
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON,
CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

October 23, 2024

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 L 24-0496 – Zoning - Conditional Use Conversion of Single-Family Dwelling Units to 3 Dwelling Units in the R-8 Zoning District - Variances - 2904, 2910, and 2914 Parkwood Avenue

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0496 for form and legal sufficiency. The bill would permit, subject to certain conditions, the conversion of certain single family dwelling units to 3 dwelling units in the R-8 Zoning District on the properties known as 2904 Parkwood Avenue (Block 3244, Lot 044), 2910 Parkwood Avenue (Block 3244, Lot 041), and 2914 Parkwood Avenue (Block 3244, Lot 039); and granting variances for lot size area and off-street parking requirements. The ordinance would take effect on the date of its enactment.

Conditional Use Standards

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(b). In making these findings, the City Council must be guided by fourteen “considerations” involving such things as the “nature of the surrounding area and the extent to which the proposed use might impair its present and future development,” “the character of the neighborhood,” and “the resulting traffic patterns and adequacy of proposed off-street parking.” Baltimore City Code, Art. 32, § 5-406(a).

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). It is important to note that all seven of these criteria must be found, in addition to a finding of unnecessary hardship or practical difficulty. Baltimore City Code, Art. 32, § 5-308(a). The variance will not be legal if the conditions requiring this variance are generally applicable to other properties in the same zoning classification.

Planning Commission Recommendations

The Planning Commission accepted the Planning Staff recommendation and recommended approval of this bill. The bill contains variances for lot size and off-street parking requirements. Each property is improved with a three-story rowhome measuring approximately 14’ x 42’. The homes are vacant and damaged.

As noted in the bill, the minimum lot size requirement for 3 dwelling units, in the R-8 Zoning District, is 1,875 square feet. It appears from the plat in the bill file that the lot area size is 1,176 square feet for each of the subject properties, thus requiring a variance of 37.28%. The Planning Staff Report confirms that the lot size of each property is 1,176 square feet.

The Staff Report also notes that the structures on these properties must be a structure originally constructed as a single-family dwelling and have at least 1,500 square feet of non-basement gross floor area under § 9-703(b) of the Zoning Code. Each structure will contain over 1,700 square feet of floor area and was last authorized as a single-family dwelling. The report also notes that “[t]he

converted dwellings must meet the following gross floor area per unit type: (1) 1-bedroom unit: 750 square feet; (2) 2-bedroom unit: 1,000 square feet; (3) 3- or more bedroom unit: 1,250 square feet (§9-703.c.).” Each of the existing single-family dwellings will be converted into 3 dwelling units. The Staff report and the Zoning Administrator memo state that each unit will be a 1-bedroom unit of approximately 580 square feet. Therefore, the structures do not have sufficient floor area to satisfy the minimum floor area for three 1-bedroom dwelling units. As noted by Planning Staff, the bill must be amended to include a variance for gross floor area for each property.

Additionally, the Planning report notes that two additional off-street parking spaces are required by the Zoning Code (Table 16-406) to serve the two newly created dwelling units. The report notes that no parking will be provided for the converted dwellings because the rear yards and alley by which they are accessed are too narrow to provide accessible parking. A variance for off-street parking is already included in the bill.

Finally, the Planning report contains an analysis of the equity considerations relating to the proposed conversion of these dwellings to three units. The Staff Report notes that conversion of these three vacant dwellings “will return them to productive use, support the tax base, increase the population of the neighborhood, and remove negative impacts that result from long abandoned properties.”

Hearing Requirements

Certain procedural requirements apply to this bill beyond those discussed above because an ordinance that authorizes a conditional use or a variance is considered a “legislative authorization.” 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 a 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.

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 for variances have been met. The bill requires an amendment to include a variance for gross floor area. Assuming the amendment is approved, the required findings are made, and all procedural requirements are satisfied the Law Department can approve the bill for form and legal sufficiency.

Sincerely yours,



Michele M. Toth
Assistant Solicitor

Cc: Stephen Salsbury
Nina Themelis
Tiffany Maclin
Elena DiPietro

Hilary Ruley
Ashlea Brown
Desiree Luckey
Ahleah Knapp