



Brandon M. Scott
Mayor

PLANNING COMMISSION

Jon Laria, Chair; Eric Stephenson, Vice Chair

STAFF REPORT



Chris Ryer
Director

February 27, 2025

REQUEST: City Council Bill #25-0006/ Zoning Code – Modifications:

For the purpose of amending provisions of the Baltimore City Zoning Code relating to variances to conform to relevant State law; making modifications to the process of granting variances; clarifying provisions of the Zoning Code relating to nonconforming structures; and generally relating to the zoning and land use laws of the City of Baltimore.

RECOMMENDATION: Amendment and Approval, with the following amendments:

- On Page 3, in Line 11, strike *Variances* and replace with *Definitions*.
- On Page 3, in Line 19, before the final period, insert THAT ARE OPERATED BY A GOVERNMENT AGENCY
- On Page 3, after Line 21, insert the following, and re-letter subsequent definitions as needed:
§ 1-313. “Roofline” to “Substantial Construction”
...
(d) *Shared-use path*.
"Shared-use path" means a paved or hard-surface, off-road facility designed for travel or recreational use for a variety of users including walkers, stroller pushers, mobility device users, dog walkers, skaters, runners, bicyclists, and scooter riders.
- On Page 6, after Line 21, insert: (18) NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS THAT INCLUDE A SHARED-USE PATH.
- On Page 8, in Line 5, strike OR and insert a comma, and in Line 6, after Municipal and Zoning Appeals, insert a comma and OR THE CITY COUNCIL, AS THE CASE MAY BE,
- On Page 11, in Lines 13 and 18, strike “process” and replace with “ACCEPT” in each instance.
- On Page 13, strike Lines 28–30, in their entirety, and replace with the following:
(5) OTHER INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THE STANDARDS FOR CONDITIONAL USES, VARIANCES, OR OTHER REQUIREMENTS OF THIS CODE.
- On Page 16, in Lines 7-8: This explanatory note is duplicated or misplaced. The purpose of amendments to § 5-901 is to improve the format of this subsection, for clarity and to match current code drafting style.
- On Page 17, strike Lines 11–20, in their entirety.
- On Page 19, strike Lines 23 and 24 in their entirety, and replace with the following:
(2) THE REQUIREMENTS OF SITE PLAN REVIEW AND DESIGN REVIEW.
- On page 22, in Lines 27–29 – Explanatory Note: Amend Item (2) as follows: “(2) To clarify that the C-1 zoning district is intended to be walk-to commercial, AND SO THE maximum lot area [measurers] MEASUREMENTS are corrected to [work together with a new Table 10-403: C-1 Commercial District – Maximum Floor Area by Use.] REFLECT THE REFERENCE TO MAXIMUM GROSS FLOOR AREA BY USE INSTEAD.”

- On Page 23, in Lines 10-12, replace the explanatory note to read as follows:
{**EXPLANATORY NOTE:** This amendment corrects for an error upon the splitting of the former singular I-MU District into the two separate IMU-1 and IMU-2 Districts. When Ord. #19-244, dated April 29, 2019, was enacted, the “P” for permitted for “Entertainment: Live (Accessory to Restaurant, Tavern, Art Studio, or Art Gallery)” was inadvertently omitted from the IMU-1 District.}
- On Page 24, in the amended Table 12-301, insert a new line in the Commercial use group after Line 10, to add DAY-CARE CENTERS: ADULT OR CHILD as CB, P¹, and subject to the use standards of § 14-309.

STAFF: Eric Tiso

PETITIONER: The Administration (Department of Planning)

HISTORY

- City Council Bill #23-0435 – Zoning Code – Modifications was introduced into Council on October 2, 2023, but failed at the end of the previous Council term.

ANALYSIS

Background: Following a comprehensive re-write of the Zoning Code in 2017, the Department of Planning intended to monitor the Code and to offer periodic updates to solve problems as we discover them. This bill is a continuation of the efforts in CCB #23-0435, and covers some of the same material from that bill, recommended amendments from the Planning Commission at that time, amendments raised in the Council Committee hearing, as well as new amendments. To make the Commission’s review a bit simpler, this report will walk through each of the changes proposed, and will mark where each topic is repeated from the prior bill, where it might’ve changed or has been updated, and where it’s completely new.

[Repeated, Prior Planning Commission Amendment] Page 2, Line 5 – Page 3, Line 4 – Use Symbology: This change removes text that was retained from the prior Zoning Code in error. In that prior edition of the Zoning Code, the use tables at the back of the code were unofficial and for readers’ convenience only. When the new Zoning Code was adopted, the material in those tables were adopted in new tables as a part of the official code, and so this outdated reference to the previous Cumulative Uses Table, now under §1-205, is no longer needed, and can be removed as an administrative clean-up.

[New Amendment] Staff is proposing to add a new definition for a “Share-use path” to work with the amendment proposed on Page 6 that will refer to projects including a Shared-use path to Design Review.

- On Page 3, after Line 21, insert the following, and re-letter subsequent definitions as needed:
§ 1-313. “Roofline” to “Substantial Construction”
...
(d) *Shared-use path.*
"Shared-use path" means a paved or hard-surface, off-road facility designed for travel or recreational use for a variety of users including walkers, stroller pushers, mobility device users, dog walkers, skaters, runners, bicyclists, and scooter riders.

[Repeated, Prior Planning Commission Amendment] Page 3, Line 12 – Line 19 – “Government Facility”: This amendment adds “*Government Facility*” to add RECREATION: OUTDOOR to the list of inclusions in the definition. This change was at the request of the Department of Baltimore City Recreation and Parks (BCRP).

[New] Page 3, Line 24 – Page 4, Line 17 – Planning Commission: This amendment shifts the scheduling for an annual comprehensive rezoning process, to acknowledge the adoption of the new Comprehensive Master Plan for the City of Baltimore in December 2024, and for a quadrennial review of the Land Use Map that was also adopted as part of that plan. Staff acknowledges a recommended amendment by the Law Department, to soften the language somewhat, so that there isn’t an implied hard deadline for each update. We’re willing to work together to improve the language, but don’t have a suggestion for what that might be at this time. In part, the concern may be that what Planning staff has in mind is an annual bulk zoning bill that is comprehensive in that it includes a number of properties across the City (we typically see about fifteen bills per year), but is not so Comprehensive that we’re examining every single parcel City-wide. If there’s a better term for that bulk rezoning that clarifies our intent, we’re open to suggestions here as well.

[New] Page 4, Line 23 – Page 6, Line 21 – Design Review: Under the prior zoning code (under § 3-301), there was a requirement that multiple principal structures on a residential lot needed Planning Commission approval. The purpose of that requirement at that time was to allow for design review of the proposal, as that edition of the Zoning Code didn’t have a formal Site Plan Review or Design Review process as today’s Zoning Code does. With increased interest in accessory dwelling units, or alternate arrangements for multi-family use of property, staff recognizes that the current Design Review process does not anticipate that need. New triggers for Site Plan Review and Design Review are added here accordingly. The Design Review section is also clarified on which additions require review. See also the related amendment in the new §15-203 on Page 19 of the bill.

[New Amendment] Page 6, after Line 21, insert: (18) NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS THAT INCLUDE A SHARED-USE PATH. This staff amendment is proposed so that projects including a Shared-use path (as will be defined in this bill) get a referral for Design Review.

[Changed] Page 7, Line 1-22 - Introduction of proposed authorization: This amendment was carried over from the prior bill, moving the “IN WRITING” requirement up in paragraph (2) to apply equally to the property owner, as well as to an applicant, and clarifies that the applicant must be authorized by the owner. This has become necessary based on recent experience by the Board of Municipal and Zoning Appeals (BMZA). Under the prior bill, paragraph (c) was also amended, but that change is no longer desired and has not been included in this bill.

[Changed] Page 7, Line 25 – Page 8, Line 23 – Variances: This amendment clarifies the variance procedures by removing the need for an “unnecessary hardship”, but retains “practical difficulty” as the trigger for relief. It rearranges the text as compared to the prior bill in

explaining that the Zoning Administrator or BMZA may grant variances generally, while only limiting certain signage provisions. The prohibition of variances to uses is retained.

[Changed] Page 8, Line 29 – Page 9, Line 13 – Minor and major variance distinguished: Most of the previously proposed amendments to this section of the code have been moved to CCB #25-0016, only retaining and repeating the missing reference to the BMZA on Page 9, in Line 12 in both bills.

[Repeated] Page 9, Line 17 – Page 10, Line 16 – Approval standards: This section is repeated from the prior bill, with only minor changes to arrangement. This amendment removes the requirement of “uniqueness” of a property in order to grant a variance, and removes “unnecessary hardship” while retaining “practical difficulty”. This is the key provision of the bill that in the past year or so has been more strictly applied by the BMZA than in years prior. The requirement for “uniqueness” is a nearly-impossible standard to meet in much of the City, when that provision is literally applied. This is most evident in large sections of the City where neighborhoods were built with identical lot sizes and structure types.

[Repeated] Page 10, Line 33 – Page 11, Line 7 – Expiration of approval: This amendment is carried over from the prior bill. Its purpose is to extend the approval of a variance from one to two years. The need for a longer valid period has been made evident by the BMZA’s receipt of several requests monthly for extensions. While this was most obvious during the COVID-19 emergency, it persists to this day. Extending the initial approval period will remove the need for the Board’s approval of extensions, that can only be issued in a public hearing, and are only infrequently disapproved.

[New] Page 11, Lines 10–24 – Code compliance denial: In the current Zoning Code, neither the Zoning Administrator, nor the BMZA may process an application for a variance if the property has outstanding notices of violation, fines, or fees that are unresolved or unpaid. This amendment adds conditional uses to the existing prohibition as well. An exception is retained to allow processing of those applications where the variance or conditional use approval itself would resolve the outstanding violation, fine, or fee. This prohibition is necessary to avoid the mechanics of the system being abused. Applications for a variance or for a conditional use typically stay enforcement of violations in order for the process to play out and possibly be abated by an approval. It is therefore possible to abuse the process if a property owner gets a violation notice, files an appeal, subsequently does nothing to move the case forward, all the while continuing the violation, only to eventually withdraw the appeal or when the Board dismisses it for lack of prosecution.

[Repeated, Prior Planning Commission Amendment] Page 11, Line 28 – Page 12, Line 17 – Approval standards: This amendment adds an omitted reference, as conditional uses are approved both by the BMZA and by the City Council, depending on the zoning district. It mirrors the text to the following paragraph in § 5-406(b) which refers to both approval bodies.

[Repeated] Page 12, Line 21 – Page 13, Line 8 – Expiration of approval: This amendment extends approval for conditional uses to two years, instead of one. This is similar to the amendment to variance time limits on Page 10 of the bill, discussed above.

[New] Page 13, Lines 9–30 – Introductory statement of intent: This amendment codifies the requirement for submitting a statement of intent, which has been used for every City Council bill for decades. Recently, it was noted that there wasn't a statutory requirement for this submittal, so this amendment cures that omission. Staff understands the Law Department's concerns with possible vagueness in the proposed § 5-503(b)(5) (*i.e.* Page 13, Lines 28–30), and we offer an amendment to narrow the requirement by striking Lines 28–30, in their entirety, and replace with the following: (5) OTHER INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THE STANDARDS FOR CONDITIONAL USES, VARIANCES, OR OTHER REQUIREMENTS OF THIS CODE.

[New] Page 14, Lines 1–30 – Map or text amendments; PUDs: This amendment seeks to remove providing notice of map or text amendments for Planned Unit Developments (PUDs) in a newspaper as an outmoded form of public notice. A new exceptions section will allow the addition of properties to a bill for a rezoning or the creation or modification of a PUD, without the need to readvertise, reschedule, and repost provided that direct mailed notice or in-person consent is provided by the property owner(s) in question.

[Repeated] Page 15, Line 1 – Line 6 – Minor Variances: This amendment carries over a committee amendment that requires posted notice for 21 days instead of 10 days, aligning the posting duration with major variances.

[New] Page 15, Lines 9-21 – Planning Commission consideration of site-specific projects: This amendment is similar to posting requirements for map or text amendments and PUDs above. It will allow the addition of properties to a bill for a rezoning or the creation or modification of a PUD, without the need to reschedule and repost, provided that direct mailed notice or in-person consent is provided by the property owner(s) in question.

[New] Page 15, Line 24 – Page 20, Line 6 – Zoning Verifications: The purpose of amendments to § 5-901 is to improve the format of this subsection, for clarity and to match current code drafting style.

[New] Page 16, Line 9 – Page 17, Line 8 – Residential Conversions: This amendment removes the requirement for a parking space from the Residential Conversions standards. This section is referenced in several other zones, to include commercial zones, and most specifically the C-1 zones – where parking isn't required by Table 16-406. This section appears to override the general exemption from parking in those specific districts, with a more specific requirement for parking – this was unintentional. Removing this section will cure this error.

[New] Page 17, Lines 11–20 - Bulk and Yard Regulations: This section was added by mistake. A separate table is not required, as edits to Table 10-401 are sufficient so the reference to a new Table 10-403 should be removed. See also related table changes on page 22.

[New] Page 17, Lines 21–26 - Parking requirements: This amendment clarifies the intent of this section, removing the vague "Where feasible" language and making it a positive requirement in Transit-Oriented Development (TOD) Districts.

[New] Page 18, Lines 1–28 – Neighborhood Commercial Establishments (NCEs): This amendment will remove some permissions for *Outdoor dining* that were expanded during the COVID-19 emergency.

[New] Page 18, Line 15 – Outdoor dining: This amendment will correct a typographical error (replacing Outdoor in Line 24 with Rooftop).

[New] Page 19, Lines 1–24 – Number of structures on a lot: This new subsection is in response to a recent increase in requests for second dwelling units in a second or co-primary structure. This section largely borrows from text in the prior edition of the Zoning Code. In that former edition, Planning Commission approval was required, since there was not a formal Design Review process. An amendment is needed to remove the reference to Planning Commission in Live 23, and to substitute Site Plan Review and Design Review.

[New] Page 20, Line 1 – Page 21, Line 2 – Computation of off-street parking requirements: This amendment clarifies how parking requirements are calculated for properties that are split-zoned. In one recent development, a property was partly zoned C-1 (which is exempt from parking) and partly residentially zoned. It was unclear how required parking should be calculated, and so this amendment will provide the answer.

[Repeated] Page 21, Lines 5–15 – Expansion of structure: This amendment is repeated from the prior bill, and clarifies that a nonconforming structure may be expanded, and may even receive further variances, if approved. The current text is not clear that this is possible.

[New] Page 21, Lines 19–24 – Table 10-301: This amendment works with the amendment to *Outdoor dining* on page 18, and reflects that it is sometimes approvable as a permitted use, at times as a conditional use (specifically for *Rooftop dining* in some Districts), and the new footnote 5 directs readers to § 14-329(f) where those rules are found.

Page 22 – Table 10-401: There are three different amendments made to Table 10-401:

1. **[Repeated, Prior Planning Commission Amendment]** The unnecessary minimum lot area reference for *Residential-care facility (age restricted)* is corrected to NONE as that use is not allowed in the C-4 district at all.
2. **[New]** The category title “Maximum Lot Area” is corrected to MAXIMUM GROSS FLOOR AREA BY USE in the table, and the limit for *Retail Goods Establishment (Food Store)* is corrected from 20,000 sqft to 10,000 sqft.
3. **[New]** Lastly, staff was made aware that it is not clear how to determine required yards (*i.e.* setbacks) for through-lots. Those are the lots that have front and rear lot lines that abut a street. Where the required front yard is clear, the required rear yard would default to 20 feet as “other”, where it should instead be treated similarly to a front yard (where no front yard is required). This is important, because it is likely that the through lot may sit between two lots that front on that “rear” (in this case) street, which would create inconsistent setbacks.

[New] On page 22, in Lines 27–29 – Explanatory Note: Item (2) should be amended as follows: “(2) To clarify that the C-1 zoning district is intended to be walk-to commercial, AND SO

THE maximum lot area [measurers] MEASUREMENTS are corrected to [work together with a new Table 10-403: C-1 Commercial District – Maximum Floor Area by Use.] REFLECT THE REFERENCE TO MAXIMUM GROSS FLOOR AREA BY USE INSTEAD.”

[New] Page 23, Lines 1–12 – Table 11-301: This amendment inserts a “P” for permitted use in the IMU-1 District for *Entertainment: Live (Accessory to Restaurant, Tavern, Art Studio, or Art Gallery)* to correct an accidental omission. The explanatory text in Lines 10-12 would be a bit more accurate if it read: “This amendment corrects for an error upon the splitting of the former singular I-MU District into the two separate IMU-1 and IMU-2 Districts. When Ord. #19-244, dated April 29, 2019, was enacted, the “P” for permitted for *Entertainment: Live (Accessory to Restaurant, Tavern, Art Studio, or Art Gallery)* was inadvertently omitted from the IMU-1 District.”

[New] Page 23, Line 13 – Page 24, Line 27 – Table 12-301: This amendment corrects a short-cut usage of *Neighborhood Commercial Establishment* (NCE) to allow for the seven component land uses in the OR District. The problem with using that short-cut in terminology, is that the definition of NCE in § 1-310(j) defines them as being “a non-residential use that is within a residential or office-residential zoning district, but in a structure that: (1) is non-residential in its construction and original use’ or (2) has received prior zoning approval for a non-residential use, as evidenced by permits, construction, or historical evidence of lawful non-residential use.” That expectation of an existing structure does not take into account the possibility of a newly-constructed building. To cure this error, this amendment adds those component uses as conditional uses in general, or as permitted uses when they are located in structures that have 50 or more dwelling units, and limiting them to 10% of the structure’s gross floor area. An amendment is needed to add *Day-care centers: adult or child* in the commercial use group of Table 12-301, since it was accidentally omitted and since they are different than the *Day-care Home: Adult or Child* listed in the residential use group.

[Repeated, Prior Planning Commission Amendment] Page 25, Lines 4–8 – Table 12-402: This amendment corrects an omission, and inserts “P” for permitted use for an *Animal Clinic* in the TOD-2 District to correct a typographical error.

[New] Page 25, Line 11 – Page 27, Line 18 – Table 12-1403: This amendment cures drafting errors in the 3rd Reader copy of CCB #24-0544, later adopted as Ord. #24-436.

[Repeated, Prior Planning Commission Amendment] Page 28, Lines 1–6 – Table 15-601: This amendment changes the maximum height allowed for fences or walls in the required front or corner side yards. Staff had learned that commonly-available fencing materials are now sold in 4’ heights. Without amending this table, there would be an unreasonable requirement to shorten typical fencing stock by six inches to comply with this requirement.

Equity:

- Impact: Staff believes that the proposed modifications to the Zoning Code will serve to reduce established patterns of inequity in Baltimore, specifically by clarifying how nonconforming structures may be expanded. The bill may have different effects on some

communities depending on the age of structures, the prevalence of redevelopment activity, and their real estate submarkets.

- Internal Operations: While Planning Department operations would not be affected directly by passage of this bill, there may be effects on operations of the Zoning Administration and BMZA offices that should be considered.

Notification: This item was advertised by GovDelivery, was sent to 17,439 unique subscribers.



Chris Ryer
Director