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CITY OF BALTIMORE

BRANDON M. SCOTT,  
Mayor



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September 24, 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 24-0572 – Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 3 Dwelling Units in the R-8 Zoning District – Variances  
1730 North Broadway

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0572 for form and legal sufficiency. The bill would permit, subject to certain conditions, the conversion of a single-family dwelling unit to 3 dwelling units in the R-8 Zoning District on the property known as 1730 North Broadway (Block 1109, Lot 053), and granting variances from certain bulk regulations (lot area size), gross floor area per unit type, 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). The Code in Art. 32, § 9-703(b) also requires that the existing dwelling must: (i) be a structure originally constructed as a single-family dwelling; and (ii) have 1,500 square feet or more in gross floor area, not including any basement area. In making the required 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, gross floor area, and off-street parking requirements. The subject property is located within the Oliver Urban Renewal Plan (Oliver URP) area and the Old East Baltimore National Register Historic District. The Oliver neighborhood is predominantly residential comprised largely of rowhouses.

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, and the lot area size is approximately 1,4666 square feet, thus requiring a variance of about 22%. The Planning Staff Report confirms these numbers.

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 1,540 square feet of floor area. The fact that the structure was originally constructed as a single-family dwelling is implicit in Planning's approval of the structure as meeting the requirements of § 9-703(b). The report further states 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.)." As noted, "The proposed three-bedroom dwelling unit in the basement and on the first floor will contain 1,560 square feet in gross floor area, which meets this requirement. Two two-bedroom units are proposed for the second floor and for the third floor. The second-floor unit will contain 680 square feet in gross floor area in lieu of the required 1,000 square feet. The two-bedroom unit on the third floor will contain 760 square feet in lieu of the required 1,000 square feet. Variances for gross floor area for the second and third floor units are included in the bill."

Additionally, the Planning report notes that one off street parking space per dwelling unit is required in this zoning district. 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 states that no parking will be provided. Planning notes that a variance for parking is included in the bill which Planning Staff believes is reasonable because the rear yard cannot provide more than the single parking space currently available.


The Planning report includes a proposed statement of findings of fact which have been provided by the applicant. The Report notes that the conversion will not conflict with an existing law or plan, including the Oliver URP. The Staff Report contains the findings required for approval of a conditional use; however there is no express discussion of the findings required for granting a variance. The Report contains an analysis of the equity considerations relating to the proposed conversion of the dwelling to three units. The Staff Report notes that conversion of the vacant dwelling "will return it to productive use, support the tax base, increase the population of the neighborhood, and remove negative impacts that result from 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. 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,

A handwritten signature in black ink, appearing to read "Michele Toth". The signature is written in a cursive style with a large initial "M" and a long, sweeping tail.

Michele M. Toth  
Assistant Solicitor

Cc: Stephen Salsbury  
Nina Themelis  
Tiffany Maclin  
Elena DiPietro  
Hilary Ruley  
Ashlea Brown  
Desiree Luckey  
Ahleah Knapp