

**Berkley Smallwood
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December 7, 2017

**VIA CERTIFIED MAIL #
7016 3560 0000 8982 6889**

Office of Zoning
Attn: Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001-2714,

Subject: 3652 Park Place, N.W.
Decision of Zoning Administrator, November 28, 2017

Office of Administrative Hearings:

Mr. Berkley Smallwood requests a hearing of a dispute between him and the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, District of Columbia. The Office of the Zoning Administrator on November 28, 2017 denied approval to allow further processing of building permit B1801942 for the property which he owns at 3652 Park Place, N.W. A copy of the building permit application is attached hereto as Exhibit A. The permit provides for his “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.” The decision of the Zoning Administrator was set forth in an email message that is attached hereto as Exhibit B. The decision required that Mr. Smallwood amend an affidavit that he had submitted (a copy of which is attached as Exhibit C), and stated as follows:

“In order to move forward, he is asking for you to amend the affidavit to include the following:

1. *A disclosure statement to perspective buyers that the authorized use of the property is a flat (two units) and the lowest level cannot be used as a separate dwelling unit with approval from the Board of Zoning Adjustment (BZA). Additionally, the lowest level must maintain its internal connection to the floor above and is considered a floor on that unit and there can be no installation of a kitchen or utility (electric, gas, etc.) connection for a kitchen.*

“Also, the Zoning Administrator requests that you obtain a revised certificate of occupancy (COO) with language to specify the use of the building as a flat with the first floor and lowest level serving as one unit, with an internal connection between those floors. The COO must also state that no kitchen or utility connection for a kitchen can be installed in the lowest level.

“Lastly, the Zoning Administrator is asking for the removal of the third electric meter and HVAC. Following the removal, please provide a confirmation from Pepco that those items have been removed.

“The Zoning Administrator will reconsider granting approval once the above requests have been satisfied.”

The Property. The property was formerly a single family residential home. Mr. Smallwood obtained permits to convert the home from single-family into a 2-unit flat. Building permit and Certificate of Occupancy attached. Unit 2 on the top floor has been leased and Unit 1 is still on the market. On November 6, 2017 a stop work order was posted on the property. Mr. Smallwood filed an appeal on November 7th. The District of Columbia was adamant about letting their officials in to inspect the basement because they had received numerous complaints that we were constructing an illegal third unit. On November 14th, Ms. Amanda Smallwood met with Mr. Craigton Spence; Supervisor of the Illegal Construction Unit; at 3652 Park Place. He inspected the basement and reviewed the approved drawings. He noted no violations and advised the matter would be cleared up in 24 hours.

That same week, Ms. Smallwood went to DCRA to obtain permits to construct a mother-in-law suite in the basement, or as the District Government calls it an “Accessory dwelling unit”. Everyone approved the drawings until Ms. Smallwood got to the Zoning Inspector, who advised that the neighborhood had been “down-zoned” within the past few years and accessory

dwelling units were no longer permitted in the RF-1 zone. DCRA provided to her a copy of the code that stated that an accessory dwelling unit was not allowed.

Mr. Spence advised on November 15th that the Stop Work Order had cleared the system. On November 16, 2017, Mr. Smallwood applied for a Building Permit to construct two additional bedrooms and a bathroom in the basement to enlarge Unit 1. Once again, all departments approved the drawings. When Ms. Smallwood got to Zoning, she was informed that an administrative hold had been placed on the property. She was advised that Mr. LeGrant in Zoning needed to meet with Inspector Spence and review his pictures before any permits would be issued. The email correspondence that ensued is attached hereto as Exhibit D.

Mr. Smallwood wishes to finish the basement. He wishes not to remove the third electrical panel and the third HVAC unit, as these items are necessary to comfortably heat and air condition the basement area which cannot adequately be heated and air-conditioned by means of the equipment on the floor above. The third electrical panel and third HVAC unit were already approved under the attached Building Permit and Certificate of Occupancy, Exhibits D & E. The property has now been inspected four times: twice by Zoning, once by the Inspector who issued the Certificate of Occupancy and a fourth time by the Illegal Construction Unit. No violations or fines were ever issued.

It makes no sense to remove the HVAC unit that services the basement, which has no other heat or air-conditioning! At the time of the issuance of the Stop Work Order, Ms. Smallwood spoke to Mr. Garret Whitescarver, Deputy Chief Building Inspector. He advised that when the Stop Work Order was posted, there was no evidence of illegal construction and he was not citing us, but they had reports from a neighbor that we were constructing an illegal third unit

because the neighbor saw the third hvac unit and third electrical panel. Mr. Whitescarver told Ms. Smallwood that neither the third panel nor the third HVAC unit were illegal.

Mr. Smallwood's affidavit affirms that the improvements which are the subject of the building permit conform to the requirements of the law. Mr. Smallwood requests that the Office of Administrative Hearings order that Building Permit 81801942 be issued and that the Stop Work Order be lifted in order that construction may proceed.

Respectfully submitted this 7th day of December 2017.

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