
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

EBONY M. THOMPSON, ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

September 13, 2023

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 23-0408 – Zoning – Conditional Use Conversion of Single-Family Dwelling Unit to 2 Dwelling Units in the R-8 Zoning District – Variances – 1046 Brantley Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0408 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to 2 dwelling units at 1046 Brantley Avenue, which is in an R-8 Zoning district. The bill would also grant variances for 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. 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 Report notes that this property is a three-story attached dwelling of over 2,000 square feet (excluding the basement) that was built in the mid-1800s as a single-family home. Thus, it is eligible to apply for approval by ordinance for the conditional use conversion.

To approve a conditional use, the City Council must find:

- (1) the establishment, location, construction, maintenance, or operation of the conditional use or sign would not be detrimental to or endanger the public health, safety, or welfare;
- (2) the use or sign 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).

Variance Standards

The bill also contains variances for lot area size and off-street parking requirements.

Multi-family 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 2 dwelling units, the lot area size must be 1,500 square feet. The bill seeks a variance from this requirement since the property only has 980 square feet 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. The Planning Report explains that the rear yard is only 16 feet deep, making impossible to provide the required parking without demolishing part of the existing building. Thus, 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.” 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(c).

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,



Hilary Ruley
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Jeffery Hochstetler, Chief Solicitor
Ashlea Brown, Chief Solicitor
Teresa Cummings, Assistant Solicitor
Michelle Toth, Assistant Solicitor