


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 / 1611 Eastern Avenue		

TO

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

DATE: March 14, 2012

REQUEST

The Department of Planning has received Akram Ayyad's Board of Municipal and Zoning Appeals (BMZA) application to use the first floor and basement portion of the premises as a restaurant and smoke shop, with retail tobacco sales and on-premises smoking. We understand that this appeal is scheduled for hearing on March 20, 2012.

SITE

1611 Eastern Avenue is located on the south side of the street, approximately 85' east of the intersection with Bond Street. This property measures approximately 20' along Eastern Avenue by 81' total depth and is currently improved with a three- and one-half-story residential mixed use building measuring approximately 20' by 60'. This site is zoned B-2-2 and is located within the Fells Point Historic District.

ANALYSIS

Use: In this zoning district, restaurants and tobacco shops are listed as permitted uses, and so are allowed (§6-306), while smoke shops (businesses providing as their principal use an indoor area for smoking of tobacco products) are not listed as either a permitted or conditional use (§6-306 to §6-309). In this case, the property was last authorized for use as a furniture store and a dwelling, which are permitted uses in this B-2 Community Business District.

The floor plan included with this application shows tables and seating for approximately 56 patrons in the designated smoking area on the first floor of the premises, and tables and seating for approximately 12 patrons in the basement. There is also a tobacco products sales area at the back of the first floor area, and a kitchen in the basement. All of the tables could be used for prepared food service, and hence the entire interior other than the tobacco products area could be considered as part of a restaurant.

However, the floor plan also shows a "DJ Stand" on the first floor, suggesting that the applicant also intends to offer live entertainment, as that term is defined in the Zoning Code (§1-153.2.a). Live entertainment in a restaurant in a B-2 District is a conditional use, requiring Board approval (§6-308), for which purpose the applicant has neither applied nor provided additional information.

Historic District: The subject property is located within the Fells Point District, a locally and Federally 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.

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). 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 applicant is proposing to use approximately 1,300 square feet of floor area in the premises for a restaurant, and thus would be required to provide 3 parking spaces.

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. However, this property is unable to provide any off-street parking due to existing structures (on it, and adjoining), and thus there is a practical difficulty in providing even a single space.

RECOMMENDATION

The Department of Planning has no objection to this appeal, provided that the applicant indicates that smoking of tobacco products would be accessory to either a restaurant or a tobacco shop, or both, and removes from the floor plan the area designated as "DJ Stand". Alternatively, if the applicant prefers to pursue a request for approval of live entertainment in order to accommodate a disc jockey, this Department would request a deferral of complete hearing of this appeal to allow the applicant sufficient time to provide all the additional information required by the Zoning Code for Board consideration of live entertainment on the premises.

TJS/wya/mf

cc: Akram Ayyad, Appellant