

Holland & Knight

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Christopher H. Collins
202 457 7841
chrs.collins@hklaw.com

May 30, 2014

Via Hand Delivery and IZIS

Board of Zoning Adjustment
for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: BZA Application No. 18785 – 1326 Florida Avenue, N.E.
Supplemental Submission

Dear Board Members:

This Supplemental Submission requests additional zoning relief from the Board for a Special Exception under Sec. 411.11 for the roof structure setback for the 45-unit residential apartment building that is the subject of this Application. The following materials are enclosed:

- A revised BZA Application Form 120;
- A revised BZA Fee Calculator Form 126, and an additional filing fee of \$2,600;
- A revised BZA Self-Certification Form 135;
- A Supplemental Preliminary Statement of Compliance;
- Copies of Supplemental Notices sent to all owners of property within 200 feet, as well as to ANC 5D and ANC 5D06 Single Member District Commissioner Laskaris, notifying them of the additional requested zoning relief; and
- A signed Attestation that the above notices were sent on May 29, 2014.

Pursuant to Sec. 3100.5 of the Zoning Regulations, the Applicant respectfully requests a waiver of the 40 day notice requirement in Section 3113.13 for the additional area of relief. The waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

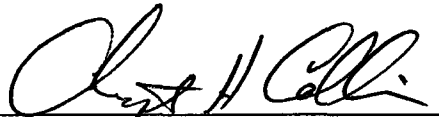
Board of Zoning Adjustment
District of Columbia
CASE NO.18785
EXHIBIT NO.44

As of the date of this filing, the only party to this application (as defined in Sec. 3199.1) is the Advisory Neighborhood Commission. The Applicant has notified the ANC Single Membership Commissioner of this additional area of relief by telephone on May 29, 2014, and this Application will be discussed in full at the upcoming Single Member District Commissioner Meeting and the full ANC Meeting, both of which will occur in early June. In addition, all persons entitled to receive notice of the BZA Application have been timely notified that the Application will be heard on June 24, 2014, and will have an opportunity to attend and to review the record in IZIS. This supplemental information will appear in IZIS as of the date of this filing, 25 days prior the Public Hearing Date, and will also be part of the Prehearing Statement that will be submitted 14 days in advance of the hearing. The plans for the project have not changed; rather, this filing is intended to address an issue raised by the Office of Planning in a recent discussion.

Thank you for your consideration.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Christopher H. Collins

Attachments

cc: Steve Cochran, D.C. Office of Planning (via email)
ANC 5D06 Commissioner Tina Laskaris
ANC 5D (via email)



BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA



FORM 120 - APPLICATION FOR VARIANCE/SPECIAL EXCEPTION

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

Pursuant to §3103.2 - Area/Use Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations,
an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zone District(s)	Type of Relief Being Sought	
				Area Variance Use Variance Special Exception	Section(s) of Title 11 DCMR - Zoning Regulations from which relief is being sought
1326 Florida Avenue, NE	4068	0835	C-2-A	Area Variance	2101.1
				Special Exception	411.11

Present use(s) of Property: Vacant commercial

Proposed use(s) of Property: Multiple dwelling

Owner of Property: Florida Avenue Joint Venture, LLC Telephone No: 301-983-1400

Address of Owner: 14672 South Lawn Lane, Suite 0, Rockville, MD 20850

Single-Member Advisory Neighborhood Commission District(s): 5D06

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public Hearing Notice:

Application of Ditto Residential, LLC, pursuant to Sec. 3103.2, for an area variance from the parking requirements of Sec. 2101.1, and a special exception for roof structure setback under Section 411.11, to allow the construction of a new four-story plus cellar 45-unit residential building in the C-2-A District at 1326 Florida Avenue, N.E. (Square 4068, Lot 835).

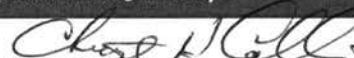
EXPEDITED REVIEW REQUEST (If interested, please select the appropriate category)

I waive my right to a hearing, agree to the terms in Form 128 - Waiver of Hearing for Expedited Review, and hereby request that this case be placed on the Expedited Review Calendar, pursuant to §3118.2 (CHOOSE ONE):

- ☐ A park, playground, swimming pool, or athletic field pursuant to §209.1, or
☐ An addition to a one-family dwelling or flat or new or enlarged accessory structures pursuant to §223

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22 2405)

Date: May 29, 2014

Signature*: 

To be notified of hearing and decision (Owner or Authorized Agent*):

Name: Christopher H. Collins E-Mail: chris.collins@hklaw.com

Address: 800 17th Street, N.W., Suite 1100, Washington, DC 20006

Phone No(s): (202) 457-7841 Fax No.: (202) 955-5564

* To be signed by the Owner of the Property for which this application is filed or his/her authorized agent. In the event an authorized agent files this application on behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany this application.

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

FOR OFFICIAL USE ONLY

Exhibit No. 1

Case No. _____



BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 126 – BOARD OF ZONING ADJUSTMENT FEE CALCULATOR

Per §3180 of the Zoning Regulations, at the time of the filing of an application or an appeal with the Board of Zoning Adjustment, the applicant or appellant shall pay a filing fee in accordance the fee calculator below. In the case of an application combining two (2) or more actions, or for an application requesting consideration of more than one alternative, the fee shall be the total of the amounts for each action or alternative computed separately. However, for applications involving owner-occupied, one-family dwellings or flats, regardless of the number of variances, special exceptions, or alternatives requested, the fee is three hundred and twenty-five dollars (\$325.00). A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee where the property is owned by the agency and the property is to be occupied for a government building or use.

APPLICATION OR APPEAL TYPE:	FEE	UNIT	TOTAL
VARIANCE:			
Owner-Occupied Dwelling	\$325		
All Other Variances Per Section Requested	\$1,040	1	
TOTAL FOR VARIANCES:			1040
SPECIAL EXCEPTION:			
Parking Lot/Garage/Accessory Parking (per space)	\$104		
Child Development Center (per student)	\$33		
Private School (per student)	\$33		
Residential Under §353	\$520		
CBRF (per person)	\$104		
Office Use in SP (per 100 square feet)	\$52		
Roof Structures	\$2,600		2600
Hotel or Inn in SP (per room or suite)	\$104		
Gasoline Service Station	\$5,200		
Repair Garage	\$1,560		
Home Occupation	\$1,560		
Accessory Apartment Under §202	\$325		
Theoretical Lot Under §2516	\$1,560		
Additional Theoretical Lot Under §2516	\$520		
Recycling Facility Under §802	\$5,200		
Antenna Under §211	\$2,600		
Any Other Special Exception	\$1,560		
Chancery (per 100 square feet)	\$65		
Owner-Occupied Special Exception	\$325		
Time Extension/Modification – Owner Occupied	\$130		
Time Extension/Modification – All other (percentage of filing fee)	26%		
TOTAL FOR SPECIAL EXCEPTIONS:			2600
APPEAL:			
NCPC/ANCs/Citizens Association/Civic Association/Not-for-Profits	\$0		
All other organizations, groups or persons	\$1,040		
TOTAL FOR APPEALS:			
GRAND TOTAL:			\$3640
I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22 2405)			
Name:	Christopher H. Collins	Signature:	
Exhibit No. _____		Case No. _____	



BEFORE THE BOARD OF ZONING ADJUSTMENT
DISTRICT OF COLUMBIA



FORM 135 – ZONING SELF-CERTIFICATION

Project Address(es)	Square	Lot(s)	Zone District(s)
1326 Florida Avenue, NE	4068	835	C-2-A

Single-Member Advisory Neighborhood Commission District(s): 5D06

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is requested from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 - Use Variance	☒ §3103.2 - Area Variance	☒ §3104.1-Special Exception
Pursuant to Subsections		2101.1	411.11

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia;
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self certified in order to obtain, for the above referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this form is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22 2405)

Owner's Signature 		Owner's Name (Please Print) Matthew Dittus	
Agent's Signature 		Agent's Name (Please Print) Chuong T.H. Cao/DEP	
Date	D.C. Bar No.	or	Architect Registration No. 101249

FOR OFFICIAL USE ONLY

Based upon review of the application and self-certification, the Office of Zoning determines, pursuant to 11 DCMR §3113.2, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator within DCRA, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ 11 DCMR §3113.2; or ☐ 11 DCMR - Zoning Regulations. Explanation _____

Signature		Date	
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ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Case No. _____

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

SUPPLEMENTAL PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This Statement is submitted by Ditto Residential, LLC, the Applicant and contract purchaser of the property located at 1326 Florida Avenue, N.E., Square 4068, Lot 835 (the "Site"). This Supplemental Preliminary Statement addresses the special exception under Section 411.11 to allow a roof structure which does not meet the normal setback requirement of Section 770.6 of the Zoning Regulations.

I. Background

The architectural plans submitted as Exhibit No. 12 indicate a building height of 50 feet, measured from the level of the curb at the middle of the front of the building, to the top of parapet. The parapet is a solid wall, as shown on those plans, and appears as a continuation of the exterior wall of the building that extends approximately 4 feet above the level of the roof. The roof structure is set back from the exterior walls a distance at least equal to its height above the roof on the north and south sides of the building. The roof structure is set back from the exterior walls a distance at least equal to its height above the parapet on the east and west sides of the building. Therefore, special exception relief is required to allow portions of the roof structure on the east and west sides of the building which do not meet the normal set back requirements of Section 770.6.

II. The Applicant meets the Burden of Proof for the Requested Special Exception

Section 411.11 of the Zoning Regulations states as follows:

Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or

unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

Full compliance with the normal setback requirement of Section 770.6 would be impracticable because of operating difficulties and the size of the building lot, and would tend to make full compliance unduly restrictive and unreasonable. As set forth more fully in the Preliminary Statement of Compliance, Exhibit No. 11, the narrow building dimension is dictated by the dimensions of the site and the location of the garage ramp along the east side of the building.

Full compliance with the normal setback requirement on the east side of the roof structure would require the elevator and stairs to be shifted approximately four feet to the west. However, this would adversely impact the interior layout of the building at all levels. It would shift the stairways, elevator and elevator lobby four feet into the central corridor, which in turn would shift the corridor four feet to the west, causing a significant reduction in the size and efficiency of the units along the west side of the building. In addition, moving the elevator and stairways to the same extent in the garage would narrow the width of the center drive aisle to less than the minimum required dimension. Alternatively, it would require the shift of a portion of the drive aisle to the west side of the garage, thus resulting in a further reduction in the number of parking spaces, and a further reduction in the efficiency of the garage layout.

Full compliance with the roof structure setback requirement on the west side would require the west wall of the penthouse to shift approximately 3.25 feet to the east, thus reducing

the enclosed area where the individual rooftop mechanical units will be located. Due to the minimum required spacing between those units for ventilation purposes, as dictated by the Building Code, this would impose an operating difficulty on the building.

The intent and purpose of the roof structure setback requirements will be met in this Application. The roof structure height is well below the maximum permitted height. The intent of the setback requirement is to provide at least a one for one setback of the roof structure from the exterior walls of the building, which will also be met in this case. The parapet above the roof is merely a continuation of the exterior wall of the building, as shown on the plans submitted as Exhibit No. 12. Strict compliance with the roof structure setback requirement could be met by artificially raising the height of the roof approximately four feet, to match the height of the parapet wall, on those portions of the roof where the strict setback requirement is not met. However, this would be unnecessary and unreasonable. Although this would reduce the dimension between the roof of the building and the top of the roof structure, it would otherwise have no effect on the height elevation of the roof structure, or the setback of the roof structure from the exterior walls.

As viewed from the street, at the one for one set back vantage point, the level of the roof relative to the level of the top of the exterior wall will be imperceptible to the public. Therefore, because the one for one setback requirement from the exterior wall is met, the intent and purpose of the regulations will not be materially impaired. Likewise, the light and air of adjacent buildings will not be adversely affected.

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Christopher H Collins
202.457 7841
chris.collins@hklaw.com

May 29, 2014

TO WHOM IT MAY CONCERN:

Enclosed is a Notice that was previously mailed to you regarding Board of Zoning Adjustment Application No. 18785, for the construction of a new 45 unit residential building at 1326 Florida Avenue, NE. Please note that in addition to a parking variance under Section 2101.1, the applicant also requests special exception approval under Section 411.11 regarding the roof structure setback requirement.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



APR 25 2014

**APPLICATION NUMBER 18785
TO WHOM IT MAY CONCERN:**

Notice is hereby given that the Board of Zoning Adjustment will hold a public hearing at 441 4th Street, N.W., Suite 220 South, Washington, D.C., 20001 on Tuesday, June 24, 2014, on the following application:

Application of Ditto Residential LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a new four story plus cellar 45 unit residential building in the C-2-A District at premises 1326 Florida Avenue, N.E. (Square 4068, Lot 835).

NOTE: This case was filed electronically through the Interactive Zoning Information System ("IZIS") and all submission must be made via IZIS. You can access and file documents for this case through IZIS at <http://app.dcoz.dc.gov>.

At the public hearing, all interested persons will be given an opportunity to express their views. However, in lieu of appearing at the hearing you may also submit written views about this case. All written views should be sent to the address below, and must be received by the Board before the hearing on the case is concluded. Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. If you are unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Request form, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm>. This form may also be obtained from the Office of Zoning at the address stated. This application is located within the boundaries of Advisory Neighborhood Commission 5D. This application will be heard at 9:30 a.m. If you have any questions about this application, please call the Office of Zoning on (202) 727-6311, or visit the office at 441 4th Street, N.W., Suite 200 South, Washington, D.C. 20001. Please refer to the application number when you write or call about this case.

SINCERELY,

A handwritten signature in black ink, appearing to read "Richard S. Nero, Jr.", is written over the word "SINCERELY,".

**RICHARD S. NERO, JR.
Deputy Director of Operations
Office of Zoning**

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

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Christopher H Collins
202 457 7841
chncollins@hklaw.com

May 29, 2014

TO WHOM IT MAY CONCERN:

Enclosed is a Notice that was previously mailed to you regarding Board of Zoning Adjustment Application No. 18785, for the construction of a new 45 unit residential building at 1326 Florida Avenue, NE. Please note that in addition to a parking variance under Section 2101.1, the applicant also requests special exception approval under Section 411.11 regarding the roof structure setback requirement.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



APR 25 2014

BY E-MAIL

Advisory Neighborhood Commission 5D
5D@anc.dc.gov

BZA Application No. 18785

Dear Advisory Neighborhood Commission 5D:

This is to advise you that a public hearing has been scheduled by the Board of Zoning Adjustment to consider the following application that is located within the boundaries of your ANC area:

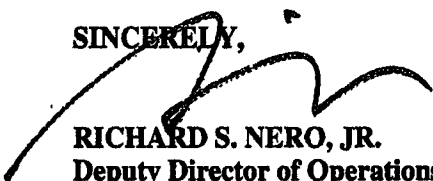
Application of Ditto Residential LLC, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a new four story plus cellar 45 unit residential building in the C-2-A District at premises 1326 Florida Avenue, N.E. (Square 4068, Lot 835).

NOTE: This case was filed electronically through the Interactive Zoning Information System ("IZIS") and all submission must be made via IZIS. You can access and file documents for this case through IZIS at <http://app.dcoz.dc.gov>.

The hearing will be held on Tuesday, June 24, 2014, at 441 4th Street, N.W., Suite 220 South, Washington, D.C. 20001. This application will be heard at 9:30 a.m.

You are advised that 11 DCMR Section 3115.1 sets out certain requirements related to reports of ANCs, and specifically that Section 3115 requires that the written report of the ANC be filed with the Board at least seven days in advance of the hearing. Form 129 – Advisory Neighborhood Commission (ANC) Report, a copy of which may be downloaded from the Office of Zoning's website at: <http://dcoz.dc.gov/services/app.shtm> is the preferred mechanism to complete this report. In the alternative, you can review Section 3115, which states the required information for the written report. Information on the procedures which will govern consideration of this case is also available from the Office of Zoning, in Suite 200 South, 441 4th Street, N.W., Washington, D.C. 20001. The telephone number for the Office of Zoning is (202) 727-6311. If you wish to forward comments in writing directly to the Board, such comments should be addressed to the Board of Zoning Adjustment at 441 4th Street, N.W., Suite 200 South, Washington, D.C. 20001.

SINCERELY,



RICHARD S. NERO, JR.
Deputy Director of Operations
Office of Zoning

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

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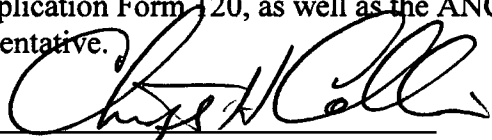
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Christopher H. Collins
202.457.7841
Chris.collins@hklaw.com

BZA APPLICATION NO. 18785

I certify and attest that the attached supplemental notice was mailed to all owners of property within 200 feet of the subject property based on the list of owners previously submitted by the Applicant as required by the instructions on the BZA Application Form 120, as well as the ANC Chairperson and the ANC Single Member District representative.

ATTESTED BY:


Christopher H. Collins

DATE: May 29, 2014