


FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #23-0408/ ZONING – CONDITIONAL USE CONVERSION – VARIANCES – 1046 BRANTLEY AVENUE		

TO

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

DATE: September 1, 2023

At its regular meeting of August 31, 2023, the Planning Commission considered City Council Bill #23-0408, for the purpose of permitting, subject to certain conditions, the conversion of a single-family dwelling unit to 2 dwelling units in the R-8 Zoning District on the property known 1046 Brantley Avenue (Block -115, Lot 071), as outlined in red on the accompanying plat; and granting variances from certain bulk regulations (lot area size), and off-street parking requirements; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended approval of City Council Bill #23-0408, and adopted the following resolution, with 8 members being present (8 in favor):

RESOLVED, That the Planning Commission finds, in accordance with §5-406(a) and §5-406(b) of the Zoning Code of Baltimore City, that the proposed use provided in this bill:

- would not be detrimental to or endanger the public health, safety, or welfare;
- would not be precluded by any other law, including an applicable Urban Renewal Plan;
- would not be contrary to the public interest; and
- would be in harmony with the purpose and intent of this Code; and
- meets all criteria for approval specified in §5-406(b) of the Zoning Code of Baltimore City, as described in the Departmental staff report; and further

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and finds that because of its particular surroundings and shape of the specific structure, a practical difficulty would result if the strict letter of the applicable Zoning Code requirements was carried out; and therefore recommends that City Council Bill #23-0408 be **approved** by the City Council.

If you have any questions, please contact Mr. Martin French in the Land Use and Urban Design Division at 410-396-1354.

CR/ewt

attachment

cc: Ms. Nina Themelis, Mayor's Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Mr. Colin Tarbert, BDC
Ms. Rebecca Witt, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Stephanie Murdock, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Liam Davis, DOT
Ms. Natawna Austin, Council Services
Mr. Ronald Anderson



PLANNING COMMISSION



Brandon M. Scott
Mayor

Sean D. Davis, Chair; Eric Stephenson, Vice Chair

Chris Ryer
Director

STAFF REPORT

August 31, 2023

REQUEST: City Council Bill 23-0408 / Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District – Variances – 1046 Brantley Avenue

For the purpose of permitting, subject to certain conditions, the conversion of a single-family dwelling unit to 2 dwelling units in the R-8 Zoning District on the property known as 1046 Brantley Avenue (Block 0115, Lot 071), as outlined in red on the accompanying plat; and granting variances from certain bulk regulations (lot area size), and off-street parking requirements; and providing for a special effective date.

RECOMMENDATION: Approval

STAFF: Martin French

PETITIONERS: Councilmember Bullock, at the request of Ronald Anderson

OWNER: Ronald Anderson

SITE/ GENERAL AREA

Site Conditions: This property is located on the north side of the street, approximately 15' east of the intersection of Brantley Avenue and Arlington Avenue. It is currently improved with a three-story attached dwelling measuring approximately 14' by 54' on a lot measuring approximately 14' by 70'. This structure, built in the middle of the 19th Century, is now a vacant single-family residential property. The site is zoned R-8 and is on the eastern side of the Harlem Park community.

General Area: This is a primarily residential area, with scattered non-residential uses such as religious institutions and small street-corner commercial uses located several blocks in either direction along Arlington Avenue and along Edmondson Avenue which parallels Brantley Avenue to its south. Brantley Avenue, which runs west-to-east for one block between Arlington Avenue and Schroeder Street, is in the Harlem Park II Urban Renewal Plan Area and the Old West Baltimore National Register Historic District.

HISTORY

The Harlem Park II Urban Renewal Plan was adopted by Ordinance no. 419 on July 6, 1960, and was last amended by its Amendment no. 6 made effective by Ordinance no. 10-264 in 2010. The Plan designates Brantley Avenue and its surrounding area as residential. The Old West Baltimore Historic District was listed on the National Register of Historic Places on December 23, 2004.

The area around this property retained its R-8 zoning during the comprehensive rezoning process associated with adoption of the current Zoning Code which became effective on June 5, 2017.

CONFORMITY TO PLANS

The proposed action may be considered consistent with the Harlem Park II Urban Renewal Plan.

ANALYSIS

Zoning Analysis:

- The Zoning Code requires, for a property in the R-8 zoning district, 750 square feet of lot area per dwelling unit (Table 9-401). A lot area of 1,500 square feet is thus required for two dwelling units. As this lot has approximately 980 square feet, a 520 square foot lot area size variance, amounting to approximately 34.6%, is needed for approval. A lot area variance has been included in Section 2 of the bill.
- One off-street parking space is required to serve the newly-created dwelling unit. Since the property cannot provide a parking space meeting Zoning Code standards, as the existing structure covers enough of the lot to leave only a 16' deep rear yard, a parking variance has been included in Section 3 of the bill.
- The Statement of Intent filed by the owner proposes creation of a one-bedroom dwelling unit on the first floor and basement levels of the existing structure, and a three-bedroom dwelling unit on the second and third floor levels of the structure. A one-bedroom dwelling unit requires 750 square feet of gross floor area; a three-bedroom dwelling unit requires 1,250 square feet of gross floor area. The upper two floor levels combined can provide at least 1,300 square feet of gross floor area to satisfy the conversion requirement for the three-bedroom unit. The first floor level contains approximately 720 square feet of gross floor area excluding the entrance common area and stairway to the upstairs unit, and part of the basement would provide an additional 500 square feet, together exceeding the 750 square feet needed for a one-bedroom unit.

Variances: Per §5-308 {"Approval standards"} of Article 32 – *Zoning*:

- *Required finding of unnecessary hardship or practical difficulty:* The existing building covers approximately 77% of the property, yet also contains approximately 2,000 square feet of gross floor area (not including the basement), which creates an unusual ratio of floor area to lot area. The interior space of the building is larger than what would ordinarily be needed for a modest single-family dwelling, and so the lot area variance requested is reasonable. Likewise, the owner is not able to provide an off-street parking space without demolishing a part of the building, and so a parking variance is more reasonable than strict compliance with the requirement.
- *Other required findings:* Planning staff conclude that the conditions on which this application is based are unique to the property for which the variances are sought and not generally applicable to other property within the same zoning classification, as this is a three-story 19th Century structure largely covering a lot that is shorter in length than what is usual for a building of this size. Similarly, Planning staff conclude that unnecessary

hardship or practical difficulty is not being created by the intentional action of a person with a present interest in the property; and that the purpose of the variances is not based exclusively on a desire to increase the value or income potential of the property, given its large floor area that meets the floor area per unit type conversion standards in the Zoning Code, and that its existing structure is large in relation to the lot on which it is situated. Planning staff recommend that the Commission find that the variances would not be injurious to the use and enjoyment of other property in the immediate vicinity; nor substantially diminish and impair property values in the neighborhood; nor adversely affect the City's Comprehensive Master Plan or the Harlem Park II Urban Renewal Plan; nor be detrimental to or endanger the public health, safety, or welfare, or be in any way contrary to the public interest.

Conditional Use: Per §5-406 {"Approval standards"} of Article 32 – *Zoning*:

(a) *Limited criteria for denying.*

Neither the Board of Municipal and Zoning Appeals, nor the City Council, as the case may be, may approve a conditional use unless, after public notice and hearing and on consideration of the standards required by this subtitle, it finds that:

- (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.

Establishment, location, construction, maintenance, and operation of a multi-family dwelling at 1046 Brantley Avenue would not be detrimental to or endanger public health, safety, or welfare. The proposed use is not precluded by any other law, including an Urban Renewal Plan. Use of this property for a multi-family dwelling is not otherwise in any way contrary to the public interest. The authorization would be in harmony with the purpose and intent of the Zoning Code.

Below is staff's review of §5-406(b) {"Required considerations"} of Article 32 – *Zoning*:

(b) *Required considerations.*

As a further guide to its decision on the facts of each case, the Board of Municipal and Zoning Appeals must consider the following, where appropriate:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for emergency vehicles;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks and structures;

- (9) the character of the neighborhood;
- (10) the provisions of the City's Comprehensive Master Plan;
- (11) the provisions of any applicable Urban Renewal Plan;
- (12) all applicable standards and requirements of this Code;
- (13) the intent and purpose of this Code; and
- (14) any other matters considered to be in the interest of the general welfare.

Staff finds that the site, including its size and shape, is appropriate for the proposed use. There would be no change to traffic patterns if this use would be authorized. The surrounding area is one in which the predominant residential type was originally single-family owner-occupancy rowhousing but in which some conversions of single-family to multi-family dwellings occurred during the 20th Century. For this reason, it is unlikely that the proposed multi-family use would impair present or future development. There is reasonable proximity of other dwellings, churches and other places of worship, schools, public structures, and places of public gathering. There is adequate accessibility for emergency vehicles, and of light and air to the premises and to other properties in the vicinity. There are adequate utilities, roads, drainage, and other necessary facilities. The proposed use of the existing structure would not affect preservation of cultural and historic landmarks and structures. Approval of the proposed use as a multi-family dwelling would not affect the existing character of the neighborhood, as noted above. While consistent with provisions of the City's Comprehensive Master Plan, the proposed use is not prevented or limited by any Urban Renewal Plan. Multi-family use would meet all applicable standards and requirements of the Zoning Code upon granting of variances discussed previously, and would be consistent with the intent and purpose of the Zoning Code.

Floor plans: Preliminary floor plans prepared by the owner show two dwelling units, the upper one containing over 1,250 gross square feet of floor area as required by the conversion standards of the Zoning Code §9-703, and the lower one having approximately 1,220 square feet on its first floor and basement levels. The owner will finish part of the basement of the building to provide additional floor area for the first floor level unit. More detailed floor plans would be submitted for permit approval if this conversion is authorized.

Equity considerations: This property is located within a part of Baltimore City that has low real estate market values and a proportion of non-whites that is above the City-wide average. The Harlem Park community, as part of the larger West Baltimore area, has suffered from significant net disinvestment, combined with population losses, for several decades. While there would be no apparent or predictable changes to the quality of life in the Harlem Park community that would result from disapproval of this proposed action, there is a predictable, though limited, improvement that could result from completion of renovation and re-use of this property, reinforced by creation of additional housing options for residents. By itself, the proposed action would not change existing patterns of inequity that persist in Baltimore. However, the proposed action should be considered in the context of other actions generating both investment in and re-activation of significant parts of West Baltimore. Two blocks east of this property is the Upton Gateway project, which is renovating 38 vacant row-houses in the 800 blocks of Harlem and Edmondson Avenues, and which already has produced 15 renovated and re-occupied dwellings. Along with such action under the auspices of the Department of Housing and Community Development, this conversion could be part of a new beginning to counteract patterns of

inequity. There would be no effect on internal operations of the Department of Planning that would result from approval of the proposed action.

Notification: Harlem Park Neighborhood Council and Councilman Bullock have been notified of this action.



Chris Ryer
Director

