


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 / 1019 South Charles Street		

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

DATE: November 29, 2011

REQUEST

The Department of Planning has received Michelle Edding's Board of Municipal and Zoning Appeals (BMZA) application to continue to use the first floor for a restaurant with accessory outdoor table service, and to include live entertainment. We understand that this appeal is scheduled for hearing on December 6, 2011.

SITE

1019 South Charles Street is located on the east side of the street, approximately 100' south of the intersection with Hamburg Street. This property measures approximately 39' by 71' and is currently improved with a three-story attached building measuring approximately 39' by 62'. This site is zoned B-2-3 and is located within the South Baltimore Business Urban Renewal Plan area.

ANALYSIS

Conditional Use: In this zoning district, restaurants – including live entertainment and dancing, and including accessory outdoor table service, are a conditional use, requiring approval by the Board (§6-208). The Board previously approved this property for a restaurant with accessory outdoor table service in its decision on appeal 2010-174 (June 8, 2010). This application would add live entertainment to the previously-approved use.

Urban Renewal Plan: This property is located in the South Baltimore Business Urban Renewal Area, where the Urban Renewal Plan does not prohibit or further restrict the proposed use in this 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).

This application proposes to add musical acts, specifically live jazz performances, on Thursday, Friday and Saturday nights, and on Sundays from morning opening to 1:00 p.m.

There would be no dance floor. 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 applicant states that the capacity of the existing restaurant is 80 persons, that most of its patrons walk to the restaurant from the neighborhood, and that no additional capacity is anticipated. For this reason, the application states that there is no need for a parking management plan. Given the imbalance between available on-street parking and demand in the neighborhood, it would be more appropriate for this application to include a parking management plan, and specifically some written arrangement with a nearby off-street parking facility. The application also omits any response concerning a security plan.

RECOMMENDATION

The Department of Planning recommends that approval of this appeal, if granted, be conditional upon the applicant providing an approvable parking management plan and a security plan. The Department further recommends that approval be subject to these conditions, in addition to conditions which 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: Michelle Edding, Appellant