

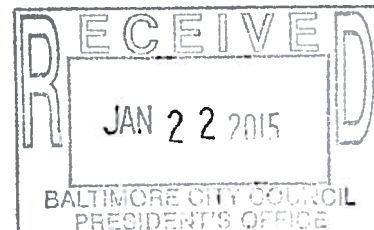
CITY OF BALTIMORE  
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

January 21, 2015



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

Re: City Council Bill 14-0431 – Zoning – Conditional Use Conversion of 1-Family Dwelling Unit to a 2-Family Dwelling Unit in the R-8 Zoning District – Variances – 2125 Orleans Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 14-0431 for form and legal sufficiency. The bill permits the conversion of a 1-family dwelling unit to a 2-family dwelling unit at 2125 Orleans Street, which is in an R-8 Zoning district. Such conversions are permitted in R-8 only by ordinance. Baltimore City Zoning Code (“ZC”), § 3-305(b). This is the requisite ordinance to permit this change, for which there are no legal impediments.

The bill authorizes variances for the required lot area size and required number of off-street parking spaces, both of which are variances that this bill may permit pursuant to Sections 15-101(2)(i), 15-202(a) and 15-208(b) of the Zoning Code. These variances may be granted so long as the findings of fact required under Sections 15-217, 15-218, and 15-219 are made. The bill, however, purports to have the “City Council” grant the variances. Since ordinances are passed by the Mayor and City Council and not the “City Council” alone, appropriate amendments to correct this language are attached to this report. See City Charter, Art. III, §§ 11; 13.

The Staff Report from the Planning Department (Report) applies the Title 14 considerations for conditional uses and concludes that the proposed use as a 2-family dwelling “would be consistent with residential use in the area, and would enable the continuing residential use of the property.” See Report at 3. The Report also notes, however, that the lot coverage for this property is approximately 96% and that the maximum allowable lot coverage in the R-8 District is 60%. See Report at 2. Thus, an amendment to the bill to add a variance for lot coverage is required. Section 15-202(b) of the Zoning Code provides that “[a] variance may authorize a lot coverage that is more than otherwise allowed by the applicable regulation.” The bill should be amended to state: “That pursuant to the authority granted by Title 15 of the Zoning Code of Baltimore City, specifically by §§ 15-101, 15-202(b), 15-218 and 15-219, permission is granted for a variance for lot coverage that is more than otherwise allowed by the applicable regulation.” The text amendment is attached to this report.

F w/ Amend

Finally, there are certain procedures that must be followed. *See* ZC §§3-305(c), 14-208 (conditional uses must follow procedures in Title 16), 15-302 (variances in conjunction with conditional uses must follow procedures in Title 16); 16-101(c)(2), 16-101(d)(1) (conditional use is a type of legislative authorization, which is a type of zoning legislation); 16-203, 16-401, 16-402 (notice, posting and hearing requirements); 3-305(c), 16-301, 16-302, 16-304 (referral to certain City agencies, which are obligated to review the bill in a specified manner); 16-403, 16-404 (limitations on the City Council's ability to amend the bill, including a Third Reading hold-over before final passage because the bill includes variances, not just a conditional use); *see also* Md. Code, Land Use, §10-303.

Subject to the foregoing amendments and assuming all the procedural requirements are met and the appropriate findings of fact are made, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Victor Tervalá, Chief Solicitor  
Hilary Ruley, Chief Solicitor

**CITY OF BALTIMORE**  
**COUNCIL BILL 14-0431**  
(Law Department Amendments)

On page 1, line 20, strike "THE CITY COUNCIL GRANTS" and substitute "PERMISSION IS GRANTED FOR"

On page 1, line 24, strike "THE CITY COUNCIL GRANTS" and substitute "PERMISSION IS GRANTED FOR"

On page 2, line 1, before "Section," insert: "SECTION 4. AND BE IT FURTHER ORDAINED, THAT PURSUANT TO THE AUTHORITY GRANTED BY TITLE 15 OF THE ZONING CODE OF BALTIMORE CITY, SPECIFICALLY BY §§ 15-101, 15-202(B), 15-218 AND 15-219, PERMISSION IS GRANTED FOR A VARIANCE FOR LOT COVERAGE THAT IS MORE THAN OTHERWISE ALLOWED BY THE APPLICABLE REGULATION."

On page 2, line 1, strike "4" and insert "5"

On page 2, line 9, strike "5" and insert "6"