

DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C. 20001

Appeal of Berkley Smallwood

BZA Appeal No. 19708

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’  
PRE-HEARING STATEMENT**

The D.C. Department of Consumer and Regulatory Affairs (DCRA) respectfully requests that the Board of Zoning Adjustment (“Board”) deny this appeal for the following reasons:

Appellant alleges there was no basis for the Office of the Zoning Administrator’s (ZA) request to remove the third electrical meter and the third heating, ventilation, and air conditioning (HVAC) unit from his property<sup>1</sup> located at 3652 Park Place, N.W. (“Property”), prior to approving the building permit application No. B180942 (“Application”), which sought authorization for the following work at the Property: “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad.”<sup>2</sup> (Exhibit 1 - Application for B180942, dated Nov. 16, 2017.)

However, ZA correctly reviewed the Application and requested Appellant to remove the third electrical meter as well as the third HVAC unit from the Property, pursuant to the requirements of Section U-301.1(b) of the Zoning Regulations.<sup>3</sup>

**Factual and Procedural Background**

On or around May 2014, Appellant submitted an application to perform interior renovations to the Property. Based on architectural drawings, the Zoning Technician commented that “the proposed floor layout depicts a 3-unit apartment building instead of a 2-family flat. Submit corrections to reflect a 2-family flat or seek relief from BZA for a 3-unit apartment

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1 BZA Appeal 19708 Exhibit 14 – Supplemental Statement of Appeal from Christopher L. Grant.

2 Although Permit Application B180942 reads “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad,” Appellant’s Detailed Statement of Appeal and Document to be Appealed (Email from DCRA) reference a slightly different and fuller description of work for Permit Application B180942: “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad *at rear of property. No disturbance of the earth.*” (Compare BZA Appeal 19708 Exhibit 5- Permit Application with BZA Appeal 19708 Exhibit 2- Detailed Statement of Appeal and BZA Appeal 19708 Exhibit 3- Document to be Appealed; Email from DCRA) (emphasis added).

3 All references to a “Section” refer to the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations) unless otherwise specifically indicated.

building in R-4.” (Exhibit 2 - Zoning Technician comments from May 2014; Exhibit 3 – Mechanical and Plumbing Technician comments from May 2014; Exhibit 4 – Electrical Technician comments from May 2014.) On or around July 3, 2014, Appellant submitted revised plans, which reflected interior renovations to convert a single family dwelling to a flat in R-4. (Exhibit 5 - Zoning Technician comments from July 2014.) Appellant obtained Building Permit B1405599 to perform the following work at the Property: “3 floors, interior alterations an all levels including new kitchen and bathrooms, new lighting and mechanical. Building Exterior: new windows, new entry doors and siding at rear. (Exhibit 6 - Building Permit B1405599 issued on Jan. 6, 2015.)

On November 7, 2017, Appellant submitted an application to obtain a second building permit for “[a]lteration and repair of in-law suite. Ground level - 1 story interior alteration including new kitchen and bathroom.” (Exhibit 7 - Application for B1801531, dated Nov. 7, 2017.) Appellant cancelled this application and resubmitted a new application on November 16, 2017. Appellant’s November 16, 2017 application described the following work at the Property: “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad.” (Exhibit 1 - Application for B180942, dated Nov. 16, 2017.<sup>4</sup>)

The Property is located in a RF-1 Zone, where the number of units permitted, as a matter of right, is two (2), per Section U-301.1(b). Based on Appellant’s prior applications showing the installation of a kitchen in the lowest level and/or multiple electrical panels, which would effectively convert the Property into a 3-unit flat, the Zoning Administrator sought further clarification from Appellant regarding the November 16, 2017 Application.

On November 28, 2017, the Office of the Zoning Administrator requested Appellant to provide the following documents:

- i. An affidavit containing a disclosure statement to prospective buyers that:
  - a. The Property is limited to two units;
  - b. The lowest level of the Property cannot be used as a separate dwelling unit without obtaining prior approval from the Board;

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<sup>4</sup> Although Permit Application B180942 reads “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad,” Appellant’s Detailed Statement of Appeal and Document to be Appealed (Email from DCRA) reference a slightly different and fuller description of work for Permit Application B180942: “Interior alteration of ground level including two new bedrooms and bathroom. Pour concrete over existing concrete pad *at rear of property. No disturbance of the earth.*” (Compare BZA Appeal 19708 Exhibit 5- Permit Application with BZA Appeal 19708 Exhibit 2- Detailed Statement of Appeal and BZA Appeal 19708 Exhibit 3- Document to be Appealed: Email from DCRA) (emphasis added).

- c. The lowest level of the Property must maintain its internal connection to the floor immediately above; and
- d. The lowest level of the Property is prohibited from having the installation of a kitchen or utility connection for a kitchen;
- ii. A revised certificate of occupancy (COO) specifying the use of the Property as a two-unit flat with the first floor and lowest level of the Property serving as a one unit flat, with an internal connection between the first floor and the lowest level of the Property; and
- iii. Revised plans showing the removal of the third electrical meter as well as the third Heating, Ventilation, and Air Conditioning (HVAC) unit from the Property.<sup>5</sup>

The Appellant declined to provide the requested documents addressing all of the items listed above and filed this appeal<sup>6</sup> to the Board on January 8, 2018.<sup>7</sup>

### Argument

Appellant alleges that ZA had no basis to request removal of the third electrical meter and the third HVAC unit from his Property. However, ZA correctly requested Appellant to remove the third electrical meter as well as the third HVAC unit from the Property, pursuant to the Zoning Regulations.

The Property is located in a RF-1 Zone, where the number of units permitted, as a matter of right, is two (2), per Section U-301.1(b). The Zoning Administrator requested Appellant to provide additional documents prior to approving the November 16, 2017 Application because:

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<sup>5</sup> BZA Appeal 19708 Exhibit 3- Document to be Appealed: Email from DCRA

<sup>6</sup> BZA Appeal 19708 Exhibit 2 – Detailed Statement of Appeal.

<sup>7</sup> Though it is not part of this Appeal 19708, DCRA noted in “DCRA’s Partial Consent Motion to Incorporate the Zoning Administrator’s May 4, 2018 Final Decision to Reject Appellant’s November 16, 2017 Application, or in the Alternative, Motion to Dismiss Appeal” filed yesterday: “Given that the November 16, 2017 Application was still pending review, on February 14, 2018, the Office of the Zoning Administrator convened a meeting and offered Appellant the following two options to alleviate any concern that the Property would be converted into a 3-unit flat: 1) Appellant must record a covenant prohibiting the conversion of the lowest level of the Property into a separate dwelling unit; or 2) Appellant must apply and obtain a special exception from the Board to create a 3-unit flat in a RF-1 zone. Appellant declined both suggestions. Appellant’s attorney advised undersigned counsel on May 2, 2018 that Appellant was unwilling to sign the draft covenant provided by the Office of the Zoning Administrator. On May 4, 2018, the Zoning Administrator rejected the November 16, 2017 Application with the following comment: ‘The proposed changes to the basement level contain such elements so as to constitute a separate and third dwelling unit in the building, which would require BZA relief. Such relief has not been granted and the Office of Zoning Administrator cannot approve.’”

(1) Appellant’s prior application for a building permit in 2014 depicted a 3-unit flat; and (2) Appellant’s prior application B1801531 (submitted on Nov. 7, 2017) sought construction of an “in-law suite” with an installation of new kitchen and bathroom on the ground level<sup>8</sup>, which would effectively convert a ground level into a separate dwelling unit, as defined in Section B-100.1. The Zoning Administrator requested the following documents: an affidavit containing a disclosure statement to prospective buyers; a revised certificate of occupancy (COO); and revised plans showing the removal of the third electrical meter as well as the third HVAC unit from the Property. Appellant asserts that the first two requirements – an affidavit and a revised COO – were consistent with the regulations that govern the Residential Flat Zone and are not in dispute in this proceeding<sup>9</sup>. However, Appellant declined to remove the third electrical meter and the third HVAC unit and filed this appeal while the Application was still pending review by the ZA. Importantly, the Appellant failed to include the plans associated with the November 16, 2017 Application with his appeal and Appellant’s submission deadline has expired.<sup>10</sup> Without the plans for the November 16, 2017 Application, the record is incomplete and Appellant is unable to meet his burden justifying the granting of this appeal, per Section X-1101.2.<sup>11</sup>

Appellant alleges that the requirement to remove the third electrical meter and the third HVAC unit “is not justified by the applicable regulations.”<sup>12</sup> Appellant alleges that “the lower level of the building does not comprise a dwelling unit, and no work contemplated... would make it a dwelling unit.”<sup>13</sup> Further, Appellant stated to the Board that he committed himself “that no kitchen or kitchen facilities will be installed.”<sup>14</sup> However, this representation is contradicted by evidence considered by the Zoning Administrator in reviewing the November 16, 2017 Application. First, the Appellant’s prior application for a building permit in 2014 showed a 3-unit flat and, second, the Appellant’s prior application B1801531, submitted on November 7, 2017 but subsequently withdrawn, sought construction of “in-law suite” with an installation of new kitchen and bathroom on the ground level. These documents strongly

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<sup>8</sup> See also Exhibit 1 and Exhibit 7; these exhibits suggest that ground level, lowest level and basement level are used interchangeably.

<sup>9</sup> BZA Appeal 19708 Exhibit 14- Supplemental Statement of Appeal from Christopher Grant.

<sup>10</sup> 11 DCMR § Y-302.16

<sup>11</sup> DCRA does not have the November 16, 2017 Application plans because Appellant did a “walk-through” and retained the plans, instead of uploading the plans online.

<sup>12</sup> BZA Appeal 19708 Exhibit 14 – Supplemental Statement of Appeal from Christopher L. Grant.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

suggested that Appellant intended to convert the Property into a three-unit flat in violation of Section U-301.1(b), absent a special exception from the Board.

Further, ZA received a number of complaints from both the affected ANC Commissioner Kent Boese (Commissioner for the Single-Member District covering the Property), ANC 1A08, and the neighbors of Applicant. (Exhibit 8 – Email from ANC Commissioner Boese dated November 8, 2017; Exhibit 9 - Email from Cliff Valenti dated November 19, 2017.) These submitted concerns also were available to ZA in the course of reviewing the Application.

For the foregoing reasons, the Zoning Administrator correctly requested Appellant to remove the third electrical meter as well as the third HVAC unit from the Property, pursuant to the Zoning Regulations.

Following the filing of this appeal, ZA continued to review the Application; however, Appellant’s meeting with ZA, records created in the course of ZA’s review process, and ZA’s final decision to reject the Appellant’s Application on May 4, 2018 are not included in this appeal. As of the day of this submission, the Board has not yet issued a decision on the following motions: (1) DCRA’s Partial Consent Motion to Incorporate Into This Appeal the Zoning Administrator’s May 4, 2018 Final Decision to Reject Appellant’s November 16, 2017 Application; or, in the alternative, (2) DCRA’s Partial Consent Motion to Dismiss BZA Appeal 19708.

For these reasons, ZA correctly requested Appellant to remove the third electrical meter as well as the third HVAC unit from the Property.

### **Conclusion**

For the foregoing reasons, DCRA respectfully requests that the Board affirm that: (1) the ZA correctly requested Appellant to remove the third electrical meter as well as the third HVAC unit from the Property pursuant to the Zoning Regulations; and (2) Appellant failed to meet his burden justifying the granting of this appeal; and therefore deny this appeal.

Respectfully submitted,  
ESTHER YONG MCGRAW  
Interim General Counsel  
Department of Consumer and Regulatory Affairs

Date: 5/23/2018

/s/ Adrienne Lord-Sorensen  
ADRIANNE LORD-SORENSEN (DC Bar # 493865)  
Assistant General Counsel  
Department of Consumer and Regulatory Affairs  
Office of the General Counsel  
1100 4th Street, S.W., 5th Floor  
Washington, D.C. 20024  
(202) 442-8401 (office)  
(202) 442-9447 (fax)

**CERTIFICATE OF SERVICE**

I certify that on this 23<sup>rd</sup> day of May 2018 a copy of the foregoing “DCRA’s Pre-Hearing Statement,” was served via electronic mail to:

Christopher L. Grant  
1250 Connecticut Avenue, N.W., Ste. 200  
Washington, D.C. 20036  
[lawgrant@mindspring.com](mailto:lawgrant@mindspring.com)  
*Counsel for Appellant*

Kent C. Boese, Chair  
Advisory Neighborhood Commission 1A  
and  
Single Member Advisory Neighborhood  
Commissioner, ANC 1A08  
608 Rock Creek Church Road, N.W.  
Washington, D.C. 20010  
[1A08@anc.dc.gov](mailto:1A08@anc.dc.gov)

/s/ Adrienne Lord-Sorensen  
Adrienne Lord-Sorensen

# **EXHIBIT 1**

Exhibit "A"



**Department of Consumer and Regulatory Affairs**  
 Permit Operations Division  
 1100 4th Street SW  
 Washington DC 20024  
 Tel. (202) 442 - 4589 Fax (202) 442 - 4862



Received: Plans Application  
 Date: 11/16/2017

Engineering Sara Estrada  
 Address of Project:  
**3652 PARK PL NW**

Applicant/Agent: Berkley Smallwood  
 Job **WT**

Phone

Job No:  
**B1801942**

Existing Use: Two-Family Flat - R-3  
 Proposed Use: Two-Family Flat - R-3

Existing No. of Stories: 3  
 Prop no of Stories: 3

Permit Type: Alteration and Repair  
 Description of Work:

SSL: 3034 0202

Interior alteration of ground level including two new bedrooms and bathroom.

*Pour concrete over existing concrete pad*

Required Reviews: (Checked boxes only)	Reviewer:	Completion Time:	Review Status		
<input type="checkbox"/> Fine Arts:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Historic:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Public Space/DDOT:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> Zoning:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Soil Erosion/Stormwater: DOEE:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Soil Boring/UST: DOEE:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> DC Water:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> Mechanical:	<i>Chung</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> Plumbing:	<i>Chung</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Health/DOH:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> Electrical:	<i>J</i>	<input type="checkbox"/> AM <input type="checkbox"/> PM	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Elevator:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Energy Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> DC Fire Dept. / Fire Prevention:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Fire Protection:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input checked="" type="checkbox"/> Structural:	<i>11/16/17 MK</i>	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Green Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Chinatown Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant

<u>New/ Addl Cost</u> \$0.00	<u>Alt/Rpr Cost</u> \$5,000.00 <i>16<sup>th</sup></i>	<u>Total Cost</u> \$5,000.00 <i>16<sup>th</sup></i>	<u>Volume of New Bldg, or Addl Cubic ft.</u> 3039
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<u>Alter/Repair FEE</u> 3500.00	<u>New Const. FEE</u> -	<u>Filing FEE</u> -	<u>Enhancement FEE</u> 3705	<u>Green FEE:</u> 20.80	Board of Zoning Adjustment District of Columbia CASE NO. 19708
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# **EXHIBIT 2**

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



**PLAN CORRECTION LIST**

<i>Job #</i>	<i>Address</i>	<i>Review Engineer</i>	<i>Date</i>
<b>B1405599 E</b>	<b>3652 Park Pl NW</b>	<b>Mamadou Ndaw: mamadou.ndaw@dc.gov</b>	<b>5-24-14</b>

**CHANGES REQUIRED PRIOR TO APPROVAL**

<b>No.</b>	<b>Comments</b>
------------	-----------------

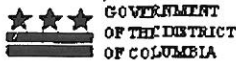
For Zoning Approval:

1. The proposed floor layout depict a 3-unit apartment building instead of a 2-family flat. Submit corrections to reflect a 2-family flat or seek relief from BZA for a 3-unit apartment building in R-4.
2. Additional comments may follow.

Return Application and specifications to File Room

# **EXHIBIT 3**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**  
**ELECTRICAL SECTION**



**PLAN CORRECTION LIST**

<i>Job #</i>	<i>Address</i>	<i>Review Engineer</i>	<i>Date</i>
B1405599	3652 Park PL NW	Michel, MBA (202) 442 - 4633	05/1/14

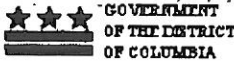
**CHANGES REQUIRED PRIOR TO APPROVAL**

<b>No.</b>	<b>Comments</b>
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- 1- Submitted drawings are for 3 unit apartments and electrical riser diagram is for the flat.
- 2- Provide appropriate drawing for the flat for review.
- 3- Provide arc-fault protection for bedroom outlets to comply with IRC E3802.12 or NEC 210.12

# **EXHIBIT 4**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**  
**BUILDING AND LAND REGULATION ADMINISTRATION**  
**MECHANICAL & PLUMBING SECTION**



**PLAN CORRECTION LIST**

<i>Job #</i>	<i>Address</i>	<i>Review Engineer</i>	<i>Date</i>
B1405599E	3652 Park Place NW	Godwin Ukwuani (202) 442 - 4686	5-16-2014

**CHANGES REQUIRED PRIOR TO APPROVAL**

<b>No.</b>	<b>Comments</b>
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1. Was this application intended for a two or three units (multifamily) dwelling? Please clear zoning review.
2. Please provide complete mechanical plan showing ducting layout for supply and return air, with specifications per 2008 DCMR 12 section 106.1.9; 2006 IMC 403.1; 918.3.
3. Outdoor or return air shall not be taken from the bathroom. Show that the ground floor AHU-1 installation complies with this code 2006 IMC 918.6
4. Provide exhaust plan for range, bathrooms, and clothes dryers per IMC 502.18; 504; and 505
5. Provide complete water supply plan with riser diagrams DCMR 12 section 106.1.10
6. Provide water heaters with expansion tank (2006 IMC 1009)
7. Provide approval by DCWASA.

**PLEASE RESPOND IN WRITING TO ALL ITEMS: PROVIDE NARRATIVE OF CORRECTION TO PLAN.**

# **EXHIBIT 5**

**Building Permit ID: B1405599**

Cancel      Help

 **Workflow Tasks**

- [Plan Review Coordinator](#)
- [Elevator Review](#)
- [DDOE Review](#)
- [DDOT Review](#)
- [WASA Review](#)
- [DOH Review](#)
- [HPRB Review](#)
- [BZA Review](#)
- [EISF Review](#)
- [CFA Review](#)
- [White House Review](#)
- [Chinatown Review](#)
- [NCPC Review](#)
- [Zoning Overlay/PUD Review](#)
- [WMATA Review](#)
- [Fire Hydrant Verification](#)
- [Green Review](#)
- [PRC Review](#)
- [DDOE SE-SW Review](#)
- [DDOE FP Review](#)
- [DDOE AQ Review](#)
- [DDOE EV Review](#)
- [DDOE WSP Review](#)
- [Mechanical Review](#)
- [Electrical Review](#)
- [Fire Review](#)
- [Structural Review](#)
- [Management Review](#)
- [File Room](#)
- [Plumbing Review](#)
- [Zoning Review](#)
  - [Zoning Review Approved](#)
  - [Zoning Review - HFC](#)

**Task Details Zoning Review**

<b>Current Status</b>	<b>Status Date</b>
Zoning Review Approved	07/03/2014
<b>Action by Department</b>	<b>Action By</b>
ZONING REVIEW	Mamadou Ndaw

**Comments**  
 APP FOR INTERIOR RENOVATIONS TO CONVERT SFD TO FLAT IN R-4. AT LEAST ONE PARKING SPACE PROVIDED IN REAR.

<b>Start Time:</b>	<b>End Time:</b>	<b>Hours Spent:</b>
		0.0



# **EXHIBIT 6**



Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589 Fax (202) 442 - 4862



B

BUILDING PERMIT

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL WORK IS COMPLETED AND APPROVED

Issue Date: 01/06/2015

PERMIT NO. B1405599

Expiration Date: 01/06/2016

Address of Project: 3652 PARK PL NW	Zone: R-4	Ward: 1	Square: 3034	Suffix:	Lot: 0202
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Description Of Work:  
3 floors, interior alterations at all levels including new kitchen and bathrooms, new lighting and mechanical. Building Exterior: new windows, new entry doors and siding at rear.

Permission Is Hereby Granted To: Berkley Smallwood	Owner Address: 2670 CRAIN HIGHWAY, SUITE 302 20601	PERMIT FEE: \$501.60
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Permit Type: Alteration and Repair	Existing Use: Single Family	Proposed Use: Flat (Two Family)	Plans:
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Agent Name: Jerry Jochum	Agent Address: 21750	Existing Dwell Units: 1	Proposed Dwell Units: 2	No. of Stories: 2	Floor(s) Involved: All
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Conditions/ Restrictions:

This Permit Expires if no Construction is Started Within 1 Year or if the Inspection is Over 1 Year.  
 All Construction Done According To The Current Building Codes And Zoning Regulations;  
 As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit.

Lead Paint Abatement  
 Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the 'Lead Hazard Prevention and Elimination Act of 2008' and the EPA 'Lead Renovation, Repair and Painting rule' regarding lead-based include adherence to lead-safe work practices. For more information, go to <http://ddoe.dc.gov>, Lead and Healthy Housing.

Director: Rabbiah A. Sabbakhan	Permit Clerk: Patrice Derricott
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TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639  
 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557  
 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.

# **EXHIBIT 7**



**Department of Consumer and Regulatory Affairs**

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589

Fax (202) 442 - 4862



Received:

Plans Application

Date: 11/7/2017

Engineering

Andrew Wiley

Applicant/Agent: Berkley Smallwood

Phone 2024155550

Job **WT**

Job No:

Address of Project:

**3652 PARK PL NW**

**B1801531**

Existing Use: Two-Family Flat - R-3

Existing No. of Stories: 2

Proposed Use: Two-Family Flat - R-3

Prop no of Stories: 2

Permit Type: Alteration and Repair  
Description of Work:

SSL: 3034 0202

Alteration and repair of in-law suite. Ground level - 1 story interior alteration including new kitchen and bathroom.

Required Reviews: (Checked boxes only)	Reviewer:	Completion Time:	Review Status:		
<input type="checkbox"/> Fine Arts:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Historic:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Public Space/DDOT:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Zoning:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Soil Erosion/Stormwater DOEE:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Soil Boring/UST DOEE:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> DC Water:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Mechanical:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Plumbing:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Health/DOH:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Electrical:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Elevator:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Energy Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> DC Fire Dept. / Fire Prevention:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Fire Protection:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Structural:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Green Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant
<input type="checkbox"/> Chinatown Review:		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Approved	<input type="checkbox"/> HFC	<input type="checkbox"/> Conf. w/Applicant

<u>New/ Addl Cost</u> <b>\$0.00</b>	<u>Alt/Rpr Cost</u> <b>\$25,000.00</b>	<u>Total Cost</u> <b>\$25,000.00</b>	<u>Volume of New Bldg, or Addl Cubic ft.</u> <b>3039</b>
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<u>Alter/Repair FEE</u>	<u>New Const. FEE</u>	<u>Filing FEE</u>	<u>Enhancement FEE</u>	<u>Green FEE:</u>	<u>Total Permit FEE</u>
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# **EXHIBIT 8**

4<sup>th</sup> Floor  
Washington, DC 20024  
Phone: (202) 759-1965  
Mobile: (202) 369-0124  
[craigton.spence@dc.gov](mailto:craigton.spence@dc.gov)  
<image001.png>

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**From:** Boese, Kent C. (ANC 1A08)  
**Sent:** Wednesday, November 08, 2017 4:59 PM  
**To:** Hillegass, John (Council); Spence, Craigton (DCRA); Bolling, Melinda (DCRA)  
**Cc:** James Carstensen; Whitescarver, Clarence (DCRA); [cliffvalenti@outlook.com](mailto:cliffvalenti@outlook.com)  
**Subject:** Re: Illegal construction 3652 Park Place NW

Good afternoon Mr. Spence and Director Bolling,

I have not received an answer to my question from earlier today. Is it possible to share what the inspection found and whether or not a third unit was being constructed outside the BZA/ANC approval process?

This is an extremely important matter to me as this is not the only property in the neighborhood where a third unit has been attempted/created without going through the legal process to do so. I would rather get in front of this than place the community in a position where we may have to displace a resident from a living unit due to a developer's bad/illegal behavior.

Thank you for your assistance on this.

Kent

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Kent C. Boese | Chair, Advisory Neighborhood Commission 1A |  
Single Member District (SMD) 1A08  
608 Rock Creek Church Road, NW | Washington, DC 20010  
202-525-7682 | [1a08@anc.dc.gov](mailto:1a08@anc.dc.gov) | Twitter: @KentBoeseDC

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**From:** Hillegass, John (Council) <[JHillegass@DCCOUNCIL.US](mailto:JHillegass@DCCOUNCIL.US)>  
**Sent:** Wednesday, November 8, 2017 4:44 PM  
**To:** Spence, Craigton (DCRA)  
**Cc:** Boese, Kent C. (ANC 1A08); James Carstensen; Whitescarver, Clarence (DCRA); [cliffvalenti@outlook.com](mailto:cliffvalenti@outlook.com)  
**Subject:** Re: Illegal construction 3652 Park Place NW

# **EXHIBIT 9**

owner could legally install an "extra" meter for the common areas. It may be the same answer for A/C units. I am not sure, but will confer with DCRA's Chief Building Official on this issue and report back.

4. 11/15/17 BZA application – Comment: This contradicts Mr. Spence's email stating that B1801531 was filed with the BZA on 11/6. Mr. Spence erred stating that the property owner had filed an application for relief with BZA on 11/6.
5. 10/30/17 Illegal construction calls – Comment and Question: Spoke to a female who answered the phone on 10/27 and again on 10/30. Has DCRA identified this person and found out why these calls are ignored or where the point of failure is? No. I will work with DCRA's Customer Service manager to see if we can identify which DCRA female staff answered the telephone on 10/27. However, from my review of the record there is an illegal construction inspection scheduled on 10/31. I can't discern if it emanated from an email or a call, but I will have DCRA's Customer Service manager research this matter.

Separately, the Office of Zoning Administrator will provide answers to any questions that fall under its purview. I realize that I did not answer all of the pending questions today, but I wanted to provide some level of response. When applicable staff have recuperated and returned to duty, the remainder of the questions will be answered.

Regards,  
Melinda Bolling  
Director

---

**From:** Cliff Valenti [<mailto:cliffvalenti@outlook.com>]

**Sent:** Wednesday, November 29, 2017 2:11 PM

**To:** 'Bolling, Melinda (DCRA)'; '(Council) Brianne Nadeau'; Mendelson, Phil (COUNCIL); Boese, Kent C. (ANC 1A08)

**Cc:** Thomas, Charles (DCRA); Spence, Craigton (DCRA); Hillegass, John (Council); Whitescarver, Clarence (DCRA); Tondro, Maximilian (DCRA); Beeton, Kathleen A. (DCRA); LeGrant, Matt (DCRA); Bailey, Christopher (DCRA); Underwood, Lynn (DCRA); Wiley, Andrew (DCRA); James Carstensen

**Subject:** RE: Illegal construction 3652 Park Place NW

Director Bolling and Councilman Mendelson –

I am still waiting for answers to these questions. Can someone respond?

Thank you,  
Cliff Valenti

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**From:** Cliff Valenti

**Sent:** Sunday, November 19, 2017 10:43 PM

**To:** 'Bolling, Melinda (DCRA)' <[melinda.bolling@dc.gov](mailto:melinda.bolling@dc.gov)>; '(Council) Brianne Nadeau' <[bnadeau@dccouncil.us](mailto:bnadeau@dccouncil.us)>; 'pmendelson@dccouncil.us' <[pmendelson@dccouncil.us](mailto:pmendelson@dccouncil.us)>; Boese, Kent C. (ANC 1A08) <[1A08@anc.dc.gov](mailto:1A08@anc.dc.gov)>

**Cc:** Thomas, Charles (DCRA) <[charles.thomas@dc.gov](mailto:charles.thomas@dc.gov)>; Spence, Craigton (DCRA) <[craigton.spence@dc.gov](mailto:craigton.spence@dc.gov)>; Hillegass, John (Council) <[JHillegass@DCCOUNCIL.US](mailto:JHillegass@DCCOUNCIL.US)>; Whitescarver, Clarence (DCRA) <[clareance.whitescarver@dc.gov](mailto:clareance.whitescarver@dc.gov)>; Tondro, Maximilian (DCRA) <[maximilian.tondro@dc.gov](mailto:maximilian.tondro@dc.gov)>; Beeton, Kathleen A. (DCRA) <[kathleen.beeton@dc.gov](mailto:kathleen.beeton@dc.gov)>; LeGrant, Matt (DCRA) <[matthew.legrant@dc.gov](mailto:matthew.legrant@dc.gov)>; Bailey, Christopher (DCRA)



<[christopher.bailey@dc.gov](mailto:christopher.bailey@dc.gov)>; Underwood, Lynn (DCRA) <[lynn.underwood@dc.gov](mailto:lynn.underwood@dc.gov)>; Wiley, Andrew (DCRA) <[andrew.wiley@dc.gov](mailto:andrew.wiley@dc.gov)>; James Carstensen <[jamescarstensen@yahoo.com](mailto:jamescarstensen@yahoo.com)>

**Subject:** RE: Illegal construction 3652 Park Place NW

All –

I've summarized email history regarding the illegal conversion to a 3 unit building at 3652 Park Place NW in the table below. Please see the outstanding questions and concerns, I am particularly interested in learning more about the items listed in red. I've included councilman Mendelson, who is responsible for oversight of DCRA.

Date	Event	Source	Notes
7/30/2017	Permit for construction at 3652 Park Place NW expires.	John Hillegass (Council)	Permit was to convert 1 unit to 2 units.
8/1/2017	DCRA starts to receive complaints that 3652 Park Place NW is going to be illegally converted to a 3 unit building.	Multiple Residents	DCRA does not use the 311 system, so they have no accountability.
10/30/2017	Frustrated resident emails DCRA to complain that his calls about illegal conversion to a 3 unit building from September (multiple), and October 27 are being ignored. Also emails DCRA again.	Cliff Valenti	Spoke to a female who answered the phone on 10/27 and again on 10/30. <b>Has DCRA identified this person and found out why these calls are ignored or where the point of failure is?</b>
10/31/2017	Another frustrated resident emails DCRA to complain that his calls, spanning about 3 months, about illegal construction at 3652 Park Place NW are being ignored.	James Carstensen	Spoke to female who answered the phone.
10/31/2017	Commissioner Boise confirms RF-1 does not permit more than 2 living units without a special exception.	Kent Boise (ANC)	
11/1/2017	Building permit B1800463 suddenly issued as a post card permit.	DCRA Director Melinda Bolling	What is this post card permit for? Deputy Chief Whitecarver was asked to answer this question, but did not. Director Bolling stated that the permit was to replace a fence, but as of 11/19 there is no new fence, so that's a bit odd.

11/1/2017	Inspector Whitecarver says that there is no addition being added to the back of the house, and that the property is in compliance with all permits.	Garret Whitecarver (DCRA)	No one ever reported that an addition was being added to the back of the house. <b>Where did DCRA get that information and has that employee been coached?</b>
11/2/2017	White paper goes up on all the basement windows, an obvious attempt by the property owner to hide what they are doing in the basement.	James Carstensen	Intentional or not, DCRA's actions tipped the owner off and they are now taking steps to protect themselves. <b>What steps will DCRA take to prevent this type of tip-off in the future?</b>
11/3/2017	Despite being told a re-inspection would occur on 11/2, DCRA does not make it out until 11/6 - and only after several reminder emails are sent by residents	Cliff Valenti	Why did residents have to keep reminding DCRA? Why didn't they go out the next day as Mr. Spense said they would?
11/6/2017	Property owner files B1801531 for "alteration and repair of in-law suite. Ground – 1 story interior alteration including new kitchen and bathroom."	Craigton Spence (DCRA)	Property already has 3 meters and 3 AC units. <b>Was this covered under their July permit, and if so - should DCRA have passed the inspection?</b>
11/6/2017	Inspector cannot gain entry	Garret Whitecarver (DCRA)	Several attempts to inspect fail. Residents even email DCRA when the construction crew is there, but DCRA always arrives after crews leave.
11/7/2017	Orange sticker / stop work order goes up.	Craigton Spence (DCRA)	Residents report there is no orange stop work order posted on the door multiple times between Nov. 9th and 14th.
11/8/2017	DCRA observes the following evidence of residential complaints: 1. There are three electric meters at the property 2. There are three AC units at the property 3. The approved C of O is only for two units.	Craigton Spence (DCRA)	
11/14/2017	Orange sticker / stop work order goes up.	Cliff Valenti	<b>Was it legal for property owner to remove the orange sticker that Mr. Spense said went up on November 9th?</b>

11/15/2017	<p>Looped in zoning administrator to answer questions posed by James Carstensen:          How can a building that was divided into 2 units also have an inlaw suite added when the original permit scope has been completed?          Will zoning be more likely to deny the special exception because the developer tried to sneak this in or will they just turn their nose to it?</p>	DCRA Director Melinda Bolling	Questions outstanding
11/15/2017	Director Bolling confirmed there are NOT approved plans for 3652 Park Place, NW to convert into a three unit building.	DCRA Director Melinda Bolling	Why did Craigton Spence (DCRA) report that the property was set up with approved plans for a future conversion? Does he need more training, was this an honest mistake, or is he trying to cover for the investors?
11/15/2017	Stop work order lifted. DCRA inspected property, basement was unfinished with no sign of additional work from approved plans.	Craigton Spence (DCRA)	Did Mr. Spence take pictures? Can he provide a better description of what he saw? Prior to paper going over the windows residents saw framing for walls being built and drywall - is this allowed and did Mr. Spence see this also? Why would the stop work order be removed when DCRA has already acknowledged the electric meters, AC units are for a 3 unit building (which was the evidence cited for why the stop work order went up in the first place)?
11/15/2017	Confirmed with the BZA that there is no pending application for BZA relief to allow a 3rd unit at 3652 Park Place, NW.	Max Tondro (DCRA)	This contradicts Mr. Spences email stating that B1801531 was filed with the BZA on 11/6.

Regards,  
Cliff Valenti

DCRA actively uses feedback to improve our delivery and services. Please take a minute to [share your feedback](#) on how we performed in our last engagement. Also, [subscribe](#) to receive DCRA news and updates.

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