
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

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April 22, 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 25-0037 – Zoning – Conditional Use Conversion of Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District – Variances – 1727 McCulloh Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0037 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to two dwelling units at 1727 McCulloh Street, which is in an R-8 Zoning District. The bill title also states that it would grant a variance from off-street parking requirements, but the body of the bill does not contain that language.

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 were “originally constructed as a single-family dwelling” and contain “1,500 square feet or more in gross floor area” exclusive of the basement. Baltimore City Code, Art. 32, § 9-703(b). The Planning Commission Report indicates that this property contains more than 2,000 square feet, thus making it eligible for the conversion.

When a property is converted to multiple dwelling units, as in this bill, each unit must have a certain amount of square feet of gross floor area depending on the number of bedrooms in the unit. Baltimore City Code, Art. 32, § 9-703(c). In this case, according to the Planning Commission Report, the conversion proposed is for one, three-bedroom dwelling unit and one, four-bedroom dwelling unit. Dwellings that contain three or more bedrooms are required to have at least 1,250 square feet. Baltimore City Code, Art. 32, § 9-703(c)(3). The Planning Commission Report notes that each new dwelling meets this standard.

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(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 1,575 square feet, thus conforming to the lot size requirement.

Additionally, two off-street parking spaces are required to serve the two dwelling units. Baltimore City Code, Art. 32, § 9-703(f) (“At least 1 off-street parking space must be provided for each dwelling unit.”). The Staff Report within the Planning Commission Report notes that the size of the lot and rear alley access provide room for only *one* parking space, so a variance from the off-street parking requirements would be needed. However, the Commission Memo states that no variance would be required because the applicant testified “that one off-street parking space will be provided in the rear yard,” thus obviating the need for the variance.

It’s unclear if this means *two* parking spaces will now be provided, in apparent contradiction of the Staff Report. This should be clarified. If a variance is no longer needed, the only amendment to the bill is removing reference to the variance in the title and purpose statement, because the bill does not actually contain the variance language. If a variance is needed, then the bill should be amended to include the variance.

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). The Planning Commission’s report contains findings pertaining to some of the standards above, using some of the criteria outlined in Section 5-406(a). 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 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 a conditional use and variance have been met. However, as explained above, clarity is needed as to whether a parking variance is required and, if it is, the bill will need to be amended to include that variance. Assuming this clarity and amendment, if necessary, is provided, 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