


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 / 25 South Broadway		

TO

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

DATE:

June 11, 2015

**REQUEST**

The Department of Planning has received Nathaniel Greene's Board of Municipal and Zoning Appeals (BMZA) application, on behalf of Jose Morales Sr., to use a portion of the second floor of the premises as an addition to the existing first floor bar and grille, and to add live entertainment and dancing. The Zoning Administrator has determined that this is an expansion of a use prohibited in an O-R zoning district. We understand that this appeal is scheduled for hearing on June 16, 2015.

By letter dated June 11, 2015, the applicant withdrew the portion of this application relating to live entertainment and dancing.

**SITE**

25 South Broadway is located on the northeast corner of the intersection with Lombard Street. This property measures approximately 22' by 105' and is currently improved with a three-story semi-detached building covering the entire lot. This site is zoned O-R-2 and is located within the Washington Hill Historic District.

**ANALYSIS**

Use: In this zoning district, restaurants, taverns, and similar establishments are not listed as permitted or conditional uses, and so are not allowed (§5-201 to §5-204). In this case, the property was last authorized for use as a restaurant, which is a nonconforming use in this O-R-2 Office-Residence District.

Extension or moving of Class I, II, or III Nonconforming Use: The Board may authorize an extension of a Class I, Class II, or Class III nonconforming use, as limited and stated in §§ 13-206, 13-306, and 13-406 {"Expansions of use"} and §§ 13-208, 13-308, and 13-408 {"Relocations"} of this title, if the Board finds that: (1) the extension or moving will not cause a greater volume of traffic than that generated before the extension or move; (2) the extension or moving will not violate in any manner the bulk regulations of the district in which the property is located; (3) the effect of the extended or moved use on the health, safety, or general welfare of the community will be no worse than the existing or last use; (4) for the extension of a Class II or Class III nonconforming use, the extension will not result in an increase of the floor area of more than 25% beyond that which had been occupied or used when it became nonconforming; and (5) for an extension in the Critical Area: (i) there is no environmentally acceptable alternative outside the Critical Area; and (ii) the use is needed to correct an existing water quality or wastewater management problem (§13-714).

The floor plans included with the application show that the current use occupies all of the first floor of the premises. The second floor of the premises would be divided into two parts: the front portion would remain as an unused space accessible only through the rear portion of the second floor, which was originally intended to become a dance floor. As noted above, by letter dated June 11, 2015, the applicant indicated that this floor area would be used for tables and seating for diners only. The floor plans do not include notes that would confirm the amount of floor area now used on the first floor, and the amount of floor area proposed for use on the second floor, in conjunction with the proposed use.

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 should provide a dimensioned floor plan for the expansion of the existing use, to allow determination of the appropriate amount of off-street parking.

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, unless the applicant has secured additional off-street parking resources on nearby properties.

Historic District: The subject property is located within the Washington Hill 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.

TransForm Baltimore: This property would become part of the OR-1 District with R-MU (Residential Mixed-Use) overlay (Proposed Zoning Map Area 7-D) in which Neighborhood Commercial Establishments would be conditional uses (Table 12-301). "Neighborhood commercial establishment" means "a commercial use that is within a residential neighborhood, but in a structure that is non-residential in its construction and original use" (§1-310 (I)).

## **RECOMMENDATION**

The Department of Planning recommends deferral of a complete hearing of this appeal, to allow the applicant time to prepare dimensioned floor plans that demonstrate the amount of increase of nonconforming use floor area being sought. When the applicant demonstrates that any increase in floor area would not exceed 25% of the current nonconforming use floor area, and that off-street parking, if needed according to the Zoning Code, would be provided, the Department would have no objection to approval of this appeal.

TJS/wya/mf

cc: Nathaniel Greene, Appellant