

FW: LeGrant determination on 3rd PDU's in a new accessory building

Martin Sullivan <msullivan@sullivanbarros.com>

Wed 6/23/2021 1:13 PM

To: LUG <LUG@sullivanbarros.com>

From: Elliott, Brandice (OP) <brandice.elliott@dc.gov>
Sent: Wednesday, October 16, 2019 1:34 PM
To: Martin Sullivan <msullivan@sullivanbarros.com>
Subject: RE: LeGrant determination on 3rd PDU's in a new accessory building

Thanks Marty –

This helps a lot!

From: Martin Sullivan <msullivan@sullivanbarros.com>
Sent: Wednesday, October 16, 2019 1:29 PM
To: Elliott, Brandice (OP) <brandice.elliott@dc.gov>
Subject: LeGrant determination on 3rd PDU's in a new accessory building

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Hi Brandice,

Here is the determination from the ZA regarding the 3rd unit in the accessory building:

Marty

From: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>
Sent: Friday, July 19, 2019 12:02 PM
To: Martin Sullivan <msullivan@sullivanbarros.com>
Subject: Follow-up to a previous conversation - regarding accessory buildings and 3-unit conversions in RF zones

Martin Sullivan-

I apologize for the delay in responding. By means of this email I confirm that I am in agreement with the analysis and the conclusions stated in the below email, and specifically that:

- Regarding accessory buildings and principal dwelling units, in the context converting a single family property into an apartment use in a RF zoned, requiring a Special Exception from the BZA under Section U-320 for the creation of three dwelling units on a lot exceeding 2,700 sf.
- Current Situation – Existing single family home at 1724 Potomac Avenue, SE, on a lot which has a land area of 3,261 square feet. No accessory building currently exists.
- Proposed Project – Project includes an addition to the house, and construction of a new accessory building.

Boards of Zoning Adjustment
District of Columbia
CASE NO.20143
EXHIBIT NO.56B

- Apply for Section U-320 special exception relief to do a 3-unit conversion, along with special exception approval pursuant to U-301.1(e), which provides for the establishment of a new accessory building containing a dwelling unit by special exception.
- The question is: May one of the three dwelling units that would constitute an apartment house use of the property be placed in the new accessory building?
 - U-301.1(c), provides that a “permitted principal dwelling” is permitted in an accessory building, subject to certain conditions. In such as case, the 3rd unit would become a ‘permitted principal dwelling” per the U-320 special exception relief, and the other conditions under 301.1(c) would be resolved under that separate special exception approval.
 - You previously received a 3-unit U-320 approval (BZA # 19688) which allowed one of the three units to be in an *existing* accessory building – so, by extension, this would also be allowed in a *new* accessory building as well.
 - As U-320 is silent on accessory building use, it does not explicitly mention, one way or the other.
 - So this would then default for U-301.1(c) to control, and allow a “permitted principal dwelling” in the accessory building.
- So the answer to the above question is yes, subject to all necessary BZA relief, and assuming compliance with all other requirements/restrictions on accessory buildings.

Please let me know if you have any further questions.

DISCLAIMER: This email is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this email are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this email . Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This email is NOT a “final writing”, as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this email based on the information submitted for the Zoning Administrator’s review. Therefore this email does NOT vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

Matthew Le Grant

Zoning Administrator
Department of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW, Washington DC 20024
Matthew.legrant@dc.gov
202 442-4576

From: Martin Sullivan

Sent: Monday, February 11, 2019 12:36 PM

To: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>

Cc: Alexandra Wilson <awilson@sullivanbarros.com>

Subject: Follow-up to a previous conversation - regarding accessory buildings and 3-unit conversions in RF zones

Hi Matt,

I wanted to follow up on our conversation last month regarding accessory buildings and principal dwelling units, in the context of doing a U-320 conversion to three units on a lot exceeding 2,700 sf.

Situation – an existing single family home at 1724 Potomac Avenue, SE, on a lot which has a land area of 3,261 square feet. No accessory building currently exists.

Proposal – Seek U-320 special exception relief to do a 3-unit conversion, along with special exception approval pursuant to U-301.1(e), which provides for the establishment of a new, habitable accessory building by special exception. Project includes an addition to the house, and construction of a new accessory building.

The question is: Can I seek this relief, and in so doing am I able to put one of the three units in the accessory building?

The language I rely on is in U-301.1(c), which provides that a “permitted principal dwelling” is permitted in an accessory building, subject to certain conditions. In our analysis, the 3rd unit would become a ‘permitted principal dwelling” per the U-320 special exception relief, and the other conditions under 301.1(c) would be resolved under that separate special exception approval.

We have received a 3-unit U-320 approval (BZA # 19688) which allowed one of the three units to be in an *existing* accessory building – so I am relying on that analogy to allow it to be in a *new* accessory building as well. The difference between that case and this is that we need the relief to actually construct the accessory building, after which we also get relief to create a 3rd “permitted principal dwelling,” which can then be in the accessory building which was approved by special exception.

Aside from this analysis, U-320 is silent on accessory building use. It does not explicitly mention them, one way or the other. So I figured that this leaves the way for U-301.1(c) to control, and allow a “permitted principal dwelling” in the accessory building (with all the necessary BZA relief, of course, and assuming compliance with all other requirements/restrictions on accessory buildings).

When we met, you agreed with this analysis. I just wanted to write it out, and ask you to confirm in writing that the above is the correct path to getting a 3rd unit approved in a new accessory building.

Please let me know if you have any questions or need additional information.

Thanks!

Best,
Marty Sullivan

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