

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

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

August 25, 2009

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

Re: City Council Bill 09-0366 – Zoning – Noncomplying Rowhouses – Expansions

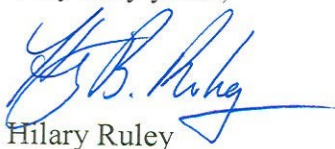
Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 09-0366 for form and legal sufficiency. The bill would modify section 13-506 of Zoning Article of the City Code and add section 13-507 to that same Article in order to allow the Zoning Administrator to receive applications for expansions of noncomplying structures. The Zoning Administrator would then give the applications to the Planning Director for review. The Planning Director would insure that the expansion does not increase the lot coverage that existed when the structure became noncompliant by more than 10%, nor decrease the rear yard set back by more than two feet. The existing requirements for noncomplying structure expansions remain intact: the expansion cannot create a new non-complying structure nor increase the degree of noncompliance for any part of the structure.

Although the Planning Commission could be given the authority to review these applications under section 72(i) of Article VII of the City Charter, there would not be a defined appeals process for applicants because section 78 of Article VII of the City Charter only concerns appeals of Planning Commission permit decisions. Thus, appeals of these application denials should go to the Board of Municipal Zoning Appeals, which has the jurisdiction to hear these types of appeals under section 83(c) of Article VII of the City Charter.

In order for the decision on these applications to be appealed to the Board of Municipal Zoning Appeals, the bill should be amended to provide that the Planning Director's review of these applications be a recommendation to the Zoning Administrator, who would then make the final decision. This would then place the decision within the jurisdiction of the Zoning appeals process under Title 17, Subtitle 2 {Administrative Appeals} of the Zoning Article of the City Code. An amendment effectuating this change is enclosed. With this amendment, the Law Department approves City Council Bill 09-0366 for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Assistant Solicitor



cc: George Nilson
Angela Gibson
Elena DiPietro
Sandy Gutman
Ashlea Brown
Minda Goldberg
Avery Aisenstark

**CITY OF BALTIMORE
COUNCIL BILL 09-0366
(Amendment)**

On page 2, line 30, replace “MAY APPROVE” with “MAY RECOMMEND APPROVAL OF”

On page 3, line 8, insert “RECOMMEND” after “MAY”

On page 3, line 9, replace “REQUIRE” with “REQUIRING”

On page 3, line 11, replace “IMPOSE” with “IMPOSING”

On page 3, line 16, replace “DECISION” with “RECOMMENDATION”

On page 3, line 18, insert “A RECOMMENDATION TO THE ZONING ADMINISTRATOR. IF ADOPTED BY THE ZONING ADMINISTRATOR, IT BECOMES” after “CONSTITUTES”