
CITY OF BALTIMORE

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DEPARTMENT OF LAW

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November 14, 2024

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 24-0587 Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit 3 to 4 Dwelling Units in the R-8 Zoning District – Variances 4 1817 North Broadway

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 24-0587 for form and legal sufficiency. The bill would permit, subject to certain conditions, the conversion of a single-family dwelling unit to 4 dwelling units in the R-8 Zoning District on the property known as 1817 North Broadway (Block 1446, Lot 009), as outlined in red on the accompanying plat; and providing for a special effective date.

Conditional Use Standards

The conversion of a single-family dwelling to a multi-family dwelling in an R-8 Zoning 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 indicates this property was last authorized for use as a single-family dwelling and encloses 2,400 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). According to the Planning Commission Report, the conversion proposed is for four 1-bedroom dwelling units. One-bedroom dwellings are required to have at least 750 square feet. Baltimore City Code, Art. 32, § 9-703(c)(1). The Planning Commission Report explains that only one of proposed one-bedroom units meets that requirement at 900 square feet. Variances are therefore required for the other three one-bedroom units. The Law Department notes the proposed amendment to the bill reducing the number of dwelling units to three one-bedroom units with one dwelling unit containing 900 square feet and the other two containing 600 square feet, requiring variances for the two 600 square foot units in the amount of 20% from the 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 2,625 square feet for a dwelling with four dwelling units. Here, the Planning Commission notes that this lot contains approximately 1,253 square feet, so a variance is required. The Law Department notes the proposed amendment to the bill including the variance required for the insufficient lot area.

Dwellings that are to be converted must have one off-street parking space per converted dwelling

unit. City Code, Art. 32, §§ 9-703(f); 9-804; 16- 203, 16-602. For four dwelling units, three parking spaces are required to serve the proposed new units. No parking spaces are provided, so a 100% variance is needed. The Planning Report explains that the rear of this parcel is only accessible from a 10' alley, which means that the rear yard is not practically accessible by vehicles, and so parking cannot be provided on the property. The Law Department notes the proposed amendment with the parking variance as required.

Under the Zoning Article of the City Code, 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). To approve a conditional use, the City Council must find, based on facts presented at the hearing on the bill:

- (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, §§ 5-404(a); 5-406(a). The Planning Report contains findings of fact on these matters.

Variance Standards

To grant a 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 Law Department notes that the Planning Staff Report does not find facts to support the variances requested. If this bill is to be lawfully approved by the City Council, the facts required by Sections 5-406(a), 5-308(a) and 5-308(b) as well as the “considerations” in Section 5-406(b) must be reviewed and established at the bill’s public hearing.

Procedural Requirements

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. The City Council must consider the above law at the scheduled public hearing wherein it will hear and weigh the evidence to make findings of fact as outlined above. Baltimore City Code, Art. 32, § 5-602. If the Committee

makes findings that support the conditional use and the variances sought, it may adopt those findings and the legal requirements will be met. Finally, certain limitations on the City Council's ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507(c).

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 and all procedural requirements are satisfied, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,



Desiree Luckey
Assistant Solicitor

cc: Ebony Thompson, City Solicitor
Stephen Salsbury, Deputy City Solicitor
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Elena DiPietro, Chief Solicitor, General Counsel Division
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