

**VINCENT NAPPO
NEIL E. NAPPO**
ATTORNEYS AT LAW
CAPITOL HILL
715 EIGHTH STREET, S.E.
WASHINGTON, D.C. 20003
(202) 628-9400
FAX (202) 628-7941

Appeal for 527 Irving St NW

BOARD OF ZONING APPEALS

Memorandum of Points and Authorities

Appellant: AMM Holdings Inc.

Property: 527 Irving Street, NW, Washington DC 20010 (Lot 63, Sq 3048)

Appeal of DCRA Zoning Administrator's Decision - Stop Work Order Issued on 11/18/10 for 527 Irving St NW.

1. Appellant, AMM Holdings Inc., purchased 527 Irving St N.W., Washington, D.C. 20010 on 1/8/2010. The subject property was purchased as a vacant piece of land in R-4 zone district with a lot size of 2708 square feet. There was a small storage shed on the lot. This property was purchased from a public foreclosure sale. Subject property is Lot 0063 in Square 3048.
2. AMM Holdings Inc. retained an Engineer, Mr. Yaw Agipong, to draw architectural plans and assist with the application for a building permit with DCRA, as a new 3-unit apartment building at said site.
3. A Building Permit Application, (Application Identification B1003393), was filed with DCRA along with detailed architectural drawings on 2/18/2010. The building plan was reviewed and approved by ten (10) different groups within DCRA, including DDOE, DDOT, Electrical, Mechanical, Plumbing, Fire, Structural, Wasa, Wall Check and Zoning. After thorough and detailed reviews from the above listed groups, our building plan was approved and a Building Permit was issued on 5/7/2010. This permit clearly states that the Permit was for a new 3-unit apartment building.
4. We also obtained a Raze Permit (R1000078) from DCRA on 4/26/2010 to remove the existing shed on the lot, and AMM Holdings Inc. (Owner) then started construction upon receiving the Building Permit, on 5/7/10.

BOARD OF ZONING ADJUSTMENT

District of Columbia

CASE NO. 18181

EXHIBIT NO. 2

Page 1 of 4

Board of Zoning Adjustment
District of Columbia
CASE NO.18181
EXHIBIT NO.2

5. Since that date we have completed construction of three (3) floors plus basement on this 3-unit apartment building. The building structure is 100% completed. The roof is done. All the Framing is done. Utility companies are in process to provide utilities for 3 units. All the Rough-Ins are completed which includes :
 - a. Plumbing - complete network of water and gas pipes is installed for baths, kitchens and appliances as 3 units. Bath tubs are installed. See attached pictures.
 - b. Electrical - complete network of electrical wires / cables is installed as 3 units. Individual electrical panels are installed for 3 units. See attached pictures.
 - c. HVAC – All the Duct work is done as 3 units. 3 Furnaces are installed. See attached pictures.
 - d. Fire sprinklers – complete fire sprinkler water pipes network is installed as 3 units. See attached pictures.

We are ready for closing Drywalls.

6. On 11/18/10, a DCRA Inspector came to the job site to place a Stop Work Order. We showed him all the permits and drawings on this site, and he stated that he was not sure why he was ordered to stop work. He went back to his car and made several phone calls. After 45 minutes he came back and placed a Stop Work Order stating 3 unit apartment building is not a matter of right use in a R-4 zone & previous building was removed without raze permit. Stop Work Order says contact Matt LeGrant at DCRA, to resolve this matter.
7. Accordingly, on 11/22/10, we had a meeting with Matthew LeGrant, Zoning Administrator. Attendees were Mubashir Khan, Matthew LeGrant, Kathleen Beeton, Justin Bello, Amir Khan and Yaw Agipong. This was a 2-hour-long, detailed meeting. Mr. LeGrant and his team stated that the Permit to develop 3 units was issued IN ERROR by DCRA. Now, after six months, they realized they had made “a mistake” but will not allow us to move forward with construction. After telling him that we purchased the property as vacant lot and showing him picture of the lot at the time of purchase and copy of Raze permit, he agreed that previous building was removed prior to my ownership and we are not responsible for that. We mainly discuss 3-unit issue in this meeting. PLEASE NOTE that this building permit was under review for almost 3 months before it was approved by the Agency. The Building Plan was reviewed and approved by ten (10) different departments within DCRA and now, after 6 months, we are told that this was a mistake.
8. I made it clear to Mr. LeGrant that, unfortunately, we have gone too far in the construction to change it to 2 units. Since the permitting fault lies with DCRA,, why should we be punished for the their mistake? Our company will suffer a significant financial loss; and as a result,

I requested that Mr. LeGrant use his administrative powers, or special exemption, and withdraw this Stop Work Order, in order to allow us to proceed with our project, as we were in compliance all the time, had followed all the procedures and had obtained all the requisite permits. However, he did not agree to withdraw the Stop Work Order.

9. On 11/23/10, I sent an email to Linda Argo, Director, DCRA, explaining my situation and requesting a meeting to discuss this matter and possibly avoid further legal proceedings. Ms. Argo replied that DCRA had made an error and she suggested we go to BZA.
10. On 12/2/10, we filed an Appeal with DCRA. In a phone conversation with DCRA's Ms. Barbara Scott Cooper (202-442-4385), she stated that this was a Zoning issue and that we needed to talk to Mr. LeGrant, or go to BZA. She further stated that DCRA cannot set up a hearing on this Stop Work Order.
11. This building is now constructed as 3 units. The top two levels are designed as two different units with 2 kitchens, 2 half-baths and 2 family rooms. Unfortunately, we have gone too far in construction, and changing this into 2 units will be a tremendous financial hardship for us. Thus far, we have spent more than \$350,000 in construction costs, and we are losing money every day because of this sudden Stop Work Order.
12. We would have prepared a totally different design and layout if this were a 2 unit building. Construction costs would have been drastically less than for 3 units. We will suffer deep financial losses if we have to finish this project as 2 units. Since we are a small business, we may face bankruptcy. Not only will we lose our 3rd unit, but we will also end up with 2 very large units with very undesirable layouts; and these will be almost impossible to sell. We will also have to do much costly demolition to convert into 2 units; and to redesign these will be very expensive as well. Therefore we urgently request permission to move forward with construction and finish the construction as 3 units (as per our permits).
13. We wish to stress that we applied for all the building permits in good faith and good time, and received the necessary permissions and permits. We worked on this project in good faith, and now find ourselves in this difficult, frustrating and financially calamitous situation because of DCRA's fault.
14. Accordingly, we request that BZA, upon consideration of this Appeal, overturn the Zoning Administrator's decision (Stop Work Order) and allow us to move forward with our 3-unit construction plans. The lot is spacious enough (2708 square feet) to fit 3 units; and we have enough off-street parking for the future 3-unit residents, without over-crowding the neighborhood or its street parking.

Thank you for your consideration of this Appeal.

2010 DEC 15 PM 3:58
2010 DEC 15 PM 3:58

ATTACHMENTS:

Exhibit A - Stop Work Order

Exhibit B – Email response of DCRA Director (Ms. Linda Argo)

Exhibit C - Building Permit issued by DCRA as new 3-unit apartment building

Exhibit D - Raze Permit issued by DCRA to Raze a Shed

Exhibit E - Approved Architectural plans from DCRA as new 3-unit apartment building

Exhibit F – Office of the Surveyor Plat - approved by Zoning as new 3-unit apartment building in R-4 zone with 2 off street parking spaces in the rear (although we believe there is enough space to add more parking)

Exhibit G - Pictures of 527 Irving Street, N.W. (before construction and current condition)

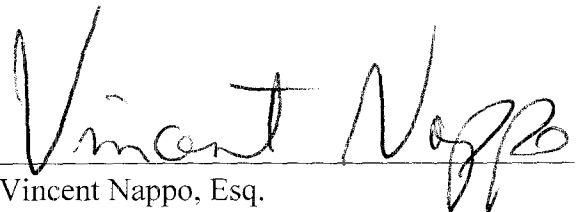
Exhibit H - Copy of Appeal filed with DCRA

Exhibit I - Building Plan Review Status (from DCRA's website – shows reviews before issuing Building Permit)

Exhibit J - Statement that copy of BZA Appeal along with all the attachments are mailed to Advisory Neighborhood Commission and DCRA Zoning Administrator.



AMM Holdings Inc.
Mubashir Khan, President
715 8th St, S.E., Suite # 2,
Washington, D.C. 20003
202-365-4680 / 202-365-4680 fax



Vincent Nappo, Esq.
Attorney for Appellant
715 Eight Street, S.E.
Washington, D.C. 20003
202-628-9400