

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

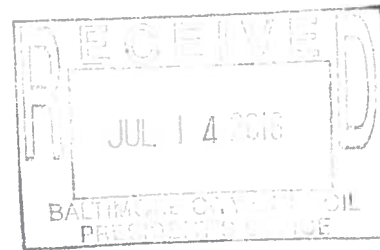


DEPARTMENT OF LAW

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

July 13, 2016

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



Re: City Council Bill 16-0656 – Zoning – Conditional Use Conversion of 2 Dwelling Units to 3 Dwelling Units in the R-8 Zoning District – Variances – 844 North Carey Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 16-0656 for form and legal sufficiency. The bill permits the conversion of 2 dwelling units to 3 dwelling units at 844 North Carey Street, which is in an R-8 Zoning district. The bill also seeks approval for several necessary variances. Such conversions are permitted in R-8 only by ordinance and “only as long as the number of dwelling and efficiency units to be allowed conforms with the applicable principal-permitted-use bulk regulations for the district in which the building is located.” Baltimore City Zoning Code (“ZC”), §3-305(b)(2). This is the requisite ordinance to permit this change.

Three variances are requested in the first reader text of this bill. Sec. 15-101(2) provides that variances may be granted as part of an ordinance authorizing a conditional use. An off-street parking variance is legally required if the property cannot provide the parking spaces needed under Section 10-405 of the Zoning Code. That section states that multiple family dwellings in an R-8 zoning district must have 1 space per dwelling unit. *See also* ZC §§10-201; 10-202(a). A variance of 75% of this requirement is permissible pursuant to Sections 15-101(2)(i) and 15-208 of the Zoning Code. The Planning report noted that it would be practically difficult and cause unnecessarily hardship to comply with the parking requirement since the property is not adjacent to an alley that is at least fifteen feet wide.

A variance is also needed for lot area. ZC §4-1106. A lot area of 1,875 square feet is required. The actual lot area is 1441 square feet. A lot area variance of 23.1% is needed. §15-202 allows for a variance of up to 25%. This variance can therefore be approved.

Finally, a variance for floor area ratio is requested. ZC §4-1108 allows for a maximum FAR of 2.0. The actual FAR is 2.12. A variance of 6% is necessary. ZC §15-204 allows for a variance of up to 75% of the applicable regulation. This variance can therefore be approved.

There are certain procedures that must be followed. *See* ZC §§3-305(c)(plans and advice required), 14-208 (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

*Far of comment*

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,); *see also* Md. Code, Land Use, §10-303. A Third Reading hold-over before final passage is needed because the bill, when amended, will include a variance.

Assuming all the procedural requirements are met, provided the building is able conform with the applicable principal-permitted-use bulk regulations and the appropriate findings of fact are made, the Law Department can approve the bill for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Hilary Ruley, Chief Solicitor  
Victor Tervalo, Chief Solicitor  
Jennifer Landis, Assistant Solicitor