


TJA

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 / 2103 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:

April 12, 2010

**REQUEST**

The Department of Planning has received Timothy Fraser's Board of Municipal and Zoning Appeals (BMZA) application to use the premises for a restaurant with live entertainment and dancing. We understand that this appeal is scheduled for hearing on April 13, 2010.

**SITE**

2103 West North Avenue is located on the south side of the street, approximately 15' west of the intersection with Pulaski Street. This property measures approximately 15' by 83' and is currently improved with a three-story attached building measuring approximately 15' by 52'. Floor plans provided by the applicant in support of this application show that this building has been united with 2105 West North Avenue by means of openings made in the party wall; however, 2103 and 2105 West North Avenue have not been legally consolidated. The property and building at 2105 West North Avenue has dimensions similar to those of the subject property. This site is zoned B-2-3.

**ANALYSIS**

Use: In this zoning district, restaurants – but not including live entertainment or dancing, and not including accessory outdoor table service, are listed as a permitted use (§6-306). In this case, the property was last authorized for use as a banquet hall by Ordinance 08-92, which was enacted on December 11, 2008. The Department notes that approval of this application, if granted, will upon issuance of any permit for a use other than a banquet hall have the effect of extinguishing the conditional use authorized by Ordinance 08-92.

Conditional Use: In this zoning district, taverns – including live entertainment and dancing, are listed as a conditional use, requiring approval by the Board (§6-308 (21)).

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 Department has reviewed the sketch plans for the first floor and second floor of the combined 2103 and 2105 North Avenue buildings, and notes that a total of approximately 1,055 square feet is proposed to be devoted to the live entertainment and dancing functions of the business, to the exclusion of dining on the first floor, while only approximately 550 square feet is proposed to be devoted to actual restaurant use with live entertainment and dancing on the second floor. This suggests that this application more accurately should be one for a tavern – including live entertainment and dancing.

Definition: “Carry-out food shop” means a business establishment whose principal business is the sale of ready-to-consume food and beverages for off-premises consumption (§1-123.1).

The floor plans provided by the applicant do not identify where the carry-out applied for is to be located, nor whether it will have a kitchen separate from the existing kitchen on the second floor. Given that a carry-out food shop can serve persons of any age, while entrance to a tavern may be age-restricted, the Department recommends that the applicant be required to provide a separate outside entrance to a separate first floor waiting area where carry-out patrons could pick up their food orders.

Off-Street Parking: In this zoning district, restaurants require one off-street parking space per 400 square feet of floor area (§10-405.21.i). The approximately 1,600 square feet of floor area for the restaurant, with live entertainment and dancing areas, requires four parking spaces on site. While this requirement may be met at the rear of the property if the lots are combined, it does not address the parking demand generated by the maximum number of persons permitted in the premises currently under Ordinance 08-92. The applicant needs to provide more detail than what his response to question 7 about his business plan of operation shows.

## **RECOMMENDATION**

The Department of Planning recommends that approval of the appeal be conditioned upon the applicant, or the property owner, completing and recording consolidation of 2103 West North Avenue and 2105 West North Avenue; and further conditioned upon the applicant providing a separate outside entrance to a separate first floor waiting area where carry-out food shop patrons would pick up their food orders; and further conditioned upon the applicant obtaining, and providing to the Board, a long-term lease for off-street parking sufficient to accommodate the needs of his anticipated patronage. The Department also suggests that the hours of operation of the combined restaurant and tavern use not be permitted to extend after 2 a.m. to 6 a.m., as this would constitute an “after-hours” operation.

TJS/ewt/mf

cc: Timothy Fraser, Appellant