

CITY OF BALTIMORE
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW
GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

February 21, 2014

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



Attn: Karen Randle
Executive Secretary

Re: City Council Bill 13-0295 – Zoning – Conditional Use Conversion of a 1-Family Dwelling Unit to a 2-Family Dwelling Unit in the R-7 Zoning District – Variances – 2529 West Baltimore Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 13-0295 for form and legal sufficiency. The bill permits the conversion of a 1-family dwelling unit to a 2-family dwelling unit at 1201 West Baltimore Street, which is in an R-7 Zoning District. Conversion of a 1-family dwelling unit to a 2-family dwelling unit is permitted in an R-7 Zoning District only by conditional use ordinance. Zoning Code of Baltimore City ("ZC"), §3-305(b)(3).

As part of an ordinance authorizing a conditional use conversion, a variance from the requirements of the City's Zoning Article may be granted. ZC § 15-101(2)(i). Further, certain procedures must be followed for any conditional use, including conversions to 2-family dwelling units. See ZC §§14-208; 16-101(c)(2), 16-101(d)(1) (conditional use is a type of legislative authorization); ZC §16-203, 16-402 (notice and posting requirements); ZC §16-301 *et. seq.* (referral to certain City agencies, which are obligated to review the bill in a specified manner); ZC §16-403 (limitations on the City Council's ability to amend the bill); see also Md. Land Use Code Ann., §10-303.

This bill authorizes variances from: (1) the lot area requirement; (2) the front yard setback; and (3) a parking space variance. The Law Department's concern focuses on the variance from the lot area. As a conditional use, the bulk regulations in Section 4-1006(c) of the Zoning Code are applicable. This paragraph tells us that the principal conditional uses in an R-7 District must comply with the minimum lot area requirements for single-family detached dwellings. The minimum lot area requirements for single-family detached dwellings are established in Section 4-1006(a), which sets it at 5,000 square feet. The Zoning Code in Section 15-202(a) establishes that a variance from the Zoning Code's minimum lot area requirement can

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be no more than 25% of the applicable regulation. In effect, this variance requirement establishes a minimum lot area to be 3,750 square feet or greater in an R-7 Zoning District, if a variance could be granted.

According to the Council Bill 13-0295, the lot at 2529 West Baltimore Street is 1,093.33 square feet. This size lot is substantially below the minimum lot area requirement for a conditional use in an R-7 zone, even if a variance could be granted. In its bill report to the Planning Commission, the Planning Department used the minimum lot area for permitted uses in its analysis of the bill, even though conditional use lot areas are the applicable standards to use in analyzing this legislation. Nonetheless, the Planning Department concluded that the lot in question could not meet the Zoning requirements, even when permitted use standards were applied along with a variance.

Given the Zoning Code requirements outlined above and the facts at issue in this bill, the Law Department cannot approve Council Bill 13-0295 for form and legal sufficiency.

Very truly yours,



Victor K. Tervala
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Jennifer Landis, Assistant Solicitor