

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



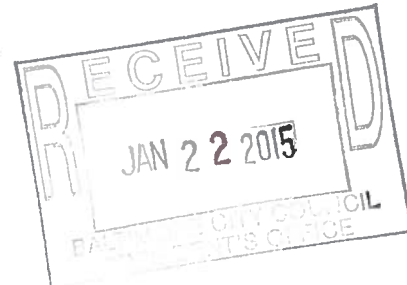
DEPARTMENT OF LAW

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

January 21, 2015

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

Attn: Natawna B. Austin
Executive Secretary



Re: **Supplemental Report** - City Council Bill 13-0294 – Zoning –
Conditional Use Conversion of a 1-Family Dwelling Unit to a 2-Family
Dwelling Unit in the R-8 Zoning District – Variances – 1201 North Fulton
Avenue

Dear President and City Council Members:

This bill permits the conversion of a 1-family dwelling unit to a 2-family dwelling unit at 1201 North Fulton Avenue, which is in an R-8 Zoning District. When this bill was originally heard, Section 3-305(b)(3) of the Zoning Code required that 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 dwelling to additional dwelling or efficiency 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 13-0294 under these new requirements and finds that the lot area for the project is still insufficient to support the two dwelling units proposed. In an R-8 District, 750 square feet of lot area per dwelling unit is required. *See* ZC 4-1106(a). For two units, 1500 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 1,125 square feet. This property has a lot area of 1,050 square feet.

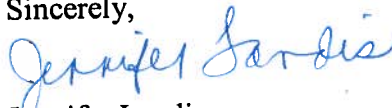
As noted in the Law Department’s original report, however, under Section 15-214 of the Zoning Code, the Mayor and City Council may authorize a variance outside the limitations of Title 15 if it finds as a matter of fact that: “(1) the lot cannot reasonably be used for any of the permitted or conditional uses set forth for the zoning district in which it is located; (2) the use or

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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." Because Planning's Report found Section 15-214 to be inapplicable to the lot area variance (see Report at 3), the City Council would have to make findings of fact at the hearing to support the granting of a variance for lot area under 15-214.

In sum, if the City Council adopts the factual findings in the Report to support the conditional use and the variance for parking spaces and rear yard setback, and finds facts at the hearing to support the lot area variance under 15-214, the legal requirements would be met. As 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 the conditional use and variances have been met, and assuming the legal standards are met and all other procedural requirements are satisfied, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis
Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor K. Tervalo, Chief Solicitor