
IN THE MATTER OF THE PETITION
OF: FAIRVIEW DESIGN, LLC

Baltimore City Board of Municipal
& Zoning Appeals

2220 E. FAIRMOUNT AVE.
(BLOCK 1706, LOT 059)



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Appeal No. 2021-244
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 Fairview Design, LLC (“Appellant”) to use the premises as a multi-family dwelling with four dwelling units at 2220 E. Fairmount Avenue (“Property”), which requires a variance to the City’s off-street parking requirements.

OVERVIEW

Appellant filed this appeal on September 27, 2021, and the appeared for a public hearing on January 11, 2022. Members of the public appeared in opposition and the file contains a petition with 28 signatures, as well as letters in opposition from the Butchers Hill Association and several letters from neighboring property owners. 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 located on the northwest corner of the intersection with Madeira Street. This property measures approximately 21’ by 75’ and is currently improved with a two-story detached residential building covering the entire lot. The Property is zoned IMU-1 and is located within the Butchers Hill National Register Historic District and community. The property was last authorized for use as a single-family dwelling, which is a nonconforming use in the IMU-1 District unless it is a live-work dwelling.

Testimony from the opposition centered around the concern that the additional dwelling units would bring additional residents and cars to the neighborhood. Neighbors were concerned that the resulting demand for parking would impact their ability to find parking near their homes, that it would significantly worsen an already difficult parking situation, and that it would be unsafe for residents to walk multiple blocks from their cars to their homes at night.

DISCUSSION

Appellant proposes to use the premises as a multi-family dwelling consisting of four dwelling units. The Zoning Administrator has determined that a variance to the off-street parking

regulations is needed for approval. In this Industrial zoning district, multi-family dwellings are a permitted use, see Table 11-301.

In this zoning district, multi-family dwellings require one off-street parking space per dwelling unit, see Table 16-406. If a structure is increased through the addition of a dwelling unit, off-street parking spaces must be provided for that increased intensity. Therefore, for the three dwelling units that are being added, three parking spaces are required. In this case, none are provided. As this would not meet the required amount, Appellant requests a full variance to the three 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.

Variance: Off-Street Parking Requirements

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.

This property is unique because it was originally constructed as an industrial arts studio and while it is in an industrial district, that district is small and contained within an entirely residential neighborhood. Finally, the building is already fully built out and covers the entire lot, making it practically difficult for the Appellant to provide any off-street parking. Appellant testified that the property has sat unused for years, and that he wishes to bring it back into productive use. To do so financially, the Appellant contents that four units are needed, and that the likely residents will be medical students and residents at Johns Hopkins Hospital, who often do not have access to a car. 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 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.

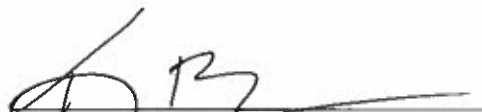
The conditions on which this application is based are unique to this property and the practical difficulty caused by a strict application of the Zoning Code has not been created by the intentional action or inaction of any person who has a present interest in the property. The purpose of the requested variance 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 variance 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 this variance 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 variance 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 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 four dwelling units 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

