce by no more than 75% the number of off-street parking spaces otherwise required by the applicable regulation (§15-208.b). In this case the reduction proposed is 100%, which is greater than the variable amount the Board may authorize.

RECOMMENDATION

The Department of Planning recommends approval of the appeal, subject to these conditions:

1. that the applicant provide off-street parking for patrons of the expanded authorized use as may be required by the Board;
2. that outdoor table service comply with these conditions:
 - 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 5 tables and 10 patrons;
 - The tables will be limited to those that can seat 2 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: Gabriela Salas, Appellant