

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

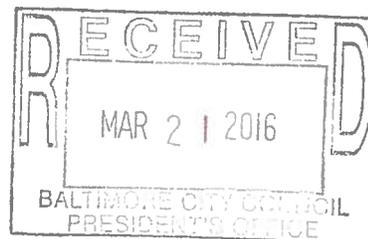


DEPARTMENT OF LAW

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

March 21, 2016

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 15-0599 – Zoning – Conditional Use Conversion of 2 Dwelling Units to 3 Dwelling Units in the R-8 Zoning District – 35 South Fulton Avenue

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0599 for form and legal sufficiency. The bill permits the conversion of 2 dwelling units to 3 dwelling units at 35 South Fulton Avenue, which is in an R-8 Zoning district. Such conversions are permitted in R-8 only by 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.” Baltimore City Zoning Code (“ZC”), §3-305(b)(2). This is the requisite ordinance to permit this change.

No variances are requested in the first reader text of this bill. However, Planning recommends that the bill be amended to include a variance for off-street parking. An off-street parking variance is legally required if the property cannot provide the parking spaces needed under Section 10-405 of the Zoning Code. That section states that multiple family dwellings in an R-8 zoning district must have 1 space per dwelling unit. *See also* ZC §§10-201; 10-202(a). A variance of 75% of this requirement is permissible pursuant to Sections 15-101(2)(i) and 15-208 of the Zoning Code. The Planning report noted that it would be practically difficult and unnecessarily hard to comply with the parking requirement since the property is not adjacent to an alley that is at least fifteen feet wide.

A variance is not needed for any yard spaces. ZC §§3-207(b); 4-1107; 15-203. No variance is needed for lot area. ZC §§4-105; 4-1106. A variance is also not needed for floor area ratio. ZC §§1-303; 4-1108.

There are certain procedures that must be followed. *See* ZC §§3-305(c)(plans and advice required), 14-208 (conditional uses must follow procedures in Title 16); 16-101(c)(2), 16-101(d)(1) (conditional use is a type of legislative authorization, which is a type of zoning legislation); 16-203, 16-401, 16-402 (notice, posting and hearing requirements); 3-305(c), 16-301, 16-302, 16-304 (referral to certain City agencies, which are obligated to review the bill in a specified manner); 16-403, 16-404 (limitations on the City Council’s ability to amend the bill,); *see also* Md. Code, Land Use, §10-303. A Third Reading hold-over before final passage is needed because the bill, when amended, will include a variance.

Fav w/ comments

Assuming all the procedural requirements are met, the building is able conform with the applicable principal-permitted-use bulk regulations after adoption of the amendment and the appropriate findings of fact are made, the Law Department can approve the amended bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor