
CITY OF BALTIMORE

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February 12, 2020

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 19-0473 – Zoning– Conditional Use Conversion of a
Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District
– Variances – 1758 Park Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0473 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit at 1758 Park Avenue to become 2 dwelling units. The bill would also authorize required variances.

In general, a conversion of a single-family to a multiple family dwelling can occur only in the R-7 through R-10 Districts and only if the structure was originally constructed as a single-family dwelling and has at least 1,500 square feet or more in gross floor area. Baltimore City Code, Art. 32, §§ 9-701; 9-703.

When a property is converted to multiple dwelling units, as is requested 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 dwellings. The first dwelling would be a one bedroom unit that is required to have 750 square feet. Baltimore City Code, Art. 32, § 9-703(c)(1). The second dwelling would be a two bedroom unit that is required to have 1,000 square feet. Baltimore City Code, Art. 32, § 9-703(c)(1).

Additionally, 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 for a rowhouse in an R-8 district is 750 square feet. At least one off-street parking space must be provided per dwelling unit. Baltimore City Code, Art. 32, § 9-703(f). The maximum lot coverage allowed in an R-8 district for a multi-family dwelling is 80% of the total lot. City Code, Art. 32, § 9-401; Tbl. 9-401.

Conditional Use Standards

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:

- (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).

Variance Standards

The bill also contains variances for gross floor area, minimum lot size and off-street parking requirements. As noted above, the converted building proposes a one bedroom dwelling unit and a two bedroom dwelling unit. Baltimore City Code, Art. 32, § 9-703(c). Converted one bedroom dwelling units require 750 square feet of gross floor area, but the proposed one bedroom would only have 600 square feet. Baltimore City Code, Art. 32, § 9-703(c). Converted two bedroom dwelling units require at least 1,000 square feet, but the proposed two bedroom dwelling unit would have less than that amount. Baltimore City Code, Art. 32, § 9-703(c).

Second, the proposal fails to meet the required minimum lot area 750 square feet per dwelling unit for multi-family dwellings in an R-8 district. Baltimore City Code, Art. 32, § 9-703(d); §§ 9-401; Tbl. 9-401. This lot is only 1,045 square feet in area, which is less than the 1,500 square feet required for the two dwelling units.

Next, a converted dwelling requires one parking space per dwelling unit. Baltimore City Code, Art. 32, §§ 9-703(f); 16- 203; 16-602; Tbl. 16-406. Less than two parking spaces are to be provided for this project.

Finally, the Planning Department seeks an amendment to the bill to include an additional variance for lot coverage as the building takes up 99% of the lot and the maximum allowed in an R-8 is 80% coverage of the lot. City Code, Art. 32, § 9-401; Tbl. 9-401.

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 report provides no facts to support the conclusory the conditions are unique to the property and are not generally applicable to other property within the same zoning classification. The City Council should take care to supplement its findings to provide these facts.

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

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standard 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 approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

- cc: Andre M. Davis, City Solicitor
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