

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

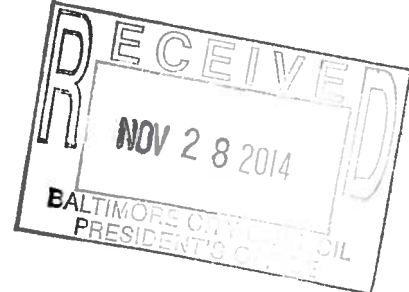


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

November 26, 2014

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



Re: **Supplementary Report - 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:

This bill, which permits the conversion of a single-family dwelling unit to a 23-family dwelling unit at 1209 North Rose Street, an R-7 Zoning District, was originally heard on February 12, 2014. At that time, Section 3-305(b)(3) of the Zoning Code required that the conditional use bulk regulations be applied to conditional use conversions in the R-7 and R-8 zoning districts. *See* Zoning Code of Baltimore City ("ZC"), §3-305(b)(3) (7/01/2012). Council Bill 14-0336, enacted on May 7, 2014, amended Section 3-305. Section 3-305(b)(2) now provides that in the R-7 and R-8 Districts, the conversion of a 1- or 2-family dwellings to additional dwelling units may be authorized only by a conditional-use ordinance and only as long as the number of dwelling and efficiency units to be allowed conforms with the applicable principal-permitted-use bulk regulations for the district in which the building is located.

The Law Department has reviewed City Council Bill 13-0272 under this new provision and cannot approve it for form and legal sufficiency since the lot area for the project is not sufficient to support the 23 dwelling units proposed. In an R-7 District, 1100 square feet of lot area per dwelling unit is required. *See* ZC 4-1006(a). For 23 units, 25,300 square feet of lot area would be required. Per Section 15-202, a variance of 25% is allowed. A 25% variance would diminish the lot area required to 18,795 square feet. This property has a lot area of 15,678, which is 3,117 square feet less than required.

This bill also authorizes variances from the bulk regulations for front and side yard requirements, floor area ratio, the requirement of 23 parking spaces, and 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 favorably approved the variances requested. As stated in the Law Department's initial report, the variances for front and side yards, floor area ratio, and reduced parking spaces are legally sufficient under the Zoning Code.

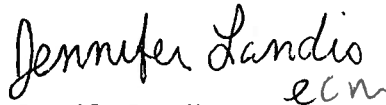
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The variance to permit access to off-street parking from an alley that is less than the 15 feet width required by Section 10-306(a)(2), however, is more problematic. Section 15 of the zoning code does not contain a provision authorizing a variance 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.” If such findings are made with respect to access to off-street parking from the 15ft. alley that portion of the bill could be found legally sufficient.

The Law Department cannot approve this bill for form and legal sufficiency as it authorizes a variance for lot area that is outside the 25% variance permitted under the Zoning Code. This problem could be remedied by reducing the number of units to be compatible with the lot area required if a variance is granted.

Sincerely,

Handwritten signature of Jennifer Landis in cursive script.

Jennifer Landis
Special Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Victor K. Tervalva, Assistant Solicitor