
IN THE MATTER OF THE
PETITION OF: ADAM CARBALLO

Baltimore City Board of Municipal
& Zoning Appeals

**2201 BROOKFIELD AVE.
(BLOCK 3445, LOT 048)**



Kathleen Byrne
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Appeal No. 2021-219
Hearing Date: January 11, 2022

RESOLUTION

This matter comes before the Baltimore City Board of Municipal & Zoning Appeals (“Board”) on appeal from the Zoning Administrator denying the application of Adam Carballo (“Appellant”) to use the premises as a multi-family dwelling with 12 units at 2201 Brookfield Avenue (“Property”), which requires a minimum lot area variance and a variance to the City’s off-street parking requirements.

OVERVIEW

Appellant filed this appeal on September 2, 2021 and appeared for a public hearing on January 11, 2022. Members of the public appeared in opposition and the file contains a petition with over 100 signatures and a letter of opposition from the Reservoir Hill Association. Board staff and the Planning Department prepared a memorandum evaluating the appeal. Following deliberations, the Board voted to approve this appeal by unanimous vote.

FACTS

The Property is on the northwest corner of the intersection with Reservoir Street. The Property measures approximately 25’ along Brookfield Avenue and 82’ along Reservoir Street and contains approximately 0.127 acres. The lot is currently improved with a three-story V-shaped semi-detached residential building covering approximately 75 percent of the lot. The Property is zoned R-8 and is located within the Reservoir Hill National Register Historic District and Reservoir Hill Community.

The Appellant, Adam Carballo testified to the property’s uniqueness, past uses, as well as its long-running status as a vacant building. The Opposition testified that the minimum lot area variance is being requested based exclusively on a desire to increase the value or income potential of the property and that granting the variance to the off-street parking requirements would cause an undue burden on nearby residents, making parking difficult to find in the neighborhood. Finally, the Opposition was concerned about trash and other sanitation concerns at the Property.

DISCUSSION

Appellant proposes to use the Property as a multi-family dwelling containing twelve dwelling units. The Zoning Administrator has determined that variances of bulk and yard

regulations for rowhouse and multi-family residential districts, and of off-street parking regulations, are needed for approval. Under Article 32, Table 9-301, multi-family dwellings are listed as a permitted use. In this case, the property was last authorized for use as a multi-family dwelling containing nine dwelling units, once known as the Carlton Apartments.

In this zoning district, multi-family dwellings require 750 square feet of lot area per dwelling unit (Table 9-401). In this case, for 12 dwelling units, 8,625 square feet of lot area is required. The lot only encloses 5,532 square feet, and therefore, a variance of 3,093 square feet is requested.

Additionally, if a structure is increased through the addition of a dwelling unit, off-street parking spaces must be provided for that increased density, as required by Article 32 §16-203(a). In this zoning district, multi-family dwellings require one off-street parking space per dwelling unit, see Table 16-406. For 12 dwelling units, 12 parking spaces are required. In this case, none are or can be provided. As this would not meet the required amount, Appellant requests a full variance to the 12 required parking spaces. Under ZC §5-302(c)(2), the Board may grant or deny an application for a major variance pursuant to the required standards contained under ZC §5-305.

Variances: Minimum Lot Area, Off-Street Parking

Under ZC §5-305(a), the Board must evaluate the request for a variance based on the evidence presented at a public hearing in accordance with ZC §5-308. Under ZC §5-308, in order to grant a variance, the Board 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.

Appellant testified that this property is unusually conspicuous in its current vacant condition, as it has two street frontages. Appellant testified that both the lot and the structure that sits upon it are unique—the Property is an irregular corner lot and is improved with an irregular, wedge-shaped three-story brick semi-detached building constructed in 1900. In addition, the Appellant testified that the lot is disproportionately small to the actual size of the building. He testified that while a lot area variance is required, the actual units will all be spacious, two-bedroom apartments—that any density concerns are actually unjustified and that the need for the variance was created by code itself, namely the way density is calculated based on lot area and not actual living space.

This property is unique because it was originally constructed as a multi-family dwelling attached to and architecturally part of a row of large three-story rowhouses. As noted in the Planning Department’s memo, it is an “anchor property,” and its return to active use would be of considerable importance to the Reservoir Hill community, and its use as a multi-family dwelling would provide added housing options made convenient to other parts of Baltimore, including its downtown, by nearby public transit.

The subject lot is substantially larger than adjacent and nearby lots and is located across the street from a community school renovated and enlarged as part of the 21st Century Schools program. The Planning Department noted that conversion of the blighting influence of a vacant building of this size into active residential use would reinforce the community goal of

rejuvenating the area according to the INSPIRE Program linking school and community revitalization.

Further, Appellant testified that the decision to add three additional units was not based exclusively on a desire to increase profit. Instead, the Appellant testified that numerous developers have looked at the site and he found that adding the three additional dwelling units was the only way to make the project financially viable. Furthermore, the additional three units are on the ground floor, and to keep them unoccupied would cause security concerns and represent an inefficient use of the building's size. The Appellant testified that that property is adjacent to a large elementary school, as well as a large public park. The Appellant contends that as the property is not surrounded by other residences, street parking is not a concern in this neighborhood, and that a variance to the off-street parking requirements would in no way impact neighbors' parking situation. Finally, the Appellant noted that the owner has multiple strategies in place should the residents generate more garbage and trash than the Department of Public Works ordinarily removes on a weekly basis and that the owner has been in touch with private waste hauling companies.

For these reasons the Board finds by competent evidence that because of the particular physical surroundings, shape, and topographical conditions of the existing land and structure involved, a strict application of the Zoning Code would result in an unnecessary hardship or practical difficulty if the applicable bulk regulations for minimum lot area and off-street parking requirements were carried out. Because of these findings, Appellant meets this threshold requirement for obtaining a variance.

To grant a variance under ZC §5-308(b), the Board must also find that: (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 article 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; or (ii) the City's Comprehensive Master Plan; (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.

The conditions on which this application is based are unique to this property and the practical difficulty caused by a strict application of the Zoning Code has not been created by the intentional action or inaction of any person who has a present interest in the property. The purpose of the requested variances is not based exclusively on a desire to increase the value or income potential of the property as no such evidence was adduced at the hearing or can be inferred from the plans. The variances proposed will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish and/or impair property values in the neighborhood. The Board further finds that these variances will be in harmony with the purpose and intent of this Code, is not precluded by and will not adversely affect any Urban Renewal Plan, the City's Comprehensive Master Plan, or any Historical and

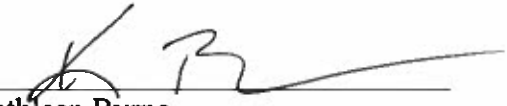
Architectural Preservation District. The variances requested will not otherwise be detrimental to or endanger the public health, safety, or welfare, or be in any way contrary to the public interest.

For the reasons set forth above, and after giving public notice, reviewing the zoning records, holding a public hearing, considering all data submitted, and by authority of Ords. 16-581 and 17-015, enacted and corrected effective June 5, 2017, known as Article 32 Zoning,

IT IS this 7th day of ~~9~~^{KB} February, 2022, by the Baltimore City Board of Municipal and Zoning Appeals, hereby

RESOLVED, that Petitioner's request to use premises as a multi-family dwelling with 12 units at is **GRANTED**.

DO NOT START WORK OR USE THE PROPERTY UNTIL YOU OBTAIN A BUILDING OR A USE & OCCUPANCY PERMIT FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. YOU HAVE ONE YEAR FROM THE DATE OF THIS RESOLUTION TO OBTAIN A BUILDING PERMIT OR A USE & OCCUPANCY PERMIT.


Kathleen Byrne
Acting Executive Director

