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**CITY OF BALTIMORE**

**BRANDON M. SCOTT**

Mayor



**DEPARTMENT OF LAW**

**EBONY M. THOMPSON, CITY SOLICITOR**

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**BALTIMORE, MD 21202**

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September 23, 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 25-0077 – Conditional Use Conversion of a Single-Family Dwelling Unit in the R-8 Zoning 3 District – Variances – 541 Lafayette Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0077 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to 2 dwelling units in the R-8 Zoning District on the property known as 541 Lafayette Avenue (Block 0414, Lot 062), as outlined in red on the accompanying plat; grant variances regarding certain bulk regulations (lot size area) and off-street parking requirements; and provide for a special effective date.

In Section 3 of Council Bill 25-0077, a variance is requested for off-street parking. Newly amended Section 16-601(b)(1) of Article 32 (Zoning Code) provides “[a]ll residential uses in any zoning district with up to and including 3 dwelling units are exempt from off-street parking requirements.” Therefore Section 3 of the bill, lines 26 through 27 on page 1 and lines 1 through 2 on page 2, should be removed, and Section 4, beginning on line 3 of page 2, should be renumbered. Similarly, the Code provisions cited as authority for requesting a variance should be deleted beginning on line 11 through line 12 on page 1.

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. City Code, Art. 32, § 9-701(2). The only properties eligible for conversions are those that meet the standards set forth in Section 9-703 of Article 32 of the Baltimore City Code. Eligible properties must “continue to conform to the applicable bulk and yard regulations, including lot area per dwelling unit, for the district in which the building is located”. Baltimore City Code, Art. 32, § 9-703(b). Properties “may not violate any dwelling unit occupancy regulations or restrictions of the City Code” and “the exterior of the dwelling must retain its existing residential character”. Baltimore City Code, Art. 32, § 9-703(c)-(d).

The converted dwelling must continue to conform to the bulk and yard regulations, including minimum lot size, for the district in which the building is located. Baltimore City Code, Art. 32, § 9-703(b), (d). The minimum lot size per dwelling unit in a multi-family dwelling in an R-8 district is 750 square feet. Art. 32, Tbl. 9-401. The Planning Commission notes that this lot contains approximately 1,240 square feet, which requires a variance.

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).

These findings must be guided by 14 required considerations:

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;
- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;
- (5) accessibility of the premises for emergency vehicles;
- (6) accessibility of light and air to the premises and to the property in the vicinity;
- (7) the type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided;
- (8) the preservation of cultural and historic landmarks and structures;
- (9) the character of the neighborhood;
- (10) the provisions of the City's Comprehensive Master Plan;
- (11) the provisions of any applicable Urban Renewal Plan;
- (12) all applicable standards and requirements of this Code;
- (13) the intent and purpose of this Code; and
- (14) any other matters considered to be in the interest of the general welfare.

Baltimore City Code, Art. 32, § 5-406(a).

#### 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 practical difficulty is caused by this Code and has not been created by the intention action or inaction of any person who has a present interest in the property;
- (2) the purpose of the variance is not based exclusively on a desire to increase the value or income potential of the property;
- (3) 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;
- (4) the variance is in harmony with the purpose and intent of this Code;
- (5) 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
- (6) 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).

### Planning Report

The Planning Commission accepted the Planning Staff recommendation and recommended approval of this bill. The Planning Report recommends, as required above, that the variance for off-street parking be amended out of the bill.

541 West Lafayette Street is an end-of-row attached dwelling located in the Upton neighborhood. The Planning Report notes that the block contains a significant number of vacant structures, with 16 vacant building notices issued within the block. One other property on the block has recently undergone renovation. The property is designated residential: higher density in the current Comprehensive Master Plan so that this conditional use conversion conforms to the land use plan for the area. The Planning Report notes that the Master Plan for the Upton community supports the development of a range of housing types for both rental and homeownership, so returning this vacant property to productive use is consistent with that goal.

### 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.

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)(i), (ii).

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 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 a conditional use and variance have been met. Assuming the required findings are made at the hearing, all procedural requirements are satisfied, and the required amendments are made the Law Department can approve the bill for form and legal sufficiency.

Sincerely,

A handwritten signature in black ink, appearing to read 'DLuckey', is centered below the word 'Sincerely,'.

Desiree Luckey  
Assistant Solicitor

cc: Ebony Thompson, City Solicitor  
Hilary Ruley, Chief Solicitor, General Counsel Division  
Jeff Hochstetler, Chief Solicitor  
Ashlea Brown, Chief Solicitor  
Michelle Toth, Assistant Solicitor