
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

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

May 9, 2025

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 25-0055 – Zoning – Conditional Use – Parking Lot (Principal Use) –
Variances – 701 Mura Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0055 for form and legal sufficiency. The bill would permit the establishment, maintenance, and operation of a principal use parking lot at 701 Mura Street. The bill also intends to grant variances from minimum lot area and minimum interior side yard and minimum rear yard requirements. Permission for the parking lot is being requested by ReBuild Johnston Square Phase 1, LLC.

The language in the bill that attempts to grant the variances is incomplete. Amendments to correct these omissions are attached. Additionally, the Planning Commission recommends amending the bill with a variance to permit 66.1% impervious surface in lieu of the 65% permitted by right, and with the condition that the parking spaces will be attributed to the recently renovated homes in the same block for their use.

Conditional Use Standards

The property proposed for off-street parking is in the R-8 Zoning District. In an R-8 District, the permitted and conditional uses are listed in Zoning Table 9-301. City Code, Art. 32, § 9-301. The table lists parking lots as conditional uses in R-8 subject to approval by ordinance. City Code, Art. 32, Tb. 9-301. Section 14-331 of the Zoning Code provides six additional requirements for off street parking lots: they cannot be used for loading or vehicle repair, they must be screened from view, be free from debris and refuse, must comply with the Zoning Code's sign restrictions, and the only buildings allowed are attendant shelters of no more than 10 feet high and 200 square feet. City Code, Art. 32, § 14-331(b).

Conditional Use Standards

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).

Variance Standards

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 Commission report contains some of the findings pertaining to the above criteria.

Procedural 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 because both conditional uses and variances are considered “legislative authorizations.” Baltimore City Code, Art. 32, § 5-501(2). Specifically, notice requirements apply to the bill, and it must be referred to certain City agencies, which are obligated to review it in a specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506, 5-602. Additionally, certain limitations on the City Council’s ability to amend the bill after the committee hearing apply. Baltimore City Code, Art. 32, § 5-507.

This bill is the appropriate method to review the facts and make the determination as to whether the legal standards for conditional use and variances have been met. However, the text of the bill needs to be amended because the language purporting to grant the required variances is incomplete. Suggested amendments are attached.

Additionally, the Planning Commission has recommended an additional amendment to allow a variance for 66.1% impervious surface in lieu of the 65% permitted by law. It is unclear that such a variance is necessary because Table 9-401 appears to impose maximum impervious surface requirements only on lots with dwellings within the R-8 zoning district. Law will defer to Planning Commission staff on the need for this amendment.

The Planning Commission also recommends an amendment to impose a condition that the parking spaces be attributed to the recently renovated homes in the same block solely for their use. This appears to be a permissible condition because it is “reasonably related” to the impact of the conditional use. *See* City Code, Article 32, § 5-405.

Assuming the necessary amendments are adopted, 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,

A handwritten signature in blue ink, appearing to read 'Jeffrey Hochstetler', with a long horizontal flourish extending to the right.

Jeffrey Hochstetler
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor
Ty'lor Schnella, Mayor's Office of Government Relations
Hilary Ruley, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Michelle Toth, Assistant Solicitor
Desireé Luckey, Assistant Solicitor

LAW AMENDMENTS

Amendment 1:

On page 1, in line 21, after the word “granted” and before the word “from”, insert the words for a variance.

Amendment 2:

On page 2, in line 2, after the word “granted” and before the word “from”, insert the words for a variance. And on that same page, in line 6, after the word “granted” and before the word “from”, insert the words for a variance.