
CITY OF BALTIMORE

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September 20, 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 24-0579 – Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District – Variances – 523 North Calhoun Street

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0579 for form and legal sufficiency. The bill would permit, 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 523 North Calhoun Street (Block 0125, Lot 043), and granting a variance from 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 a variance for off-street parking requirements. The subject property is located within the Harlem Park II Urban Renewal Plan (Harlem Park II URP) area. The Harlem Park neighborhood is predominantly residential comprised largely of rowhouses. The neighborhood also has some scattered commercial and industrial uses. A Vacant Housing Notice is posted on the subject property.

The Planning Staff Report confirms that the lot square footage for this property meets the requirements of the Code for two dwelling units in the R-8 district.

The Staff Report also notes that the property was previously used as three dwelling units. The property has never provided parking, so the parking requirements were waived when the property was previously approved as a three-unit structure. Since this conditional use request is for two

units, there is no increase in density so no parking should be required. The requested variance for parking may be unnecessary.

The Staff Report also notes that the structures on these properties must have at least 1,500 square feet of non-basement gross floor area under § 9-703(b) of the Zoning Code, and the existing structure has 3,000 square feet of floor area. It is not clear from the Planning report whether this property was originally a single-family dwelling as required by the Zoning Code. The report further states that “[t]he converted dwelling 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.)” As noted, “the unit on the first floor and basement will have three bedrooms. The second dwelling unit on the second and third floors will have three bedrooms. Both units will have a gross floor area of about 1,874 sqft each based on estimates staff made from the provided floor plans, which will exceed each unit’s gross square footage requirement.”

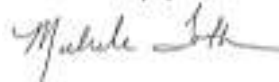
The Staff Report finds facts supporting the conditional use conversion. Namely, there will not be any detrimental impact to the surrounding community given that the prior use of the dwelling as three units is being reduced to two units; Planning is unaware of any law precluding the conversion including the Harlem Park II URP; and the public interest is served by encouraging the renovation and productive use of this vacant building. An equity analysis is included in the Staff Report.

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. Assuming the required findings are made at the hearing, and all procedural requirements are satisfied the Law Department can approve the bill for form and legal sufficiency.

Sincerely yours,



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