


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 / 900 South Kenwood Avenue		

TO

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

DATE: August 29, 2012

REQUEST

The Department of Planning has received Alex van Breukelen's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the premises for a restaurant and tavern with accessory outdoor table service and add live entertainment. We understand that this appeal is scheduled for hearing on September 4, 2012.

SITE

900 South Kenwood Avenue is located on the southwest corner of the intersection with Hudson Street. This property measures approximately 40' by 62' and is currently improved with a two-story semi-detached building covering most of the lot. This site is zoned R-8 and is located within the Canton National Register Historic District.

ANALYSIS

Use: In this zoning district, restaurants and taverns are not listed as permitted or conditional uses, and so are not allowed (§4-1101 to §4-1104). In this case, the property was last authorized for use as a multiple-family attached dwelling, which is a permitted use in this R-8 General Residence District. The Board heard an appeal from the same applicant on May 15, 2012 and voted to approve accessory outdoor table service for "The Americana" restaurant at this location, subject to conditions agreed upon by the applicant and the Canton Association.

Determination of nonconformity or noncompliance: (a) Whether a nonconforming use, noncomplying density or other form of nonconformity exists is a question of fact that, except as specified in subsection (b) of this section, must be decided by the Board after public notice and hearing in accordance with the rules of the Board (§13-107). For this application to be considered by the Board, the applicant must demonstrate that nonconforming use of the property has not been discontinued or abandoned, despite the external alterations of the structure that have already been made.

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, although this restaurant has a rated capacity of 92 people, addition of lightly amplified acoustic music and karaoke is not expected to increase the patronage significantly beyond current levels, which are primarily drawn from the immediate neighborhood. For this reason, there is no traffic and parking management plan or indoor and outdoor security plan included with the application. However, because the restaurant operates on two floors of the premises, the applicant should provide a floor plan showing where the live entertainment would be located, particularly in relation to windows or doors, and demonstrate that there would be minimal sound transmission to nearby residences.

RECOMMENDATION

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

- 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: Alex van Breukelen, Appellant