

# COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT

## FINDINGS OF FACT

### City Council Bill No. 21-0076

MOTION OF THE CHAIR OF THE COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT, AFTER A PUBLIC HEARING AT WHICH AGENCY REPORTS AND PUBLIC TESTIMONY WERE CONSIDERED, AND PURSUANT TO ARTICLE 32, SECTION 5-406 OF THE BALTIMORE CITY CODE, THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING A CONDITIONAL USE FOR:

#### **Zoning - Conditional Use Conversion of a Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District - Variance - 1049 Brantley Avenue**

- (1) the establishment, location, construction, maintenance, or operation of the conditional use **will not** be detrimental to or endanger the public health, safety, or welfare **for the following reasons:**

Establishment, location, construction, maintenance, and operation of a multi-family dwelling at 1049 Brantley Avenue would not be detrimental to or endanger public health, safety, or welfare.

- (2) the use **would not** be precluded by any other law, including an applicable Urban Renewal Plan;

The proposed use is not precluded by any other law, including an Urban Renewal Plan.

- (3) the authorization **would not** be contrary to the public interest **for the following reasons:**

Use of this property for a multi-family dwelling is not otherwise in any way contrary to the public interest.

- (4) the authorization **would** be in harmony with the purpose and intent of this Code **for the following reasons:**

The authorization would be in harmony with the purpose and intent of the Zoning Code.

After consideration of the following, **where applicable (fill out all that are *only* relevant):**

- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;

Department of Planning staff finds that the site, including its size and shape, is appropriate for the proposed use.

- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;

There would be no change to traffic patterns if this use would be authorized.

- (3) the nature of the surrounding area and the extent to which the proposed use might impair its present and future development;

The surrounding area is one in which the predominant residential type was originally single-family owner-occupancy row-housing, but in which some conversions of single-family to multi-family dwellings occurred during the 20th Century. For this reason, it is unlikely that the proposed multi-family use would impair present or future development.

- (4) the proximity of dwellings, churches, schools, public structures, and other places of public gathering;

There is reasonable proximity of other dwellings, churches and other places of worship, schools, public structures, and places of public gathering.

- (5) accessibility of the premises for emergency vehicles;

There is adequate accessibility for emergency vehicles

- (6) accessibility of light and air to the premises and to the property in the vicinity;

There is adequate light and air to the premises and to properties 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;

There are adequate utilities, roads, drainage, and other necessary facilities.

- (8) the preservation of cultural and historic landmarks and structures;

The proposed use of a portion of the existing structure would not affect preservation of cultural and historic landmarks and structures.

- (9) the character of the neighborhood;

Approval of the proposed use as a multi-family dwelling would not affect the existing character of the neighborhood, as noted above.

- (10) the provisions of the City's Comprehensive Master Plan;

The proposed use is consistent with the City's Comprehensive Master Plan.

- (11) the provisions of any applicable Urban Renewal Plan;

The proposed use is not prevented or limited by any Urban Renewal Plan.

- (12) all applicable standards and requirements of this Code;

The proposed use meets all applicable standards and requirements of the Zoning Code.

- (13) the intent and purpose of this Code; and

Multi-family use would meet all applicable standards and requirements of the Zoning Code upon granting of variance for off-street parking, and would be consistent with the intent and purpose of the Zoning Code.

- (14) any other matters considered to be in the interest of the general welfare.

The proposed use is consistent with any other matters that may be considered to be in the interest of the general welfare.

SOURCE OF FINDINGS (Check all that apply):

[X] Planning Commission's report, dated June 25, 2021, which included the Department of Planning Staff Report, dated June 24, 2021.

[X] Testimony presented at the Committee hearing

Oral – Witness:

- Martin French, Planning Department
- Elena DiPietro, Law Department
- Liam Davis, Department of Transportation

Written:

- Planning Commission, Agency Report – Dated June 25, 2021 which included the Department of Planning Staff Report – Dated June 24, 2021
- Department of Transportation, Agency Report – Dated June 17, 2021
- Board of Municipal and Zoning Appeals, Agency Report – June 24, 2021
- Law Department, Agency Report – Dated August 26, 2021
- Department of Housing and Community Development, Agency Report – Dated August 25, 2021
- Baltimore Development Corporation, Agency Report – Dated June 8, 2021
- Parking Authority, Agency Report – Dated May 21, 2021
- Fire Department, Agency Report – Dated May 11, 2021
- Office of the Zoning Administrator – Dated April 19, 2021

**COMMITTEE MEMBERS VOTING IN FAVOR**

Sharon Green Middleton, Chair  
John Bullock  
Ryan Dorsey  
Odette Ramos  
Robert Stokes

**FINDINGS OF FACT FOR VARIANCE City Council Bill No. 21-0076**

MOTION OF THE CHAIR OF THE COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT:  
AFTER A PUBLIC HEARING AT WHICH AGENCY REPORTS AND PUBLIC TESTIMONY WERE  
CONSIDERED, AND PURSUANT TO THE APPLICABLE SECTIONS OF ARTICLE 32 OF THE BALTIMORE  
CITY CODE, THE CITY COUNCIL ADOPTS THESE FINDINGS OF FACT CONCERNING ANY VARIANCES OF  
APPLICABLE STANDARDS FOR THE PROPERTY LOCATED AT:

**Zoning - Conditional Use Conversion of a Single-Family Dwelling Unit to 2 Dwelling Units in the R-  
8 Zoning District - Variance - 1049 Brantley Avenue**

**VARIANCE FROM LOT AREA SIZE REQUIREMENTS**

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*(Use a separate Variance form for each Variance sought in the bill)*

**THRESHOLD QUESTION:**

- In accordance with Section 5-305(c), it has been determined that there is no written decision by the Board of Municipal and Zoning Appeals on an application for this same subject matter.*

**HARDSHIP OR PRACTICAL DIFFICULTY:**

*The City Council has considered at least one of the following:*  
(check all that apply to evidence consideration)

- The physical surroundings around the **STRUCTURE / LAND** involved;  
*(underline one)*
- The shape of the **STRUCTURE / LAND** involved;  
*(underline one)*
- The topographical conditions of the **STRUCTURE / LAND** involved.  
*(underline one)*

*and finds either that:*

- (1) An unnecessary hardship **WOULD / WOULD NOT** exist if the strict letter of the  
*(underline one)*  
applicable requirement from which the variance is sought were applied because:

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*or that:*

- (2) Practical difficulty **WOULD** / **WOULD NOT** exist if the strict letter of the  
(*underline one*)  
applicable requirement from which the variance is sought were applied because:

The Zoning Code requires, for a property in the R-8 zoning district, 750 square feet of lot area per dwelling unit (Table 9-401). A lot area of 1,500 square feet is thus required for two dwelling units. As this lot has approximately 1,067.5 square feet, a 432.5 square feet lot area size variance, amounting to approximately 28.8%, is needed for approval. A lot area variance has been included in Section 2 of the bill.

The existing building covers over 75% of the property, yet also contains approximately 2,400 square feet of gross floor area, which creates an unusual ratio of floor area to lot area. The interior space of the building is larger than what would ordinarily be needed for a single-family dwelling, and so the lot area variance requested is reasonable.

Planning staff conclude that the conditions on which this application is based are unique to the property for which the variances are sought and not generally applicable to other property within the same zoning classification, as this is a three-story 19th Century structure largely covering a lot that is shorter in length than what is usual for a building of this size. Similarly, Planning staff conclude that unnecessary hardship or practical difficulty is not being created by the intentional action of a person with a present interest in the property; and that the purpose of the variances is not based exclusively on a desire to increase the value or income potential of the property, given its large floor area that partially meets the floor area per unit type conversion standards in the Zoning Code, and that its existing structure is large in relation to the lot on which it is situated. Planning staff recommend that the Commission find that the variances would not be injurious to the use and enjoyment of other property in the immediate vicinity; nor substantially diminish and impair property values in the neighborhood; nor adversely affect the City's Comprehensive Master Plan or the Harlem Park II Urban Renewal Plan; nor be detrimental to or endanger the public health, safety, or welfare, or be in any way contrary to the public interest.

SOURCE OF FINDINGS (Check all that apply):

- [X] Planning Commission's report, dated June 25, 2021, which included the Department of Planning Staff Report, dated June 24, 2021.
- [X] Testimony presented at the Committee hearing

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**FINDINGS OF FACT FOR VARIANCE City**

**Council Bill No. 21-0076**

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**Zoning - Conditional Use Conversion of a Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District - Variance - 1049 Brantley Avenue**

**VARIANCE FROM OFF-STREET PARKING REQUIREMENTS**

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*(Use a separate Variance form for each Variance sought in the bill)*

**THRESHOLD QUESTION:**

- In accordance with Section 5-305(c), it has been determined that there is no written decision by the Board of Municipal and Zoning Appeals on an application for this same subject matter.*

**HARDSHIP OR PRACTICAL DIFFICULTY:**

*The City Council has considered at least one of the following:*  
(check all that apply to evidence consideration)

- The physical surroundings around the **STRUCTURE / LAND** involved;  
*(underline one)*
- The shape of the **STRUCTURE / LAND** involved;  
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*(underline one)*

*and finds either that:*

- (3) An unnecessary hardship **WOULD / WOULD NOT** exist if the strict letter of the  
*(underline one)*  
applicable requirement from which the variance is sought were applied because:

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*or that:*



(4) Practical difficulty **WOULD** / **WOULD NOT** exist if the strict letter of the  
(*underline one*)

applicable requirement from which the variance is sought were applied because:

One off-street parking space is required to serve the newly-created dwelling unit. Since the property cannot provide parking spaces meeting Zoning Code standards, as the existing structure covers enough of the lot to leave only a 15' deep rear yard, a parking variance is needed in order to meet this requirement.

The existing building covers over 75% of the property, yet also contains approximately 2,400 square feet of gross floor area, which creates an unusual ratio of floor area to lot area. The interior space of the building is larger than what would ordinarily be needed for a single-family dwelling, and so the lot area variance requested is reasonable. Likewise, the owner is not able to provide an off-street parking space without demolishing a part of the building, and so a parking variance is more reasonable than strict compliance with the requirement.

Planning staff conclude that the conditions on which this application is based are unique to the property for which the variances are sought and not generally applicable to other property within the same zoning classification, as this is a three-story 19th Century structure largely covering a lot that is shorter in length than what is usual for a building of this size. Similarly, Planning staff conclude that unnecessary hardship or practical difficulty is not being created by the intentional action of a person with a present interest in the property; and that the purpose of the variances is not based exclusively on a desire to increase the value or income potential of the property, given its large floor area that partially meets the floor area per unit type conversion standards in the Zoning Code, and that its existing structure is large in relation to the lot on which it is situated. Planning staff recommend that the Commission find that the variances would not be injurious to the use and enjoyment of other property in the immediate vicinity; nor substantially diminish and impair property values in the neighborhood; nor adversely affect the City's Comprehensive Master Plan or the Harlem Park II Urban Renewal Plan; nor be detrimental to or endanger the public health, safety, or welfare, or be in any way contrary to the public interest.

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