

Letter in Opposition: BZA No. 12799A - 6201 3rd Street, N.W. – Request for a Modification

November 21, 2018

Dear Board of Zoning,

I live across the street from the VIP and have owned and lived there for over 30 years. My neighbors and I just learned that the approval process for 12799A “Request for Modification” has begun within BZA and that a hearing has been scheduled for November 28. The memorandum by case manager Stephen Mordfin, says that BZA has received no notice from the surrounding neighbors, yet we were never notified that the modification was being processed and that it had a timeline. We were only notified through our ANC single member 4B06 that the request was made. We had expected a request for our input due to our status as owners of properties within 200 feet of the VIP. Mr. Mordfin explained to me that this is not required in the case of “minor modifications”.

In his memorandum, Mr. Mordfin recommends that the board approve the modification to remove the condition that “There shall be no alcoholic beverages sold on the premises”, but I feel that the analysis behind his recommendation is incorrect. He says “Neither the official file nor the order for BZA 12799 indicate the reason for not permitting alcoholic beverage sales. The official file contains no entries from the community, either in support or opposition.” A better reading of the order shows that the “no sales” restriction is necessary to meet the concerns of the neighborhood. In the “Findings of Fact”, # 11 says “There were many letters of opposition received into the record. The basis of the opposition was the increased vehicular traffic and the parking problems that were generated from the proposed use.” #12 says “Many property owners within 200 feet of the subject site and throughout the neighborhood testified in opposition to the application on the grounds that (1) There would be an increase in the flow of traffic (2) Parking problems for the residents would result and (3) an increase in the noise, trash and litter in the neighborhood.” The condition of “no alcoholic beverage sales” is essential to addressing those concerns because, without that, they would no longer be limited to the party type activities that they now have; they could now promote and sell tickets to their own activities, which could be very different from the activities they now host. The surrounding properties would no longer be protected from increase vehicular traffic, parking problems, noise and litter in the neighborhood -- the very protection that the conditions of the order were trying to ensure.

Also, Mr. Mordfin’s memorandum said that there is no record of negative impacts on the neighborhood. However, there have been a number of complaints from nearby neighbors to ABRA for music with thumping noise that can be heard in houses up an

down the nearby blocks. I sent emails noting my complaints to Councilman Todd's office several times. ABRA response has always been that there is no activity when they show up to investigate; however, they always show up after the party is over.

It is notable that in its order granting a Tavern license to VIP in 2017, ABRA recognized the logic of the restrictions in 12799 and placed conditions on the license that were consistent with the "no sale of alcohol" restriction. The introduction states that one of the primary reasons for granting the license was that "the BZA has already set strict limits on the use of the property and bars the property owner from allowing the premises to be used as a stereotypical bar or tavern". In the "Findings of Fact" #34 "it is in the best interest of the neighborhood that the Applicant ensures that the use of the property does not exceed the grant of authority provided by the BZA, which would have a detrimental impact on the quality of the life of VIP's neighbors". Now VIP is asking to remove the restriction on alcohol sales so that they can benefit from the license. However, the license was granted with the understanding that the surrounding properties would be protected from adverse impact addressed in 12799. With the "no sale of alcohol" condition removed, another ABRA condition would disappear i.e. "the license holder shall not allow or permit the collection of a cover charge". The VIP would then no longer be limited to its current business model. It could behave like a tavern with ticketed, cover-charged and more frequent entertainment. The surrounding properties would no longer be protected from increase vehicular traffic, parking problems, noise and litter in the neighborhood -- the very protection that the order's conditions were trying to ensure.

Regarding the VIP supplied "Reasons for Modification":

#1 says VIP owners "have been paying for a temporary license since 2000, which allows them to have a cash bar, take money at the door". If they actually did those things, that is in violation of 12799, which they were operating under: "There shall be no alcoholic beverages sold on the premises".

#2 VIP compares itself to others in the same zone, but uniquely, they are in a quiet 1-block business zone that is not near any other business zones. Taverns like those on Upshur Street are in one or two block proximity to Georgia Avenue where that kind of Tavern is common.

#4 VIP complains that it must follow different rules than others with the same license. But VIP requested and was granted their ABRA license on the basis that they did not want to operate like other Taverns.

#5 VIP claims that it has been on 3<sup>rd</sup> St. since 1963 but it wasn't operating as a party room between 1963 and 1979. They claim that it has had no problems in the neighborhood since 1979 but, for one thing, they weren't operating at all from the

early 2000s till 2014 and, for another, it is not true that they have had no problems in the neighborhood. At the ABRA hearing several neighbors testified to negative impacts on the nearby neighbors and as I mentioned above, ABRA has received several noise complaints since their license was approved last year.

#7 ANC claims to have the support of ANC4B. However, although the VIP Room had the support of the ANC to obtain the liquor license ANC4B did not weigh in on this request for modification.

#8 VIP claims that it can't serve alcohol at "wedding receptions, birthday parties, anniversary parties, repasts and other special events", however, it is already able to serve alcohol at these events. The restrictions on sales were made to limit them to this kind of activities -- the activities that they say they want to have. They claim to desire a business model different than the other business they compare themselves too. Their restricted license reflects this desire.

I hope you will seriously consider the negative impact on the neighborhood that approval of this modification will have, and take note of my comments on the problems in their enumerated "reasons for modification". I fear that this modification will allow VIP to function as a tavern and nightclub, which is counter to the spirit of the 1979 order to address neighborhood concerns and the 2017 ABRA license to conform to that order.

Thank you,

Jim Stehle

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