

TJS

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR	CITY of BALTIMORE MEMO
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 th FLOOR	
	SUBJECT	CITY COUNCIL BILL #09-0366/ZONING – NON-COMPLYING ROWHOUSES-EXPANSIONS	



TO

DATE:

August 10, 2009

The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street

At its regular meeting of August 6, 2009 the Planning Commission considered City Council Bill #09-0366, which has the purpose of amending Title 13, Section 5 of the Zoning Code to provide for an expanded scope, and to provide for a new §13-507 that will govern expansions of non-complying attached or semi-detached dwellings. Under the present law, it is difficult to modify non-complying structures, as a hearing before the Board of Municipal and Zoning Appeals (BMZA) is required. Many of these non-complying structures are created simply because the lots are narrower than sixteen feet wide, violating the requirement of § 3-303, but would otherwise comply with the requirements of Zoning Code. This bill would create an administrative approval process for minor additions that will be reviewed by the Director of Planning, with the potential for binding conditions of approval. This review will include design review to ensure compatibility with the surrounding neighborhood context.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended an amendment to and approval of City Council Bill #09-0366 and adopted the following resolution, nine members being present (nine in favor)

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #09-0366 be amended and passed by the City Council.

If you have questions, please contact Mr. Wolde Ararsa, Division Chief of Land Use and Urban Design Division, at 410-396-4488.

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Attachments

cc:

- Mr. Andrew Frank, Deputy Mayor
- Mr. Demuane Millard, Chief of Staff
- Ms. Angela Gibson, Mayor's Office
- The Honorable Rochelle "Rikki" Spector, Council Rep. for Planning Commission
- Mr. David Tanner, BMZA
- Mr. Geoffrey Veal, Zoning Administration
- Ms. Nikol Nabors-Jackson, DHCD
- Mr. Larry Greene, Council Services



Sheila Dixon
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

August 6, 2009

REQUEST: City Council Bill #09-0366 / Zoning – Noncomplying Rowhouses – Expansions
For the purpose of authorizing certain expansions of noncomplying attached or semi-detached dwellings; establishing procedures and standards for the review, approval, and disapproval of applications for expansion; authorizing the imposition of conditions on the approval of an expansion; requiring compliance with those conditions; providing for a special effective date; and generally relating to noncomplying attached or semi-detached dwellings.

RECOMMENDATION: Approval.

STAFF: Eric Tiso

PETITIONER: The Administration (Board of Municipal and Zoning Appeals)

CONFORMITY TO PLANS:

This bill supports the Comprehensive Master Plan's LIVE Section, Goal 2 Elevate the Design and Quality of the City's Built Environment, Objective 1: Improve Design Quality of Baltimore's Built Environment (Develop design guidelines to respond to the unique character of Baltimore City) and Objective 2: Streamline and Strengthen the Development Process (Modernize zoning codes to meet current needs).

ANALYSIS:

Purpose: This bill will amend Title 13, Section 5 of the Zoning Code to provide for an expanded scope, and to provide for a new §13-507 that will govern expansions of noncomplying attached or semi-detached dwellings.

Current Requirements: Under the present law, "a noncomplying structure may not be expanded if the expansion would either: (1) create a new noncompliance; or (2) increase the degree of noncompliance of any part of the structure (§13-506)." In many cases, attached or semi-detached structures are determined to be noncomplying only because the lots are narrower than sixteen feet wide, violating the requirement of §3-303. Therefore, any expansion or addition to these have been referred to the Board of Municipal and Zoning Appeals (BMZA or Board) to ensure that the proposed additions will not create a new noncompliance or increase the degree of noncompliance. Further, many of the additions also require variances for lot coverage, setbacks, or relief from other bulk requirements. A portion of the cases, however, did not have any other reason to be reviewed by the Board. As a result of being sent through a public

hearing, the public was able to participate directly, and conditions of approval could be attached regarding the addition's scope and/or architectural details.

Findings: Before the Board can grant a variance, certain findings of fact are required. For example, a “finding of unnecessary hardship or practical difficulty ... because of the particular physical surroundings, shape, or topographical conditions of the specific structure or land involved, an unnecessary hardship or practical difficulty would result, as distinguished from a mere inconvenience, if the strict letter of the applicable requirement were carried out (§15-218).” Other findings include a finding of uniqueness about the property, that the situation is not created by the appellant, that the motive is not purely for financial gain, that it will not injure other property owners in the area or diminish their property value, that it will not harm public welfare, safety or morals, etc.

Proposed Process: This bill proposes to add a new administrative process where certain noncomplying structures that seek to increase their lot coverage by no more than 10%, and encroach no more than two feet into the required rear yard, will be referred to the Director of Planning for review. The Director must then find that the addition is in harmony with the general character, arrangement, design, and architectural features of similar dwellings within a radius of 300 feet; it is not contrary to the public interest; and is consistent with the purposes and intent of this article. In the process, the Director may impose conditions of approval to change the design or plan, or to change other design details (e.g. fencing, lighting, etc.).

Upon making a decision that is filed with the Zoning Administrator, it will then constitute a final decision of the Zoning Administrator for purposes of administrative appeal under Title 17, Subtitle 2 {“Administrative Appeals”}. If the applicant or another person with standing is aggrieved by that decision, a negative appeal could be filed as with any other decision of the Zoning Administrator, and taken to the BMZA for review.

Impact: Staff believes that this change will result in a fair and streamlined review process for the affected properties. For these smaller-scale additions, the burden of a public hearing is not warranted. Additionally, one of the main purposes for referring many of these noncomplying properties to the BMZA was to help control the architectural outcome, with input from Planning. Staff believes that this review can be made directly by Planning without obliquely requesting it through a public hearing process. In the end, if the decision of the Director of Planning is disputed, the case would end up before the BMZA as it would have under today's process. For these reasons staff recommends approval of this bill.

Community Input: Staff sent notification of this action and a copy of the bill to all City Council members, as well as 271 community organizations City-wide.



Thomas J. Stosur
Director