



To Preserve And Promote Our Historic Lifestyle

November 12, 2012

Mr. David Tanner
Executive Director
Baltimore City
Board of Municipal & Zoning Appeals
417 E Fayette St #1432
Baltimore, MD 21202

Mr. Tanner:

I am writing to voice opposition to Mr. John Durkin's application for a zoning appeal to add live entertainment to Mad River Bar & Grill at 1110-12 S. Charles Street (**Appeal No. 2012-00399**) on behalf of the Federal Hill Neighborhood Association (FHNA). Our neighborhood association is bound to the south by Cross Street, which is approximately 50 feet from this address.

We cannot support this application because after a thorough review by FHNA's Board of Directors and its' Liquor Committee, we unequivocally found this application to be inconsistent with our criteria for acceptable use of live entertainment (**see attached**). Further, we strongly support our sister group, South Baltimore Neighborhood Association's (SBNA) opposition to this application. Specifically:

- The original application requests three non-specified (floating) days per week, which is inconsistent with our desire to responsibly phase in live entertainment in our neighborhood. Our criteria explicitly states that we will consider supporting an application which requests three or less specified days per week of live entertainment. Granting floating days would create an undue burden related to enforcement on the neighborhood to keep track of which days have been used for live entertainment. Since that time, as of Nov 09, 2012, the latest negotiations between Mr. Durkin's attorney and SBNA indicate a request for Tuesdays, Wednesdays, and 1 floating day on either Friday or Saturday, with a one-week notification period prior to the use of the floating day. Further, it would set a precedent inconsistent with this Board's ruling in **Appeal No. 2012-00066** (May 01, 2012) in which Chairman Washington directed myself and Mr. Nick Marshall (owner of Nobles Bar and Grill, 1024 S. Charles Street) that floating days were unacceptable to BMZA because they are unenforceable.
- The applicant is requesting live entertainment until 1:00 am on nights other than Friday and Saturday, which is inconsistent with our criteria.
- The applicant is requesting maximum sound levels of 115 decibels as measured 10' from the premises, however this is inconsistent with Baltimore City Health Code, Section 9-206(c) & (d) and 9-207, which caps sound levels at 61 decibels.
- The applicant indicated that there is no need for a parking management plan, which is required by the law, and did not provide adequate justification for omitting this plan, in our view.
- At this time, our group will not support an establishment seeking a live entertainment variance without a signed memorandum of understanding (MOU) between the neighborhood association and the owner of the establishment, which does not include a sunset date. The Maryland Legislature enrolled and the Governor signed House Bill 392 for the purpose of ensuring that the Baltimore City Board of Liquor License Commissioners make the issuance and renewal of licenses conditional on the substantial compliance of the license holder with a certain MOU, effective Oct 01, 2012, in this case, with regard to live entertainment. Without a signed MOU between both parties, there is grave concern on the neighborhood's behalf that live entertainment will be abused.
- Finally, granting this variance would create a competitive advantage for the applicant over other existing establishments that have already worked with our community and the BMZA to secure Live Entertainment for three specified nights per week. Over the past eight months, our neighborhood has supported two other applications for live entertainment three nights per week (Nobles Bar and Grill, 1024 S. Charles Street and **Appeal No. 2012-00324**: SoBo Café, 6 – 8 W. Cross Street). In addition, a third establishment chose to willingly reduce the number of days in their variance at our request to



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conform to our criteria (The Hill, 1019 S. Charles Street). All three of these establishment's owners demonstrated a willingness to work with our group and establish a consistent record of responsible use of the Live Entertainment variance. By allowing a variance to Mad River that includes a non-specified (floating) day, an establishment that submitted an application outside of the criteria specified by the area neighborhoods and stakeholders would have a competitive advantage over the previous establishments that have worked in cooperation with our neighborhoods and agreed to adhere to our guidelines.

The process by which we developed our criteria was both expansive and very inclusive. We engaged early on with staff from both BMZA and Liquor Board, the President of the Federal Hill Hospitality Association (of which this establishment is a member in good standing), the Director of the Mayor's Office of Special Projects, Councilman Bill Cole, six different neighborhood associations in South Baltimore (including our main partner, SBNA), the Southern District Police and Community Relations Council, staff from Council President Jack Young's office, and a host of others. We strongly believe that establishments that choose to work within our neighborhood criteria (at least three have already this year) are acting as good neighbors.

I am hopeful that the BMZA will not grant this variance (under the conditions stated above in the original application or under the renegotiated conditions as of Nov 09, 2012). I look forward to reviewing a revised application consistent with our criteria and further working with Ms. Sennett of SBNA and Mr. Durkin to reach an MOU amicable to all parties involved so that we may ensure we collectively do what is best for this neighborhood. Please contact me if you have questions (costello.eric@gmail.com or 607-743-8926).

Sincerely,

Eric Costello, Acting President
Federal Hill Neighborhood Association

cc: William Cole, Baltimore City, District 11 Councilman
Eric Costello, FHNA, Acting President
Brian McComas, Federal Hill Hospitality Association, President
Rebecca Murphy, Baltimore City Office of the Mayor, Director of Special Projects
Amy Mutch, South Baltimore Neighborhood Association, President
Jayne Schroeder, Baltimore City Liquor License Board, Deputy Executive Secretary
Marie Sennett, South Baltimore Neighborhood Association, Liquor Committee Chair

bcc: Lamberto Camacho, FHNA, Member
Mellisa Colimore, FHNA, At-Large Director
Ginny Gerhart, FHNA, At-Large Director
Jody Martin, FHNA, At-Large Director
Bob Merbler, FHNA, Secretary
Gayle McClure, FHNA, Treasurer
Jennifer Nelson, FHNA, At-Large Director
Bob O'Donoghue, FHNA, At-Large Director
William Romani, FHNA, Member
William Runnebaum, Federal Hill Business Association, President
Jane Seebold, Federal Hill Main Street, Executive Director

Attachment: Federal Hill Neighborhood Association Live Entertainment Acceptable Guidelines



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**Federal Hill Neighbor Association
Live Entertainment Acceptable Criteria**

1- History of the Establishment: The establishment should not have a history of repeat violations of applicable Liquor or Zoning laws, or previous suspensions of a Liquor License. In addition, any establishment applying for live entertainment should have had a liquor license for at least two (2) years prior to applying, in order to demonstrate that such a history does not exist.

2- Hours and Days: The business must close its doors at 2:00 AM with no extended hours of operation under any circumstances. Live entertainment should be limited to three (3) specified days per week (at the discretion of the establishment). It is not to take place outside of the following hours on the following days: 5:00pm – 11pm on Monday through Thursday; 5:00pm – 1:00am on Friday and Saturday; and 9:00am – 6:00pm on Sunday, to ensure local businesses are not adversely affected and to facilitate the removal of the entertainers and their equipment well before closing and the dispersal of customers from the area at closing.

3- Sound Levels: All live entertainment may not exceed sound levels specified in the Baltimore City Health Code. In addition, in circumstances in which any amplification is used in conjunction with live entertainment, all windows and doors must be shut.

4- Parking Plan: As required by the Baltimore City Zoning Code, the applicant should identify how it plans to maintain or decrease the parking load on the neighborhood. Specifically, the application should provide for the development and maintenance of such a plan.

5- Neighborhood Relations: Any applicant agrees to provide the neighborhood association ample notice of (at least three weeks), and a copy of its application to ensure it meets the criteria set here. If ample notice is not provided, the neighborhood will formally request the Zoning Board postpone a hearing until ample notification is provided. In addition, FHNA agrees to conduct future negotiations in good faith to determine if an amendment to the variance will be supported by FHNA, provided the establishment has a variance that has been in place for at least one (1) year and no violations have occurred. This in no way indicates that FHNA will support an amendment, only that it will have good faith discussions with the establishment.