


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 / 111 North Wheeler Avenue		

TO

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

DATE: June 18, 2012

REQUEST

The Department of Planning has received Dwayne Harvey's Board of Municipal and Zoning Appeals (BMZA) application to use the portion of the premises known as 2320 Vine Street as an auditorium for church services, social and community meetings, comedy shows and jazz performances. We understand that this appeal is scheduled for hearing on June 26, 2012.

SITE

111 North Wheeler Avenue is located on the northeast corner of the intersection with Vine Street. This property measures approximately 40' by 240' and is currently improved with a group of conjoined one-story buildings covering the entire lot. This site is zoned M-1-2 and is located within the Operation Reach Out Southwest (OROSW) Strategic Neighborhood Action Plan area. It is part of a non-residential area that is in close proximity to residential areas.

ANALYSIS

Conditional Use: In this zoning district, auditoriums are a conditional use, requiring approval by the Board (§7-207). In this case, the property was last authorized for use as a church, which is a nonconforming use in this M-1 Industrial District. The application indicates that the property was last used for a furniture warehouse but is currently vacant.

Discontinuance of Use: Whenever the active and continuous operation of any Class III nonconforming use, or any part of that use, has been discontinued for 12 consecutive months: (i) the discontinuance constitutes an abandonment of the discontinued nonconforming use, or discontinued part of that use... (§13-407.a.1). Use of this property for church services, if discontinued as suggested by the application's references to furniture warehouse use now vacated from the premises, would require that use to provide off-street parking, as noted below.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714). The

applicant may request an extension of the nonconforming religious use of the property if the use has not been discontinued or abandoned.

Definition – Live Entertainment:

(a) *In general.* “Live entertainment” means and one or more of any of the following, performed live by one or more persons, whether or not done for compensation and whether or not admission is charged:

- (1) musical act (including karaoke);
- (2) theatrical act (including stand-up comedy);
- (3) play;
- (4) revue;
- (5) dance;
- (6) magic act;
- (7) disc jockey; or
- (8) similar activity. (§1-153.2).

The application indicates that there would be comedy shows and jazz shows at this site, which would need Board approval of live entertainment. The applicant has not submitted complete information concerning live entertainment, particularly days and hours of live events, to inform the Board of potential effects of approval of this application.

Off-Street Parking: ... if the intensity in use of a structure or premises is increased through the addition of dwelling, efficiency, or rooming units, floor area, seating capacity, or other units of measurement, off-street parking facilities must be provided for that increased intensity, as required by this title (§10-202.a). 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 religious institution is one parking space per four seats of rated capacity (§10-405.25.i). The amount of off-street parking required for an auditorium is one parking space per ten persons of rated capacity (§10-405.22.i). In this case, the applicant has not provided either a rated capacity for the structure or a floor plan for seating during religious services, so the amount of off-street parking required could not be calculated.

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 unknown.

RECOMMENDATION

The Department of Planning recommends deferral of a complete hearing of the appeal, to allow the applicant to prepare a floor plan for the premises showing the seating for church services, as that use may have a higher off-street parking requirement than the auditorium use, and to provide complete information concerning live entertainment proposed for this site.

TJS/wya/mf

cc: Dwayne Harvey, Appellant