

TJK

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR
	SUBJECT	BMZA / 1110-1112 South Charles Street

CITY of
BALTIMORE
MEMO



TO

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

DATE: September 25, 2012

REQUEST

The Department of Planning has received Dusky Holman’s Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Mad River Bar & Grille, to use the premises as a tavern and restaurant with live entertainment. We understand that this appeal is scheduled for hearing on October 2, 2012.

SITE

1110-1112 South Charles Street is located on the west side of the street, approximately 100’ south of the intersection with Cross Street. This property measures approximately 30’ by 123’ and is currently improved with a two-story attached building covering the entire lot. This site is zoned B-2-3 and is located within the South Baltimore Business Area Urban Renewal Plan area and the Federal Hill South National Register Historic District.

ANALYSIS

Conditional Use: In this zoning district, restaurants and/or taverns – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-308).

Urban Renewal Plan: This property is located in the South Baltimore Business Area Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this district, but does prohibit dance halls. The live entertainment and dancing use of this property thus must be accessory to the principal restaurant and tavern use.

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 applicant is proposing live entertainment in the form of musical acts only, either solo, duo, or trio, with a maximum 115 decibels sound level as measured 10’ from the premises. Two dance floors would be provided, one on each floor of the premises. All live entertainment would terminate at 1:00 a.m. and would occur not more than three nights each week, but the actual week-days are not specified.

Required Findings - Live Entertainment or Dancing: For a restaurant or tavern operating with live entertainment or dancing as an accessory use, the Board must consider imposing conditions, as appropriate, concerning:

- (1) days and hours of operation;
- (2) use of amplification, noise levels, and need for noise proofing;
- (3) limits on the size of the establishment or on the size, location, or configuration of the entertainment or dancing venue within the establishment;
- (4) number of live entertainers;
- (5) number of seats proposed for outdoor table service;
- (6) exterior lighting;
- (7) whether to limit the accessory use to live entertainment only or dancing only; and
- (8) the establishment and maintenance of:
 - (i) a traffic and parking management plan; and
 - (ii) an indoor and outdoor security plan. (§14-309)

The application indicates that there would be sufficient security personnel on site on evenings or nights when live entertainment was occurring. The application does not anticipate an increase in patronage above the rated capacity of the building, 285 persons, and thus does not include a parking management plan. As the application notes a long-standing Baltimore City Police practice of closing the streets in this vicinity from 11:30 p.m. to 2:30 a.m. on Friday and Saturday nights, the applicant did not consider a parking management plan necessary.

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be subject to these conditions in addition to any conditions that the Board may establish:

- A copy of the use and occupancy permit for the premises must be kept on the premises and available for inspection by representatives of Baltimore City at all times;
- A copy of the written approval by the Board of Municipal and Zoning Appeals of the live entertainment provided on the premises, including details of any restrictions or limitations on the live entertainment provided, must be kept on the premises and available for inspection by representatives of Baltimore City at all times;
- A copy of all other permits and licenses required pursuant to the written approval of the Board of Municipal and Zoning Appeals must be kept on the premises and available for inspection by representatives of Baltimore City at all times.

TJS/wya/mf

cc: Dusky Holman, Appellant