

LeGrant, Matt (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Monday, March 21, 2016 5:33 PM
To: Brian Gelfand
Cc: Abigail Nichols; Lewis, Eva (EOM); Don Hawkins; Jenny Gelfand; Gambrell, Alan (SMD 1C05); Bolling, Melinda (DCRA); Parris, Lori (DCRA); Reid, Rohan (DCRA); Beeton, Kathleen A. (DCRA); Tondro, Maximilian
Subject: RE: 1514 Q St Zoning Follow Up
Attachments: Det Let re 1514 Q St NW to Mazo 3-21-16.pdf; Zoning Determination Letter- Exhibit C.pdf; Zoning Determination Letter- Exhibit B (2).pdf; Zoning Determination Letter- Exhibit A.pdf; 1514 Q St NW- Exhibit D - 3-18-16 letters.pdf

Commissioner Abigail Nichols - ANC2B, Brian Gelfand, Don Hawkins, et al-

I wanted to share the Determination Letter I issued today on this address. Please let me know if you have any questions.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: 202 442-4652
FAX: 202 442-4871
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/service/zoning-dcra>

From: Brian Gelfand [<mailto:brian.gelfand@gmail.com>]
Sent: Wednesday, March 09, 2016 1:29 PM
To: Reid, Rohan (DCRA); Bolden, Tarek (DCRA)
Cc: Bolling, Melinda (DCRA); LeGrant, Matt (DCRA); Abigail Nichols; Lewis, Eva (EOM); Don Hawkins; Jenny Gelfand; Gambrell, Alan (SMD 1C05)
Subject: 1514 Q St Zoning Follow Up

Rohan and Tarek,

Thank you for making the time to come out to 1514 Q St yesterday for the ANC2B requested meeting. I certainly appreciate your attention to this project, which while it is just one rental to condominium conversion proposed project, I know that there are many others also interested in these questions and answers.

In the packet circulated at yesterdays meeting were Zoning Definitions from DCMR. The proposed plans at 1514 Q ST (attached is what was sent to me as neighbor) show the lowest level of the building (plans call it a "Cellar") and there are 2 bedrooms, 2 bathrooms, a Kitchen, Living/Dining Room, Washer / Dryer, HVAC, and

Water Heater. This appears to be a habitable 2 bedroom unit, which I don't think anyone would disagree with. However, the definition of "Habitable Room" specifically excludes cellars.

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities. The term "habitable room" shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.

How could a zoning review allow a cellar to be a habitable room as it is clearly excluded from the zoning definition?

Further the definition of a "Dwelling Unit" is below. I believe the plans for the lowest unit meet the definition of a dwelling unit as it comprises complete living facilities for one or more persons including permanent provisions for living, sleeping eating, cooking and sanitation. However, the first component of a dwelling unit definition is a habitable room, which by definition is not a cellar. And a cellar is exactly what is on these proposed plans.

Dwelling Unit: One (1) or more habitable rooms comprising complete independent living facilities for one (1) or more persons, and including within those rooms permanent provisions for living, sleeping, eating, cooking, and sanitation. A dwelling unit is intended for a single household.

I would also like to know if there are any precedent BZA decisions or zoning determination letters which allow for the arbitrary lowering of an existing basement ceiling, without a legitimate reason, for the purpose of taking an existing basement and creating a cellar so as to avoid including the existing basement FAR in the proposed development FAR calculation. I have not seen or heard of such a precedent despite asking multiple people including architects and zoning attorneys. However, if such a precedent does exist, I would very much like to know about it and see how the zoning code was previously applied.

Also, would the Office of the Zoning Administrator allow a proposed development where the manipulation of the basement ceiling to make it a cellar for FAR calculation purposes accordingly causes the "cellar" unit to violate Housing Code regulations Chapter 14-199.1 (Definition of habitable space) and 14-404.1 (prohibiting any room with more than 50% of any exterior wall area from floor to ceiling below ground level from being used as a habitable room)

In addition to ANC2B which requested this meeting, I know that ANC1C had many similar questions.

Thank you in advance for your attention and answers to these questions.

Regards,
Brian

LeGrant, Matt (DCRA)

From: LeGrant, Matt (DCRA)
Sent: Tuesday, March 22, 2016 11:59 AM
To: 'Brian Gelfand'
Cc: Bolling, Melinda (DCRA); Abigail Nichols; Lewis, Eva (EOM); Don Hawkins; Jenny Gelfand; Gambrell, Alan (SMD 1C05); Tondro, Maximilian; Reid, Rohan (DCRA); Bolden, Tarek (DCRA)
Subject: RE: 1514 Q St Zoning Follow Up

Brian Gelfand-

In addition to the Determination Letter that I sent to you yesterday, I wanted to specifically address the matter you raised in your email below regarding the zoning treatment of “habitable rooms” and “Cellars” as per my interpretation. Although a preliminary reading of the definitions of these terms supports the exclusion of such rooms from Cellars, my office’s approval of numerous other projects with below grade dwelling units is consistent with the District’s Zoning Regulations. Although cellars and attics are excluded from the definition of “habitable room,” the regulations do not prohibit those spaces from being used for sleeping, cooking, and living. This has been DCRA’s long standing interpretation of the regulations and it is consistent with the many provisions of the District of Columbia Construction Codes (including the Building Code, Property Maintenance Code, and Fire Prevention Code) that specifically allow for the occupancy of partially below grade dwelling units. Here, as in other projects, the cellar units must be provided light, ventilation, and emergency egress required by those codes.

My letter yesterday addressed the lowering of basement ceiling was reviewed. I noted that the measurement dimension can be from a lowered ceiling level. This is permissible as there is no limitation in the Zoning Regulations from altering the ceiling level, and it has been this office’s long standing practice to allow changes to the bottom of the ceiling level to measure the cellar minimum dimension. I also noted the reason for lowering the ceiling level was documented by the owner. I would add that all District Columbia Construction Codes must be complied with prior to any building permit approval of partially below grade dwelling units.

I hope this information is helpful in the explanation of my office’s approval of the project.

Best Regards,

Matthew Le Grant

Zoning Administrator
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