
CITY OF BALTIMORE

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July 17, 2024

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 24-0548– Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to 3 Dwelling Units in the R-8 Zoning District – Variances – 2035 McCulloh Street

Dear President and City Council Members:

The Law Department reviewed City Council Bill 24-0548 for form and legal sufficiency. The bill would permit the conversion of a single-family dwelling unit to 3 dwelling units in the R-8 Zoning District on the property known as 2035 McCulloh Street (Block 0316, Lot 022). The bill would also grant a variance for off-street parking requirements. The ordinance would take effect on the date of enactment.

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). 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). In making these findings, the City Council must be guided by fourteen “considerations” involving 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.” Baltimore City Code, Art. 32, § 5-406(b).

Variance Standards

The bill contains a variance for off-street parking. The Planning report notes that two off-street parking spaces are required by the Zoning Code (Table 16-406) to serve the two newly created dwelling units. The report notes one parking space is provided in the rear yard, and that the required variance for the other two parking spaces is included in the bill.

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). All seven of these criteria must be found, in addition to a finding of unnecessary hardship or practical difficulty. Baltimore City Code, Art. 32, § 5-308(a). The variance will not be legal if the conditions requiring this variance are generally applicable to other properties in the same zoning classification.

Planning Commission Recommendation

The Planning Staff Report (“Staff Report”) recommends approval of the conversion of the property to three dwelling units. The Planning report contains facts to support the necessary findings to approve a variance for parking and notes that the property otherwise complies with area and density requirements. The Planning report also provides facts in support of the

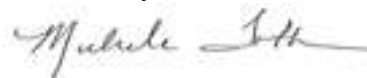
conditional use standards for the requested conversion. The Staff Report notes that the property is located in the Old West Baltimore National Register Historic District and is currently vacant. Conversion of the home will not have a detrimental impact on the surrounding community because the vacant property would be renovated and returned to productive use. Finally, the Planning report contains an analysis of the equity considerations relating to the proposed conversion of this dwelling to three units. The Staff Report notes that the renovation of the home will support the tax base, increase neighborhood population and create more affordable housing units.

Hearing Requirements

Certain procedural requirements apply to this bill beyond those discussed above because an ordinance that authorizes a conditional use or a variance is considered a “legislative authorization.” Baltimore City Code, Art. 32, § 5-501(2)(i) and (ii). Specifically, notice requirements apply to the bill, and the bill must be referred to certain City agencies which are obligated to review the bill in a specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506, 5-602. Finally, certain limitations on the City Council’s ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507.

The bill is the appropriate method for the City Council to review the facts and make the determination as to whether the legal standards for conditional use and variance have been met. Assuming the required factual 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,



Michele Toth
Assistant Solicitor

cc: Stephen Salsbury
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Tiffany Maclin
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