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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
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October 26, 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 22-0288 – Zoning – Conditional Use Conversion of Single-Family Dwelling Unit to 3 Dwelling Units in the R-8 Zoning District – Variances – 2905 Parkwood Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0288 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to three dwelling units at 2905 Parkwood Avenue, which is in an R-8 Zoning district. The bill would also grant variances from certain bulk (lot area size) 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. 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). Because the current reports in the online bill file do not contain this information, the Law Department’s approval is subject to the property meeting these two criteria.

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.

City Code, Art. 32, § 5-406(a). Moreover, the above findings must be guided by 14 “considerations” involving, for example, such things as the “nature of the surrounding area and the extent to which the proposed use might impair its present and future development,” “the character of the neighborhood,” and “the resulting traffic patterns and adequacy of proposed off-street parking.” City Code, Art. 32, § 5-406(b).

### Variance Standards

The bill also contains variances for lot area size and off-street parking requirements. A multi-family dwelling in an R-8 must have 750 square feet per dwelling unit of lot area size. City Code, Art. 32, §§ 9-703(d); 9-401; Tbl. 9-401. Thus, for three dwelling units, the lot area size must be 2,250 square feet. The bill seeks a variance from this requirement because, according to the report from the Zoning Administrator, the property only has 1,162 square feet total of lot area.

With regard to parking, 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. Because, as noted in the BMZA report, there is room for only one parking spot in the rear yard, the bill seeks a variance from this requirement.

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.” 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.

City Code, Art. 32, § 5-308(b).

Procedural Requirements

Certain procedural requirements apply to this bill because conditional uses are considered "legislative authorizations." 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. 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. City Code, Art. 32, § 5-602. If the Committee makes findings that support the conditional use 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. 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 conditional use and relevant 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.

Sincerely,



Jeffrey Hochstetler  
Chief Solicitor

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor's Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
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