


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 / 120 West North Avenue		

TO

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

DATE:

June 2, 2014

**REQUEST**

The Department of Planning has received Susan Williams' Board of Municipal and Zoning Appeals (BMZA) application, on behalf of North Avenue Arts LLC, to use the existing structure for a restaurant – including live entertainment and accessory outdoor table service, artisans' and craft work (artists' studios), art display space, and offices, and to construct a rear stair tower and trash room. The Zoning Administrator has determined that live entertainment and outdoor table service accessory to a restaurant, and artisans' and craft work, are conditional uses in a B-2 District, and that variances of Zoning Code rear yard setback requirements and signage limits are needed for approval of this application. We understand that this appeal is scheduled for hearing on June 3, 2014.

**SITE**

120 West North Avenue is located on the north side of the street, approximately 40'1" east of the intersection with Howard Street. This property measures approximately 80'5" by 110' and is currently improved with a three-story attached commercial building measuring approximately 80' by 100'. This site is zoned B-2-3 and is located within the Charles North Urban Renewal Plan area and the North Central National Register Historic District.

**ANALYSIS**

Conditional Use: In this zoning district, restaurants – including live entertainment, and including accessory outdoor table service; and artisans' and craft work, are each conditional uses, requiring approval by the Board (§6-308). Offices: business, governmental, and professional, is a permitted use in a B-2 District. This property was last authorized for use as a second-hand store and for warehousing, but is currently vacant.

Urban Renewal Plan: This property is located in the Charles North Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district. The Plan requires, in its section E, Property Rehabilitation Standards, subsection 7, Signs, that all material and design of signs must be approved by the Department of Housing and Community Development.

Land Use and Urban Design: The proposed signage package as revised and submitted on May 30, 2014 shows a total of 321 square feet of signs in five signs. The design envelopes and proposed placements of these building signs have been reviewed and approval by the Board and the Commissioner of Housing and Community Development would be recommended. As the total area of building signs allowed by the Zoning Code would be 240 square feet, a 33% variance of §11-416 would be needed.

**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 applicant has provided a sidewalk site plan showing an outdoor seating area to be defined by a series of planter-boxes separating it from the pedestrian and vehicular traffic passing the property on North Avenue. The Department’s Land Use and Urban Design Division will continue to work with the applicant to refine this specific plan.

**Required Yard:** In this zoning district, a minimum rear yard setback of 30’ is required (§6-412.e). In this case, the proposed fire stairs enclosure will project to within 0’ of the rear lot line, and the existing structure already projects to within 10’ of the rear lot line.

**Yard Variance:** The Board may grant a variance to authorize a yard or setback that is less than that otherwise required by the applicable regulation (§15-203). The variance proposed would allow the applicant to satisfy Fire Code requirements for safe egress from the second and third floors of the existing structure.

**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). In this zoning district, restaurants require one off-street parking space per 400 square feet of floor area (§10-405.21.i). The proposed restaurant/ cafe’ would occupy approximately 3,400 square feet, requiring 9 spaces. The amount of off-street parking required for business, governmental or professional offices is one parking space per 800 square feet of office area in excess of 2,000 square feet (§10-405.17.i). The proposed third-floor offices would occupy approximately 7,200 square feet, requiring 7 spaces. The amount of off-street parking required for other business and commercial establishments is one parking space per 800 square feet of floor area in excess of 4,000 square feet (§10-405.17.ii). The proposed artisans’ and craft work area (artists’ studios) would occupy approximately 7,100 square feet, requiring 4 spaces. The live entertainment and art display space would occupy approximately 3,100 square feet; public assembly areas require one space per 10 persons of rated capacity (§10-405.22.i). The application estimates the capacity of this area as 380 persons (standing only), which would require 38 parking spaces. The total requirement for off-street parking would be approximately 58 spaces. The property has no area available or accessible for off-street parking. A previous appeal concerning this property determined that prior use of the premises had generated a “grand-fathered” amount of 22 spaces (BMZA appeal no. 2012-419, October 16, 2012). The applicant is thus required to provide 36 spaces, but faces a practical difficulty in attempting to do so as there are no open air off-street parking areas available within the distance prescribed by the Zoning Code.

**TransForm Baltimore:** This property would become part of a C-2 District (Proposed Zoning Map Area 7-A) in which cultural facilities, art studios, indoor entertainment, restaurants, outdoor dining, and offices would be permitted uses and live entertainment secondary to a restaurant, tavern, art studio or art gallery would be a conditional use (Table 10-301).

### **RECOMMENDATION**

The Department of Planning recommends approval of this appeal subject to approval of the proposed signage by the Commissioner of Housing and Community Development by means of a waiver of sign limitations contained in the Charles North Urban Renewal Plan; and to these conditions concerning accessory outdoor table service in addition to any conditions which the Board may establish:

- 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 the number of tables and patrons' seats shown on a sidewalk site plan approved by the Department of Planning;
- The tables will be limited to those that can seat four 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.

The Department recommends granting a total variance of the off-street parking requirements applicable to the proposed uses because the existing structure and pattern of development of the neighborhood in which this property is located create a practical difficulty in establishing any off-street parking on site or within the distance prescribed by the Zoning Code, and undue hardship would be imposed if the existing structure needed to be partially demolished to provide the parking on site.

TJS/wya/mf

cc: Susan Williams, Appellant

