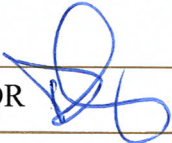



FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #20-0560 / ZONING – CONDITIONAL USE CONVERSION of a Single-Family Dwelling Unit to 4 Dwelling Units In the R-7 Zoning District – Variances – 2437 MADISON AVENUE		

DATE:

August 21, 2020

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

At its regular meeting of August 20, 2020, the Planning Commission considered City Council Bill #20-0560, for the purpose of permitting, subject to certain conditions, the conversion of a single-family dwelling unit to 4 dwelling units in the R-7 Zoning District on the property known as 2437 Madison Avenue (Block 3421, Lot 037), as outlined in red on the accompanying plat; and granting variances from certain bulk regulations (lot area size) and gross floor area per unit type requirements.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendment, and approval as amended, of City Council Bill #20-0560 and adopted the following resolution, nine members being present (nine in favor):

RESOLVED, That the Planning Commission finds, in accordance with §5-308 and §5-406 of Article 32 – *Zoning*, that:

- (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.

And further RESOLVED, That the Planning Commission does not concur with the recommendation of its Departmental staff, and recommends that City Council Bill #20-0560 be passed by the City Council without amendment, or with an amendment adding a variance of off-street parking requirements should the City Council determine it to be appropriate.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/mf

attachment

cc: Mr. Nicholas Blendy, Mayor's Office
Mr. Matthew Stegman, Mayor's Office
Ms. Nina Themelis, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. Colin Tarbert, BDC
Ms. Livhu Ndou, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Stephanie Murdock, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Liam Davis, DOT
Ms. Natawna Austin, Council Services
Mr. Dominic McAlily, Council Services
Mr. Alfred Barry, for Piston River Success Fund LLC



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

August 20, 2020

REQUEST: City Council Bill 20-0560/ Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 4 Dwelling Units in the R-7 Zoning District – Variances – 2437 Madison Avenue

For the purpose of permitting, subject to certain conditions, the conversion of a single-family dwelling unit to 4 dwelling units in the R-7 Zoning District on the property known as 2437 Madison Avenue (Block 3421, Lot 037), as outlined in red on the accompanying plat; and granting variances from certain bulk regulations (lot area size) and gross floor area per unit type requirements.

RECOMMENDATION: Amendment, and Approval as amended

Amendments:

- Retitle bill to state: Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 3 Dwelling Units in the R-7 Zoning District – 2437 Madison Avenue
- Delete variances from bill (Sections 2 and 3 of CCB 20-0560)

STAFF: Martin French

PETITIONER: Councilmember Pinkett, at the request of Piston River Success Fund LLC

OWNER: Piston River Success Fund LLC

SITE/ GENERAL AREA

Site Conditions: This property is located in the heart of the Eutaw Place – Madison Avenue Historic District, a locally designated historic district within the Reservoir Hill National Register Historic District. 2437 Madison Avenue is approximately 20' by 150' (Block 3421, Lot 037), and is currently improved with a three-story semi-detached dwelling measuring approximately 20' by 72', behind which lies Morris Street. The site is zoned R-7.

General Area: This is a predominantly residential area having a unified linear streetscape along Eutaw Place and Madison Avenue, with scattered uses such as religious institutions, schools, and small commercial uses found outside the local historic district. This structure, built in 1907, is a large house in mid-block. To the east is the central area of Reservoir Hill, and two long blocks to the south of this property is North Avenue, a major Baltimore City thoroughfare. The northern end of this historic district is adjacent to the southwestern edge of Druid Hill Park.

HISTORY

This property is located in the Eutaw Place – Madison Avenue Historic District established by Ordinance no. 407 on July 2, 1981. The much larger Reservoir Hill Historic District (which also contains this property) was certified to the National Register of Historic Places on December 23, 2004. The block on which this property is located was rezoned from R-8 to R-7 during the comprehensive rezoning process associated with adoption of the current Zoning Code which became effective on June 5, 2017.

CONFORMITY TO PLANS

The proposed action is consistent with LIVE EARN PLAY LEARN, the Comprehensive Master Plan for Baltimore, Live Goal 1: Build Human and Social Capital by Strengthening Neighborhoods, Objective 1: Expand Housing Choices for all Residents; and Objective 2: Strategically Redevelop Vacant Properties Throughout the City. To the extent that the owner/petitioner may return the existing historic structure to its original size and appearance, the proposed action may also be consistent with Objective 4: Protect and Enhance the Preservation of Baltimore's Historic Buildings and Neighborhoods, another part of the same Live Goal 1.

ANALYSIS

Project: The existing structure covers 48% of the lot on which it sits. If the owner's plan to remove a mid-20th Century three-story rear addition to the original semi-detached dwelling structure is realized, the structure would then cover approximately 39% of the lot. This legislation would permit the petitioner to renovate the existing structure into four dwelling units, extending the life of this original building. As will be discussed below, Planning staff recommend approval of conversion of the existing structure to three dwelling units as an alternative. Adaptive re-use as a multi-family dwelling would allow preservation of a part of Baltimore's historic architectural fabric while offering more affordable housing alternatives to persons living within the larger Reservoir Hill area.

Zoning Analysis: The Zoning Code requires, for a property in the R-7 zoning district, 1,100 square feet of lot area per dwelling unit (Table 9-401). A lot area of 3,850 square feet is thus required for four dwelling units. As this lot has 3,000 square feet, an 850 square feet lot area size variance, amounting to approximately 22%, has been included in the bill. The portion of the house above grade now contains approximately 4,320 gross square feet. The Zoning Code's conversion standards, contained in §9-703, require 1,000 gross square feet of floor area for each two-bedroom dwelling unit and 750 square feet of gross floor area for each one-bedroom dwelling unit. The floor plans provided by the petitioner show three two-bedroom dwelling units on each of the main three levels of the existing structure, and a one-bedroom dwelling unit in the basement level. Total gross floor area needed for approval is thus 3,750 square feet. In its current condition, the structure contains 4,320 gross square feet. However, when approximately 16' of building depth is removed by demolition of the three-level rear addition, the structure's gross floor area would be reduced to approximately 3,480 square feet. For this reason, a variance of gross floor area per unit type requirements has been included in the bill. This variance would be approximately 9.3% based on the post-removal floor area of the existing structure. (It should be noted that the floor area requirements discussed here apply equally in the R-7 or current zoning district and the R-8 or former zoning district in which this property is located.)

The Planning Commission previously considered and recommended approval of a bill to authorize conversion of this premises to three dwelling units in the R-8 zoning district (please see the Planning Commission report of November 6, 2014 on City Council bill no. 14-0435, which was adopted as Ordinance no. 15-345 dated April 23, 2015). The previous Zoning Code required, for a property then in the R-8 District, 750 square feet of lot area per dwelling unit (BCZC of 1971 as amended, §4-1106). A lot area of 1,875 square feet was then required for three dwelling units. As this lot has 3,000 square feet, no variance of lot area was required for conversion to three dwelling units. Even though the property has since been rezoned R-7, for which the lot area requirement is 1,100 square feet per dwelling unit, no variance would be required for three dwelling units because the Zoning Code allows the third dwelling unit to be created with as little as one-half the lot area per dwelling unit otherwise required (§15-302), or in this instance, with a lot area of at least 2,750 square feet for three dwelling units.

In the previously-authorized conversion of this same property, two off-street parking spaces were required to serve each newly-created dwelling unit. Since the property can provide two parking spaces meeting Zoning Code standards, no parking variance was needed in order to meet this requirement. The maximum lot coverage permitted in the R-8 district was 60%. The existing structure covers approximately 48% of the lot, but a lot coverage variance was not needed as the petitioner did not intend to enlarge the structure. Because the previous Zoning Code provided, in its §2-602(2), that a permit must be obtained within 12 months of the date an ordinance was enacted, and this did not happen with respect to this property, that legislative authorization lapsed. (This provision was carried forward to the current Zoning Code, at §5-407, and its §5-408 allows up to 2 years.)

In 2017, comprehensive rezoning of the City of Baltimore resulted in a large section of Reservoir Hill being rezoned from the R-8 zoning district to the R-7 zoning district. This represented, in the context of Reservoir Hill, part of an effort to reduce residential density slightly without changing the nature of residential uses allowed there by the Zoning Code.

To approve the proposed conversion to four dwelling units, a variance of off-street parking regulations contained in Table 16-406, where one space per dwelling unit is required for all dwelling units created, would need to be added to this bill as an amendment.

Conditional Use: Per §5-406 {"Approval standards"} of Article 32 – *Zoning*:

(a) *Limited criteria for denying.*

Neither the Board of Municipal and Zoning Appeals, nor the City Council, as the case may be, may approve a conditional use unless, after public notice and hearing and on consideration of the standards required by this subtitle, it finds that:

- (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.

With the above-cited Zoning Code requirements as a guide, Planning staff recommend that the Planning Commission recommend the following findings related to City Council bill 20-0560 to the City Council:

- (1) Establishment, location, construction, maintenance, and operation of a multi-family dwelling at 2437 Madison Avenue would not be detrimental to or endanger public health, safety, or welfare.
- (2) The proposed use is not precluded by any other law, including an Urban Renewal Plan (there being none).
- (3) Use of this property for a multi-family dwelling is not otherwise in any way contrary to the public interest, although it may be inconsistent with aspirations of other property owners in the Eutaw Place – Madison Avenue Historic District for restraining these residential conversions in order to attract more single-family owner-occupants of or to these historic houses. Authorization of renovation and restoration of the premises using the historic property tax credit has been given by means of pre-certification of this property by Commission for Historical and Architectural Preservation staff.
- (4) The authorization contained in City Council bill no. 20-0560 would be in harmony with the purpose and intent of the Zoning Code, as stated in §2-101 {"Purpose of Code"} therein.

Below is staff's review of §5-406(b) {"Required considerations"} of Article 32 – *Zoning*:

(b) *Required considerations.*

As a further guide to its decision on the facts of each case, the Board of Municipal and Zoning Appeals must consider the following, where appropriate:

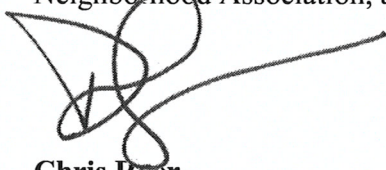
- (1) the nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
- (2) the resulting traffic patterns and adequacy of proposed off-street parking and loading;
- (3) the nature of the surrounding area and the extent to which the proposed 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.

With the above-cited Zoning Code requirements as a guide, Planning staff recommend that the Planning Commission further recommend the following findings related to City Council bill 20-0560 to the City Council:

- (1) The nature of the property known as 2437 Madison Avenue (the site), including its size and shape and the proposed smaller size and shape of the structure to be used as a multi-family dwelling, is appropriate for the proposed multi-family dwelling use.
- (2) There would be no change to traffic patterns if this use would be authorized.
- (3) The surrounding area is one in which the predominant residential type was originally single-family owner-occupancy rowhousing, but in which many 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 by itself alone.
- (4) There is reasonable proximity of other dwellings, churches and other places of worship, schools, public structures, and places of public gathering.
- (5) There is adequate accessibility to the premises for emergency vehicles.
- (6) There is adequate accessibility of light and air to the premises and to other properties in the vicinity (which last would be slightly improved by removal of the three-level rear addition to the existing structure).
- (7) There are adequate utilities, roads, drainage, and other necessary facilities.
- (8) Re-occupancy of the vacant existing structure would contribute to preservation of cultural and historic landmarks and structures, notably to the 2400 block of Madison Avenue that is part of the Eutaw Place – Madison Avenue Historic District.
- (9) Approval of the proposed use as a multi-family dwelling would not affect the existing character of the neighborhood, as noted above.
- (10) While consistent with the provisions of the City’s Comprehensive Master Plan, the proposed use is not prevented or limited by any Urban Renewal Plan.
- (11) There is no Urban Renewal Plan covering the location of this property known as 2437 Madison Avenue.
- (12) Multi-family use would meet all applicable standards and requirements of the Zoning Code without granting of variances discussed previously.
- (13) Multi-family use would be consistent with the intent and purpose of the Zoning Code.
- (14) Multi-family use would not be inconsistent with other matters considered to be in the interest of the general welfare.

Planning staff, in reviewing this proposed conversion in relation to the conversion previously authorized by the Planning Commission and Ordinance no. 15-345, are unable to conclude that the separate and additional Zoning Code standards for approval of variances could be met, and therefore recommend amendment of this bill to authorize three dwelling units, which would not require approval of variances.

Notification: The Reservoir Hill Improvement Council, the Upper Eutaw/ Madison Neighborhood Association, and Councilman Pinkett have been notified of this action.

A handwritten signature in black ink, appearing to read 'Chris Ryer', with a long horizontal stroke extending to the right.

Chris Ryer
Director