

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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101 City Hall
Baltimore, Maryland 21202

December 11, 2013

Honorable President and Members
of the City Council of Baltimore
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Attn: Karen Randle
Executive Secretary

Re: City Council Bill 13-0272 – Zoning – Conditional Use Conversion of a Single-Family Dwelling Unit to a 23-Family Dwelling Unit in the R-7 Zoning District – Variances – 1209 North Rose Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 13-0272 for form and legal sufficiency. The bill permits the conversion of a single-family dwelling unit to a 23-family dwelling unit at 1209 North Rose Street, which is in an R-7 Zoning District. Conversion of a single-family dwelling unit to a 23-family dwelling unit is permitted in an R-7 Zoning District only by ordinance. Zoning Code of Baltimore City (“ZC”), §3-305(b)(3).

As part of an ordinance authorizing a conditional use conversion, a variance from the requirements of the City’s Zoning Article may be granted. ZC § 15-101(2)(i). Further, certain procedures must be followed for any conditional use, including conversions to 23-family dwelling units. *See* ZC §§14-208, 16-101(c)(2), 16-101(d)(1) (conditional use is a type of legislative authorization); ZC §§16-203, 16-402 (notice and posting requirements); ZC §16-301 *et. seq.* (referral to certain City agencies, which are obligated to review the bill in a specified manner); ZC §16-403 (limitations on the City Council’s ability to amend the bill); *see also* Md. Land Use Code Ann., §10-303.

This bill authorizes variances from: (1) the lot area requirements; (2) the front and side yard requirements; (3) the floor area ratio; (4) the requirement of 23 parking spaces; and (5) a variance to permit access to off-street parking from an alley that is less than the required 15 feet in width. The Report of the Planning Commission (“Report”) favorably approved the variances requested. The Report utilized the bulk use regulations for permitted uses, not conditional uses, in the R-7 District.

F/A



Under Section 3-305 (b)(3), however, the conversion of a single family dwelling to additional dwelling units in the R-7 District may only be authorized by a conditional use ordinance. Thus, the conditional use bulk regulations for the R-7 District are the starting point for considering variances made part of a conditional use conversion ordinance. *See* ZC §3-305(c) (1) (all provisions of Title 14 regarding Conditional Uses apply to conditional use conversions).

Under the conditional use bulk regulations for lot area in the R-7 District, a lot area of 5,000 square feet would be required. ZC §4-1006 (c) (with exceptions for certain uses, “[p]rincipal conditional uses in the R-7 District must comply with the minimum lot area and the maximum lot coverage requirements for single-family detached dwellings”). A variance would allow a reduction in the 5,000 square feet by 25%. ZC §15-202(a)(1). The lot area of the property at 1209 North Rose Street is 15,768 square feet. Thus, the lot area is satisfied for the property at issue without the need for a variance.

The variances for front and side yards, floor area ratio, and reduced parking spaces meet the conditional use bulk regulation requirements for variances of this type, and may be approved as part of the bill, assuming the Mayor and City Council makes the findings required by Sections 15-218 and 15-219. *See* ZC §§15-203, 15-204, 15-208(b). The variance to permit access to off-street parking from an alley that is less than the 15 feet width required by Section 10-306(a)(2), however, is more problematic. Section 15 of the zoning code does not contain a provision authorizing a variance from Section 10-306(a)(2). Under Section 15-214, however, the Mayor and City Council may authorize such a variance if, in addition the findings under Sections 15-218 and 15-219, it finds as a matter of fact that: “(1) the lot cannot reasonably be used for any of the permitted or conditional uses set forth for the zoning district in which it is located; (2) the use or bulk regulations applicable to the lot have the effect of depriving the owner of all reasonable use of the lot; and (3) the variance is necessary to avoid arbitrariness.” Assuming the Mayor and City Council makes findings of fact to support the application of Section 15-214, and if the bill is amended to: (1) grant the off-street parking variance pursuant Section 15-214; and (2) delete the variance for lot area, the Law Department could approve the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis
Special Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
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