

BOARD OF ZONING APPEALS, TOWN OF VIENNA, VIRGINIA

Request for approval of a conditional use permit for live entertainment for Bey Restaurant & Lounge, located at 303 Mill Street NE, in the CM, Limited Industrial zoning district; filed by Rawad Hasrouni of Wooden Bakery and Bey Restaurant and Lounge USA.

ORDER

THIS MATTER was considered by the Board of Zoning Appeals during a public hearing held on November 18, 2015, for request of approval of a conditional use permit for live entertainment for Bey Restaurant & Lounge, located at 303 Mill Street NE, in the CM, Limited Industrial zoning district; filed by Rawad Hasrouni. Based upon testimony offered by the applicant, exhibits offered into evidence, comments offered by members of the public and other interested parties, the Board has determined the following findings of fact:

The 27,400 square foot property has four separate tenant spaces, A-D; Wooden Bakery occupies suite A and Wooden Café/Bey Lounge occupies suite B. The two suites are leased and occupied as one entity. Wooden Bakery must be open to serve food and Wooden Café/Bey Lounge operates as a café/bar to meet the Virginia Department of Alcohol Control alcohol to food ratio. The applicant is currently seeking a conditional use permit for live entertainment to allow belly dancing, jazz bands, live bands and DJ's.

The Planning Commission reviewed the application on November 4, 2015. It was noted the applicant required 41 parking spaces but provided a site plan showing only 25 spaces. There was discussion regarding Fire Marshall approval and noise levels. Upon conclusion of their analysis, the Planning Commission recommended approval of the conditional use permit with the following conditions:

- Applicant must submit a signed, off-street parking agreement from the owners of the adjacent properties
- Applicant must provide an approval letter from the Fire Marshalls Office stating Bey Lounge has been approved to operate as a place of assembly
- Applicant must provide a third party sound study submitted by a Sound Engineer
- Additionally, the Planning Commission recommended the conditional use permit be valid for one year only to allow the application to be reviewed in one year

Prior to the Board of Zoning Appeals meeting on November 18th the applicant had provided staff with an approval letter from the Fire Marshall's Office and a sound study done by a Sound Engineer. The applicant brought to the meeting updated parking agreements that had been acquired that day.

As of the Board of Zoning Appeals hearing, it was noted that since August 1, 2015 the Vienna Police Department has been called to the Bey Lounge seven times in regard to noise complaints. Management was asked to turn music volume down in a few instances, but no citations were given. The applicant has taken some steps to add insulation in the building. The applicant also stated that they did have a volume control that they could implement to assist in noise control.

Several residents gave testimony expressing concerns or experiences with noise from music, patrons entering and exiting the establishment and cars. Other concerns included hookah and cigar smoke, increased traffic and the fear of reduced property values.

BOARD OF ZONING APPEALS, TOWN OF VIENNA, VIRGINIA

Request for approval of a conditional use permit for live entertainment for Bey Restaurant & Lounge, located at 303 Mill Street NE, in the CM, Limited Industrial zoning district; filed by Rawad Hasrouni of Wooden Bakery USA.

Page 2 of 2


AND FROM THE FINDINGS OF FACT AS DETERMINED ABOVE, the Board of Zoning Appeals makes the following conclusions of law:

The Board determined granting the conditional use permit would not adversely affect the health or safety of those in the neighborhood, nor would it be detrimental to public welfare or injurious to property or improvements in the neighborhood and it was in accord with the purpose of the Town's master plan. The Board voted unanimously to approve the conditional use permit for live entertainment for Lela LLC DBA Bey, located at 303 Mill Street NE suite B, and in the CM, Limited Industrial Zone with the following conditions:

- The applicant files paperwork staff requires to deem the parking agreements valid and appropriate
- The parking agreements be maintained
- The applicant minimizes the sound from live entertainment and respond to complaints to keep sound levels at an appropriate level
- The applicant provides personnel in the parking lot at closing time to assist patrons leaving and keep noise to a minimum
- The conditional use permit is valid for one year from the date staff determines the parking agreements are valid. At that time the conditional use permit will need to be revisited and modified as necessary.

The Board noted the applicant had provided everything the Town requested, and in doing so, showed a willingness to work with the community. While the Board respects the neighbors' concerns regarding noise, since sound proofing the establishment, sound levels were measured at 47-49 decibels, which is below normal conversation level and the Fairfax County 55 decibel standard. It is also important to note the business exists within the Limited Industrial zone. Limiting the conditional use permit to one year gives the community the opportunity revisit the issue and set more restrictive conditions if necessary. The Board felt the addition of businesses providing live entertainment improves the quality of life and adds cultural benefit to the Town.

IT IS, THEREFORE, ORDERED, this 30th day of NOVEMBER, 2015, that the request for approval of a conditional use permit for live entertainment for Bey Restaurant & Lounge, located at 303 Mill Street NE, in the CM, Limited Industrial zoning district, be approved.


George J. Creed, Vice-Chairman
Board of Zoning Appeals
Town of Vienna, Virginia