2011-495

TJS

FROM	
NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8TH FLOOR
SUBJECT	BMZA / 529 South Bond Street

CITY of BALTIMORE

MEMO

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

DATE: December 8, 2011

REQUEST
The Department of Planning has received Fred Lauer's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Juan Portillo, to use the first floor of the premises as a restaurant and tavern – including live entertainment. We understand that this appeal is scheduled for hearing on December 20, 2011.

SITE
529 South Bond Street is located on the northeast corner of the intersection with Fleet Street. This property measures approximately 31'6" by 44'9" and is currently improved with a three-story building covering the entire lot. This site is zoned B-1-2 and is located within the Fells Point Historic District.

ANALYSIS
Conditional Use: In this zoning district, restaurants – including live entertainment and dancing, are a conditional use, requiring approval by the Board (§6-208). In this case, the property was last authorized for use as a restaurant (a conditional use), and a tavern, which is a nonconforming use in this B-1 Neighborhood Business District.

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 proposes to limit the live entertainment to be provided on the premises to karaoke between 7:00 p.m. and 11:00 p.m. Sunday through Thursday, and 7:00 p.m. through 12:30 a.m. Friday and Saturday nights.

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 does not provide a parking plan other than reimbursement of patrons' costs of using an off-street parking lot nearby, and does not provide any details for a security plan. The applicant should be requested to provide additional information, particularly concerning security arrangements during the live entertainment times and at closing times, including if appropriate arrangements for assuring security for patrons between the restaurant/ tavern and their off-street parking. The applicant should be encouraged to devise suitable plans in consultation with the community in which this property is located.

Historic District: The subject property is located within the Fells Point District, a locally and nationally designated Baltimore City historic district. All exterior changes, including additions, demolitions, and alterations are subject to review and approval by the Commission for Historical and Architectural Preservation (CHAP). It is recommended that the applicant contact CHAP to determine the review process applicable to their project if there would be new or changed signage on the building.

RECOMMENDATION

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

- The applicant must provide and implement an approvable parking plan and indoor and outdoor security plan;
- The applicant must obtain CHAP approval for any exterior changes, including signs;
- 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: Fred Lauer, Appellant