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CITY OF BALTIMORE

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Mayor



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March 1, 2022

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 21-0185 – Zoning – Conditional Use Conversion of Single-Family Dwelling Unit to 8 Dwelling Units in the R-8 Zoning District – Variances – 2044 Walbrook Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0185 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to 8 dwelling units at 2044 Walbrook Avenue, which is in an R-8 Zoning district. The bill would also grant variances for lot area size, gross floor area per unit type, and off-street parking requirements.

#### 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. Baltimore 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 notes that this property was originally constructed as a single-family dwelling and the building occupies the entire 1,260 square foot lot with three floors, making it clearly eligible for the conversion.

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(a).

The Planning Commission Report recommends that the bill be amended to reduce the requested dwelling units from 8 to 6, and to prohibit dwellings in the basement. Both of those conditions would be legally sufficient. Baltimore City Code, Art. 32, § 5-405.

### Variance Standards

The bill also contains variances for lot area size, gross floor area per unit type, and off-street parking requirements.

Dwellings in an R-8 must have 750 square feet per dwelling unit of lot area size. Baltimore City Code, Art. 32, §§ 9-703(d); 9-401; Tbl. 9-401. Thus, for 8 dwelling units, the lot area size must be over 5,000 square feet. The bill seeks a variance from this requirement since the property only has 1,260 square feet total of lot area.

Dwellings that are to be converted must have one off-street parking space per converted dwelling unit. City Code, Art. 32, §§ 9-703(f); 9-804; 16- 203, 16-602. Since there are no off-street parking spaces for this lot, the bill seeks a variance from this requirement.

In addition, one-bedroom units in each converted dwelling must have at least 750 square feet per dwelling unit. Baltimore City Code, Art. 32, § 9-703(c). The bill seeks a variance from this requirement because each of the anticipated one-bedroom units will have less than 750 square feet after conversion.

To grant a 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).

Procedural Requirements

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. The City Council must consider the above law at the scheduled public hearing wherein it will hear and weigh the evidence to make findings of fact as outlined above. Baltimore City Code, Art. 32, § 5-602. If the Committee makes findings that support the conditional use and the variances sought, it may adopt those findings and the legal requirements will be met. Finally, 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 variances have been met. Assuming 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.

Very truly yours,



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Chief Solicitor

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor’s Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Ashlea Brown, Chief Solicitor  
Victor Tervalá, Chief Solicitor