GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION



RECEIVED
D.C. BOARD OF ZONING ADJUSTMENT
2000 JUN 16 PM 4:21

June 18, 1999

William C. Lipnick
1825 K Street, N.W., Suite 205
Washington, D.C. 20006

Re: 2708 44th Street, N.W.
Lot 35 in Square 1340

Dear Mr. Lipnick:

This letter is to notify you of a Zoning non-conformity resulting from the work recently performed at your property in reference. The renovation/addition project in question was performed under two building permits. The non-conformance resulted from the expansion of the scope of work, done under the revision Building Permit number B418044, issued 8/26/98. As a result, you will need to obtain relief from the Board of Zoning Adjustment for two items, one that requires a variance and one that will need a special exception.

The subject property has an underlying zoning classification of R-1-B, and is located within the Wesley Heights overlay district. Two sections of the Zoning Regulations, in particular, address the relevant issues of non-conformity relative to your property in reference.

Pursuant to DCMR Title 11, Section 400.1 the R-1-B zone limits improvements to a maximum of three (3) stories and forty feet (40 ft.) of height, measured from finished grade at the middle of the front wall, to the ceiling of the top story.

On the other hand, the Wesley Heights Overlay District, pursuant to Section 1543.3, limits the gross floor area of all structures on the lot to two thousand square feet (2,000 sq. ft.) plus forty percent (40%) of the area of the lot. Subsections (a) and (b) exclude from this calculation the first two hundred square feet (200 sq. ft.) of total open porch, if

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District of Columbia
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there is more than one, the first six hundred square feet (600 sq. ft.) of a garage, whether, accessory or otherwise, but include basements or cellars when they have floor to ceiling height of at least six feet six inches (6 ft. 6 inches), up to a maximum of five (5) times the total fenestration area of the cellar or basement level.

This office erred in approving and issuing the revised permit to render the attic space occupiable by the addition of dormers and of a finished floor level. While this error on our part was inadvertent, nevertheless a few inconsistencies in your permit application and revised plans contributed to the error.

The original building permit which allowed construction of a new single family structure at the subject premises, permitted a three-story structure. The attic was an unfinished space, entirely devoted to housing the roof trusses. Your subsequent building permit application to revise the original permit by adding dormers and creating occupiable space in the attic level, inaccurately describes the proposed construction as a three-story structure, when in fact your proposal was changing approved construction from a three-story building to a four-story structure, thereby introducing a non-conformity in the number of stories, pursuant to Section 400.1, DCMR Title 11.

Furthermore, the revision changes another relevant feature, the "ceiling of top story" which is one of the reference points used to measure a height regulated by the overlay district provisions. The revision changes the previously approved height, because what use to be the truss-occupied, non-occupiable attic space now becomes the new "top story." This, inherently changes your height measurement and brings your structure into non-conformance with the applicable height restriction, as prescribed under Section 400.1 of the Zoning Regulations, DCMR Title 11.

Re-examination of the submitted plans, with regard to the revision to finish the attic space and to add the dormers, underscores the inconsistency of the submitted plans. Your plans did not include complete elevations which would have enabled the zoning technician to make the appropriate determination as to number of stories and height to topmost ceiling.

The recorded size of the subject lot is 10,883.76 square feet. Therefore, pursuant to Section 1543.3 of the Wesley Heights Overlay District, the maximum gross floor area permissible is as calculated below:

(10,883.76 sq. ft. x .40) + 2,000 sq. ft. = 6,353.2 sq. ft.

Computation sheet records reflect an original gross floor area of 5,743.76 square feet, as approved under permit number B412686, issued 12/18/97. The revision to the attic

space, in accordance with your revised plans, increased the approved gross floor area by 962 square feet, thereby exceeding the maximum allowable gross floor area by 352.56 square feet.

5,743.76 sq. ft. + 962 sq. ft. = 6,705.76 sq. ft.

6,705.76 sq. ft. - 6,353.2 sq. ft. = 352.56 sq. ft.

The stated issues of non-conformance are rebuttable, if you believe them to be inaccurate or inconsistent with the submitted application and plans. Please, be advised that you have fifteen days from the date of this letter to offer a rebuttal or file an appeal of my determination with the Board of Zoning Adjustment (BZA).
Rebuttal may be in the form of a letter addressed to:

Armando Lourenco
Administrator, Building and Land Regulation Administration
941 North Capitol Street, NE, Suite 2000
Washington, DC 20002,

with copy addressed to:

Karen Edwards, Esq.
Office of Compliance
941 North Capitol Street, NE, Suite 9600
Washington, DC 20002.

Appeal to the Board of Zoning Adjustment may be filed at the following address:

Office of Zoning
441 4th Street, NW, Suite 210
Washington, DC 20001.

Otherwise, you may choose to file an appeal to the BZA seeking relief from the two non-confirming items of your project. The height and number of stories requires a special exception. The gross floor area requires a variance. Such an appeal to BZA can be filed directly, provided you complete a certification form, a copy of which is attached for your convenience. You may use this letter to document to BZA the kind of relief you are seeking or you may choose to draft your own explanation of the relief sought.

Failure on your part to either rebut the determinations made in this letter, or to appeal them to BZA, or to appeal to BZA to seek relief from the relevant provisions of the regulations, as explained in this letter, will cause this Administration to refer your case

to the appropriate office for further enforcement which may include civil penalties, appropriate legal action, or both. You may contact me or Mr. Denzil Noble, Interim Deputy Administrator, BLRA, at 202-442-4455, should you need further clarification.

Sincerely,

/SIGNED/

Armando M. Lourenco
Acting Zoning Administrator

cc Lloyd J. Jordan, Director, DCRA
Denzil Noble, Interim Deputy Administrator
Michael Holt, AIA

bcc Councilmember Kathy Patterson