



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

REQUEST FOR MODIFICATION OF PLANS APPROVED BY THE BOARD OF ZONING ADJUSTMENT

(Pursuant to Zoning Commission Order No. 08-06F, 11 DCMR A-304.10 through A-304.13)

Building Permit Application #: B1603868 (the "Application")

Property Address: 3616 11th Street, NW (the "Property")

Square: 2829 Lot(s): 169

1. Provide the Order Number(s) (e.g., "BZA 12349") for the Board of Zoning Adjustment (the "BZA") that the property is subject to:

BZA Order No.: 19387

2. Do the building permit plans submitted differ in any way (e.g., use, building envelope, façade design, shape, or floorplans) from the plans authorized by the Order(s), including any conditions of the Order(s) and the approved plans?

- Yes. Provide a list of the proposed changes and illustrations comparing the portions of the "approved" plans that are proposed to be varied to the "proposed" plans. This should include highlighting changed features through graphic bubbling.
- No. Skip to the signature line (#7) below to complete the form.

3. Are all proposed changes identified in #2 above solely limited to minor internal floorplan or mechanical changes not involving any standards identified in subsections A-304.10(a)-(h)?

- Yes. Provide a written justification as to why the changes identified in #2 are limited to such minor internal floorplan or mechanical changes. No written request for ZA minor flexibility is required and skip to the signature line (#7) below to complete the form.
- No. Continue to the next question.

4. Are any of the changes identified in #2 covered by flexibility specifically granted by a condition(s) of the Order(s)?

- Yes, all of the changes. Provide a written justification highlighting the terms of the flexibility granted in the Order and describe how the proposed modifications are allowable pursuant to the flexibility. No written request for ZA minor flexibility is required and skip to the signature line (#7) below to complete the form.
- Yes, some of the changes. Provide a written justification that identifies which of the proposed modifications are allowable pursuant to the flexibility granted in the Order. Continue to the next question to address the remainder of the proposed modifications that are not allowable pursuant to the flexibility.
- No. Continue to the next question.

5. If the flexibility provided in the Order(s) does not cover some or all of the proposed modifications listed in the response to #2 above, or where no flexibility was provided in the Order(s), do the remaining proposed modifications qualify for the minor flexibility that the Zoning Administrator is authorized to grant under Section A-304.10?

- Yes. Provide a written request for ZA minor flexibility as required by Section A-304.10. Make sure that this request addresses each criteria provided in Section A-304.10, including the requirement that the proposed modifications are consistent with the intent of the BZA in approving the relevant Order. Continue to the next question.
- No. Skip to the signature line (#7) below to complete the form and then separately apply to the Zoning Commission for a modification pursuant to A-304.13.

6. In cases where a written request for ZA minor flexibility is submitted, all parties (including the affected ANC(s)) to the applicable BZA case listed in response to #1 must be served with a copy of the request for minor flexibility. Such a copy must include any supporting plan documents, as required by Section A-304.11. Enter the following information, including the email addresses (or mailing address if necessary) that the written request was sent to:

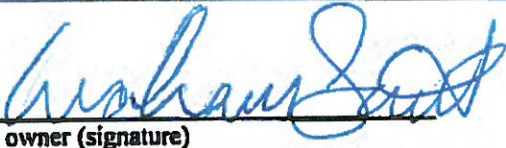
Date of service by Applicant: June 30, 2017 (attach a certificate of service)

ANC 1A : Kent Boese, 1A08@anc.dc.gov

ANC(SMD) _____ :

Parties: Office of Planning, ~~Matt Jessick~~ Matt Jesick ~~Matt Jessick@dc.gov~~ Matthew.Jesick@dc.gov

7. Signature


 Property owner (signature)

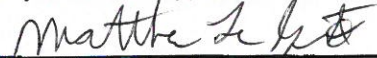
30 June 2017
 Date

alexand9@gmail.com
 Property owner or agent email address and phone number

For DCRA internal use only (execute as appropriate).

- The Zoning Administrator (ZA) has received a written request for minor modifications to approved plans related to the Order above which the Applicant attests was served on all necessary parties. The ZA has determined that the proposed modifications are consistent with Section A-304.10. Therefore, the ZA is hereby providing written notice of **APPROVAL**.

Pursuant to A-304.12, the ZA shall send written notification of any modifications approved pursuant to A-304.10 to all parties to the applicable case no later than 7 days after the date of approval.


 Zoning Administrator signature

7-11-17
 Date of approval

Date of Service: 7-11-17

cc: All parties identified in #6 above
 Attachments: Applicant's written request for ZA minor flexibility and supporting documents

- No written request for ZA minor flexibility is required.

 OZA signature

 Date of approval

- The ZA **DENIES** the request for minor modifications to approved plans as inconsistent with Section A-304.10.

 OZA signature

 Date of denial

TAB A

Accordingly, pursuant to Subtitle A § 304.10, the Owners formally request a modification to the plans that were approved by the BZA. As outlined above, the Owners satisfy the requirements of § 304.10 and approval of the modification can be granted without further BZA review or relief. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR



By: Meredith H. Moldenhauer

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2017, a copy of the foregoing Request for Modification of Plans Approved by the Board of Zoning Adjustment with attachments and supporting plan documents were served, via electronic mail, on the following:

District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, DC 20024
Matt.Jessick@dc.gov

Advisory Neighborhood Commission 1A
c/o Kent Boese, Chairperson
1A08@anc.dc.gov



Meridith H. Moldenhauer



June 30, 2017

Meridith H. Moldenhauer

Direct Phone 202-747-0763
Direct Fax 202-683-9389
mmoldenhauer@cozen.com

Department of Consumer and Regulatory Affairs
Office of the Zoning Administrator
1100 4th Street, SW
Washington, DC 20024

**RE: Request for Modification of Plans Approved by the Board of Zoning
Adjustment – 3616 11th Street, NW**

Dear Mr. LeGrant:

On behalf of Graham Smith and Alexis Diao (the “Owners”), please find enclosed a Request for Modification of Plans Approved by the Board of Zoning Adjustment concerning the Owners’ property located at 3616 11th Street, NW (the “Property”). In December 2016, the Board of Zoning Adjustment entered a Summary Order in BZA Case No. 19387 granting Owners zoning relief to construct a third-story addition at the Property (the “Order”). A copy of the approved plans submitted to the BZA are attached at Tab A; a copy of the Order is attached at Tab B. Accordingly, the Owners applied for and obtained from DCRA building permit B1603868 to construct the addition.

The Owners request a modification of the approved plans to account for a neighboring property owners’ chimney.¹ Specifically, the Owners seek to modify the approved plans in order to maintain a minimum distance of 10 feet between the exterior of Owners’ third-story addition and neighboring property owner’s’ chimney. The only change to the approved plans is a cut-out/reduction of 7 feet on the third-story addition.

The proposed modification qualifies for minor flexibility that the Zoning Administrator is authorized to grant pursuant to Subtitle A § 304.10 of the zoning regulations. The proposed modification meets the criteria set forth in Subtitle A § 304.10 as follows:

(a) The modifications do not violate any condition of approval included in the Order;

The Order includes the standard BZA conditions approving an application for zoning relief. The proposed modifications will not violate any of these conditions.

(b) The modification will not increase, expand, or extend any area of relief granted by the Order;

¹ The Owners requested permission to raise the neighboring property owner’s chimney, but that request was denied. Raising the chimney would have obviated the need for this modification request.

LEGAL\3140863211

The Order grants special exception relief from the building height requirement (Subtitle E § 303.3) and for the alteration of a rooftop turret (Subtitle E § 206.2). The proposed modification will not increase, expand, or extend either areas of relief. The proposed modification includes an internal 7-foot cut-out that will not affect the building height or the altered turret.

(c) The modification will not create any need for new relief;

The proposed modification reduces the gross floor area on the third-story addition. The proposed modification will not alter any other aspect of the home, and will not require new relief from the BZA.

(d) The modification will not change a principal use from that approved in the Order;

The proposed modification will not change the Property's use as a residential flat.

(e) The modification will not increase the number of stories;

The proposed modification will not add a story to the Property.

(f) The modification will not increase by more than two percent (2%) the building gross floor area, the percentage of lot occupancy, building height or penthouse height; provided that the permitted increase of two percent (2%) or less must be the direct result of structural or building code requirements;

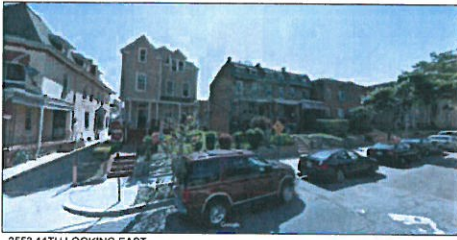
As noted above, the proposed modification will decrease the building's gross floor area. The proposed modification will not alter the lot occupancy, building height or penthouse height, as the project does not have a penthouse.

(g) The modification will not increase by more than two percent (2%) the number of dwelling units, hotel rooms, or institutional rooms within the approved square footage;

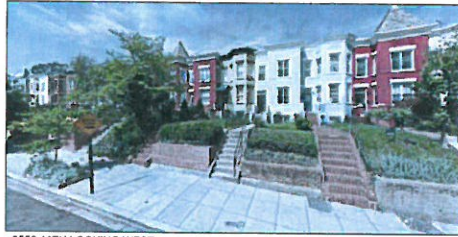
The building will remain a flat, and the proposed modification will not increase the number of dwelling units at the Property.

(h) The modification will not increase or decrease by more than two percent (2%) the number of parking or loading spaces depicted on the approved plans.

The proposed modification will not alter the number of parking or loading spaces at the Property.



3553 11TH LOOKING EAST



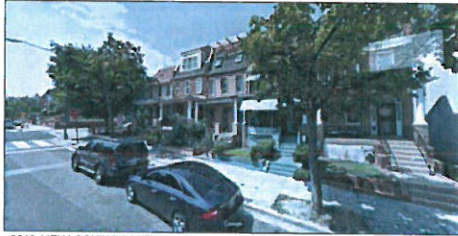
3553 11TH LOOKING WEST



OTIS AT 11TH LOOKING WEST



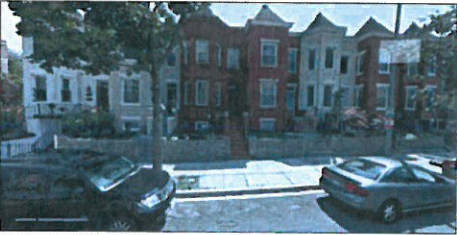
3562 11TH LOOKING NORTH



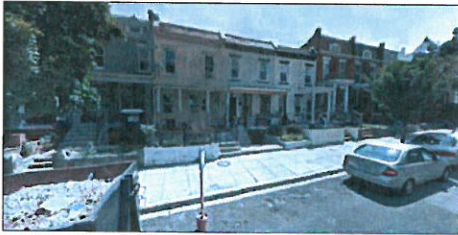
3612 11TH LOOKING SOUTH WEST



10TH AT OTIS LOOKING NORTH



3646 11TH LOOKING EAST



3624 11TH LOOKING EAST



OTIS AT 13TH LOOKING EAST

GRONNING

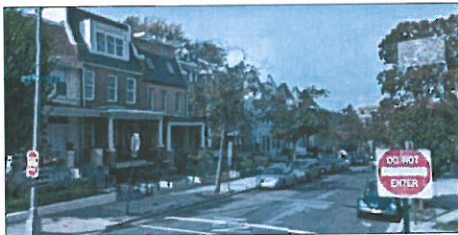
BZA Submission

3618 11th Street, NW
Washington, DC 20010

1428 U STREET, NW SUITE B100 WASHINGTON, DC 20009 T: 202.223.7059 www.gronningarchitects.com

11.21.2016 | NEIGHBORHOOD CONTEXT

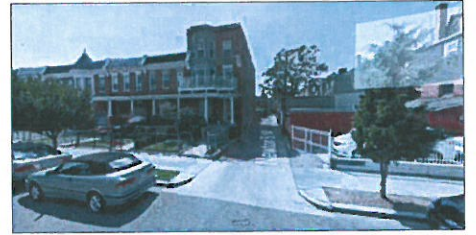
NOT TO SCALE | PAGE 7



3606 11TH STREET NW



1369 MONROE ST NW



1374 NEWTON ST NW



1428 MONROE ST NW



1350 OTIS PLACE NW



3369 13TH ST NW

GRONNING

BZA Submission

3616 11th Street, NW
Washington, DC 20010

11.21.2016 PRECEDENT

NOT TO SCALE | PAGE 8

1428 U STREET, NW SUITE B100 WASHINGTON, DC 20009 T: 202.223.7059 www.gronningarchitects.com

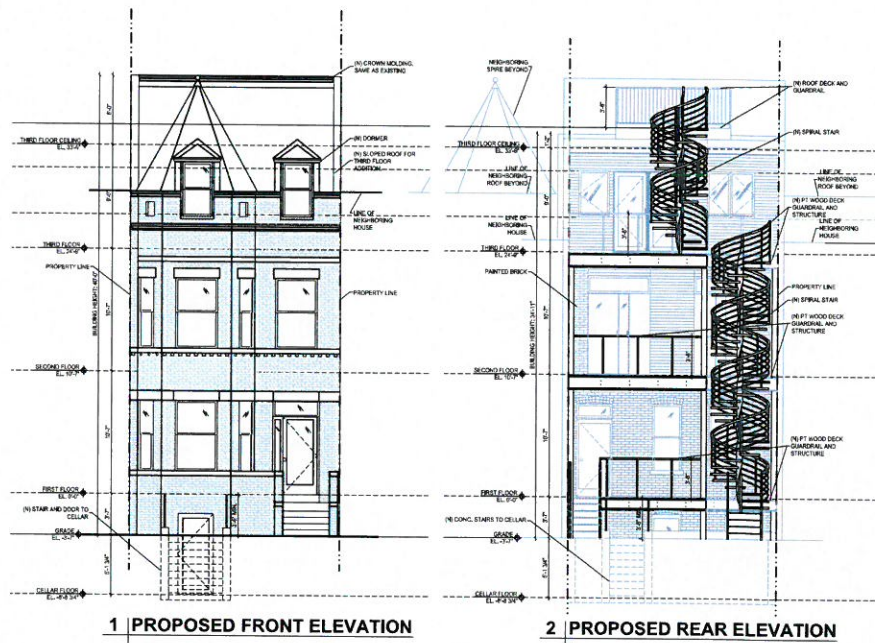
3600 BLOCK OF 11TH STREET- NEIGHBORHOOD CONTEXT

3602 11th Street NW and 3604 11th Street NW



3615 11th Street NW (Across the street from subject property)





Gronning **BZA Submission**

3816 11th Street, NW
Washington, DC 20016

1428 U STREET, NW SUITE B100 WASHINGTON, DC 20009 T: 202.223.7059 www.gronningarchitects.com

12.14.2016 PROPOSED ELEVATIONS

* ALL PLANS AND MATERIALS ARE FOR CONCEPT REVIEW ONLY AND SUBJECT TO CHANGE

SCALE: 1/8" = 1'-0" PAGE 5











TAB B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19387 of Graham Smith and Alexis Diao, as amended¹ pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2, and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone at premises 3616 11th Street, N.W. (Square 2829, Lot 169).

HEARING DATE: December 14, 2016
DECISION DATE: December 21, 2016

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 6 – original, Exhibit 66 - revised.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 1A and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. The ANC submitted a report recommending approval of the application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on November 9, 2016, at which a quorum was present, the ANC voted 6-3-0 to support the application. (Exhibit 56.)

¹At the hearing of December 14, 2016, the Applicant amended the application by removing the special exception relief from Subtitle U §§ 320.2 and 320.2(a) related to conversion, and changing it to a special exception under Subtitle E § 206.2 to permit the modification of an existing roof top architectural element and § 303.3 to permit a dwelling 40 feet in height, and by removing from the original request the variance from the 900 square feet per dwelling unit requirements of Subtitle U § 320.2(d), pursuant to 11 DCMR Subtitle X, Chapter 10. (See Applicant's supplemental statement and revised self-certification at Exhibit 66.) The caption has been amended accordingly.

BZA APPLICATION NO. 19387
PAGE NO. 2

The Office of Planning (“OP”) submitted a timely report dated December 2, 2016, recommending denial of the originally requested variance relief, but approval of the special exception relief originally requested under Subtitle U § 320.2. (Exhibit 61.) OP did not file a supplemental report addressing the amended relief.

The District Department of Transportation (“DDOT”) submitted a timely report indicating that it had no objection to the grant of the application. (Exhibit 60.)

At the end of the public hearing, the Board requested a post-hearing filing by the Applicant to include a revised self-certification form and updated plans with architectural refinements. The requested information was provided by the Applicant. (See Exhibit 66.)

Twenty-three letters were filed in support of the application. (Exhibits 32-54.)

Two residents from Columbia Heights testified in support of the application. One person testified in opposition to the application.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for special exceptions under the rooftop/upper floor addition requirements of Subtitle E § 206.2, and the height requirements of Subtitle E § 303.3, to permit the renovation of a flat in the RF-1 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle E §§ 206.2 and 303.3, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR Subtitle Y § 101.9, the Board has determined to waive the requirement of 11 DCMR Subtitle Y § 604.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 66.**

BZA APPLICATION NO. 19387
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VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Michael G. Turnbull (by absentee ballot) to APPROVE; Anita Butani D'Souza not participating; one Board seat vacant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY: 
SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 28, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT

BZA APPLICATION NO. 19387

PAGE NO. 4

DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

