

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

October 19, 2015

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 15-0545 – Zoning – Conditional Use Conversion of 1-Family Dwelling Unit to a 3-Family Dwelling Unit in the R-8 Zoning District – Variances – 704 N. Gilmor St.

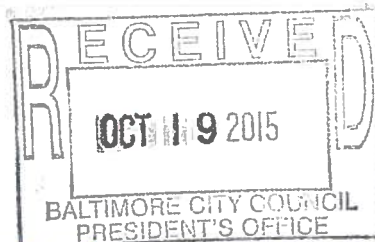
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0545 for form and legal sufficiency. The bill permits the conversion of a 1-family dwelling unit to a 3-family dwelling unit at 708 North Gilmor, which is in an R-8 Zoning district. Such conversions are permitted in R-8 only by ordinance. Baltimore City Zoning Code (“ZC”), § 3-305(b). This is the requisite ordinance to permit this change.

The bill authorizes several variances. First, a variance from the off-street parking requirements from 2 spaces to 0 is sought. Section 15-208 allows for a 75% reduction in the required off-street parking spaces making the required spaces 1.25. This is essentially 1 parking spaces, however, there is no alley in the rear of this property so creation of off-street parking is not possible. The variance, therefore, can only be granted under the Zoning Code §15-214 if the City Council finds that 1) the lot cannot be reasonably used for any of the permitted or conditional uses set forth for the zoning district in which it is located;(2) the use or bulk regulations applicable to the lot have the effect of depriving the owner of all reasonable use of the lot; and (3) the variance is necessary to avoid arbitrariness.

Second, variance for lot area of 9% is requested. As mentioned in the Planning Commission report, a lot area variance of 165 sq. ft. or 9% of the lot area required by Sec. 4-1106(a). Sec. 15-501 authorizes the granting of the variance In addition, Sec. 4-1108 requires a maximum floor area ratio of 2.0. The actual FAR is 2.02. Sec. 15-204 authorizes a variance that increases a basic floor area ratio factor by no more than 75% of the applicable regulation. A 1% variance is requested. The Mayor and City Council may therefore grant a variance for an FAR of 2.02.

These variances may be granted so long as the findings of fact required under Sections 15-217, 15-218, and 15-219 are made.



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The Staff Report from the Planning Department (Report) applies the Title 14 considerations for conditional uses and concludes that the proposed use as a 3-family dwelling “would be consistent with residential use in the area, and would not be detrimental to or endanger public health, security, general welfare or morals and would complete constructive re-use of a vacant structure that still retains considerable historic integrity.” *See* Report at 3.

Finally, there are certain procedures that must be followed. *See* ZC §§3-305(c), 14-208 (conditional uses must follow procedures in Title 16), 15-302 (variances in conjunction with 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 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, including a Third Reading hold-over before final passage because the bill includes variances, not just a conditional use); *see also* Md. Code, Land Use, §10-303.

Subject to the foregoing and assuming all the procedural requirements are met and the appropriate findings of fact are made, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,



Elena R. DiPietro
Chief Solicitor

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