
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

EBONY THOMPSON
ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

March 10, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 22-0322 – Zoning – Conditional Use Conversion of Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District – Variances – 1801 Hollins Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0322 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to two dwelling units at 1801 Hollins Street, which is in an R-8 Zoning district. It would also authorize required variances.

The conversion of a single-family dwelling to a multi-family dwelling in an R-8 District requires conditional-use approval by ordinance. Baltimore City Code, Art. 32, § 9-701(2). The only properties eligible for conversions are those that were “originally constructed as a single-family dwelling” and contain “1,500 square feet or more in gross floor area” exclusive of the basement. Baltimore City Code, Art. 32, § 9-703(b). The Planning Commission Report notes that this property was originally constructed as a single-family dwelling and the building contains more than 1,500 square feet, thus making it eligible for the conversion.

When a property is converted to multiple dwelling units, as in this bill, each unit must have a certain amount of square feet of gross floor area depending on the number of bedrooms in the unit. Baltimore City Code, Art. 32, § 9-703(c). In this case, the conversion proposed is for two new, two-bedroom dwellings. Two-bedroom dwellings are required to have at least 1,000 square feet. Baltimore City Code, Art. 32, § 9-703(c)(1). The Planning Commission Report notes that each new dwelling meets that standard.

The converted dwelling must continue to conform to the bulk and yard regulations, including minimum lot size, for the district in which the building is located. Baltimore City Code, Art. 32, § 9-703(d). The minimum lot size per dwelling unit in a multi-family dwelling in an R-8 district is 750 square feet, or 1,500 square feet for a dwelling with two dwelling units. Here, the Planning Commission notes that this lot contains approximately 875 square feet, so a variance is required, as reflected in the bill. However, it appears there is a discrepancy between the 1,250

square feet lot size and 16.6% variance contained in the bill (lines 5 and 6 on page 2), and the 875 square feet lot size and 41% variance contained in the Planning Commission's report. Accordingly, the correct lot size should be ascertained and the bill amended, if necessary, to reflect the correct lot size and variance. It appears the discrepancy arose because of the lot's unique triangular shape, instead of the traditional rectangular shape.

Additionally, at least one off-street parking space must be provided per dwelling unit. Baltimore City Code, Art. 32, § 9-703(f). Because, as the Planning Commission notes, this structure covers the entire lot, a parking variance is required, as contained in the bill.

Conditional Use Standards

To approve a conditional use, the City Council must find:

- (1) the establishment, location, construction, maintenance, or operation of the conditional use would not be detrimental to or endanger the public health, safety, or welfare;
- (2) the use would not be precluded by any other law, including an applicable Urban Renewal Plan;
- (3) the authorization would not be contrary to the public interest; and
- (4) the authorization would be in harmony with the purpose and intent of this Code.

Baltimore City Code, Art. 32, § 5-406(a). The Planning Commission's report contains findings pertaining to each of the above criteria.

Variance Standards

To grant any variance, the City Council must find that, "because of the particular physical surroundings, shape, or topographical conditions of the specific structure or land involved, an unnecessary hardship or practical difficulty, as distinguished from a mere inconvenience, would result if the strict letter of the applicable requirement were carried out." Baltimore City Code, Art. 32, § 5-308(a). The City Council must also make seven other findings:

- (1) the conditions on which the application is based are unique to the property for which the variance is sought and are not generally applicable to other property within the same zoning classification;
- (2) the unnecessary hardship or practical difficulty is caused by this Code and has not been created by the intentional action or inaction of any person who has a present interest in the property;

- (3) the purpose of the variance is not based exclusively on a desire to increase the value or income potential of the property;
- (4) the variance will not: (i) be injurious to the use and enjoyment of other property in the immediate vicinity; or (ii) substantially diminish and impair property values in the neighborhood;
- (5) the variance is in harmony with the purpose and intent of this Code;
- (6) the variance is not precluded by and will not adversely affect: (i) any Urban Renewal Plan; (ii) the City's Comprehensive Master Plan; or (iii) any Historical and Architectural Preservation District; and
- (7) the variance will not otherwise: (i) be detrimental to or endanger the public health, safety, or welfare; or (ii) be in any way contrary to the public interest.

Baltimore City Code, Art. 32, § 5-308(b). The Planning Commission report contains findings pertaining to each of the above criteria.

Procedural Requirements

The City Council committee assigned the bill must consider it at a scheduled public hearing wherein it will hear and weigh the evidence. Baltimore City Code, Art. 32, §§ 5-404; 5-406; 5-507; 5-602. After weighing the evidence presented and submitted into the record before it, the Committee is required to make findings of fact with respect to the factors and considerations outlined above. If, after its investigation of the facts, the Committee makes findings which support the conditional use and the variances sought, it may adopt these findings and the legal requirements will be met.

Finally, certain procedural requirements apply to this bill because both conditional uses and variances are considered "legislative authorizations." Baltimore City Code, Art. 32, § 5-501(2). Specifically, notice requirements apply to the bill, and it must be referred to certain City agencies, which are obligated to review it in a specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506, 5-602. Additionally, certain limitations on the City Council's ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507.

This bill is the appropriate method to review the facts and make the determination as to whether the legal standards for a conditional use and variances have been met. Assuming the required findings are made at the hearing, all procedural requirements are satisfied, and the correct lot size variance is ascertained and amended (if necessary) as discussed above, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeffrey Hochstetler', with a long horizontal flourish extending to the right.

Jeffrey Hochstetler
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Ashlea Brown, Chief Solicitor
D'Ereka Bolden, Assistant Solicitor
Michelle Toth, Special Solicitor
Teresa Cummings, Assistant Solicitor