



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

May 7, 2018

Samantha Mazo
Cozen O'Connor
1200 19th Street NW
Washington DC, 20036

Re: 1862 Mintwood Place NW: Square 2550, Lot 814 (the "Property")

Dear Ms. Mazo,

This letter is in reference to the meeting we had on February 14, 2018, regarding the property owner's interest in adding three units to an existing lower level without increasing the building's gross floor area. I would like to memorialize this discussion.

The Property is located on Lot 814 in Square 2550 and has the street address of 1862 Mintwood Place NW. The Property is zoned RA-2 and is a contributing building to the Kalorama Triangle Historic District. The RA-2 Zone District permits multiple dwelling (apartment house) use as a matter of right. *See* Subtitle U §401.1(d)(1).

The Property is a corner lot bounded by Mintwood Place to the north, 19th Street to the west and the Kalorama Park to the south. *See*, Zoning Map at **Tab "A"**. Pursuant to permit information on the Office of Planning's "History Quest" website, Building Permit No. 5313 was issued in 1915 to construct an apartment on the Property. A copy of the information from the History Quest website is attached here at **Tab "B"**. The Property does not have off-street parking.

The Property has a certificate of occupancy for a 17-unit apartment building (the "Building"). A copy of Certificate of Occupancy No. 188779 issued on September 25, 2000 is attached here at **Tab "C"**. Based on images of the Property's frontage attached here at **Tab "D"**, the Building is four stories in height with a lower level that appears to satisfy the Zoning Regulations' definition of a "cellar" (the "Lower Level"). Specifically, the frontage images appear to show Lower Level windows that are less than four feet above the adjacent finished grade at the midpoint of the frontage.¹

¹ The current Zoning Regulations define a "cellar" as the "portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade." Subtitle B §100.2. There is a pending Zoning Text Amendment (ZTA No. 17-18) that would amend the definition of cellar to "That portion of a story partly below grade where the finished floor of the ground level is less than five feet (5 ft) above the adjacent natural or finished grade, whichever is lower in elevation." The public hearing was conducted on February 22, 2018, and as of the date of this letter, it is not known when or if that Zoning Text Amendment will become effective. If a lower level does not satisfy the "cellar" definition, it would be deemed a "basement." Generally, "cellars" are excluded from the definition from Gross Floor Area, while "basements" are not. *See* Subtitle B §100.2 (definition of Gross Floor Area). However, as discussed here, because the Lower Level exceeds 6'-6" in height, for the purposes of this request, whether the Lower Level is deemed a "basement" or a "cellar" is not determinative because this Office has previously determined that

As reviewed during our meeting and confirmed in the “Basement Floor Plan” of the original 1915 building permit and in the photos of the current Lower Level uses attached here at **Tab “E”**, and **Tab “F”**, respectively, the Lower Level is habitable/usable space that is being used by the Building’s inhabitants. Specifically, the Lower Level includes one residential unit, a sizeable laundry room and tenant storage space. The headroom of the Lower Level exceeds 6’-6” in floor to ceiling height.

As discussed, there is an intention to convert sections of the Lower Level into three, new, residential units, thereby increasing the number of overall residential units to 20. The addition of these units would result in an approximately 18% increase in the over number of units in the Building ($3/17 = 17.6\%$)

It has long been this office’s position that structure space with a headroom of 6’-6” already counts towards a building’s gross floor area. *See* September 26, 2013 Letter to David Aitable regarding 3000 M Street NW (stating that a portion of that structure’s “headroom” was greater than 6’-6” and, therefore, “counts towards [that building’s] gross floor area” while also deciding that a proposal to expand portions of that structure less than 6’-6” in headroom would add gross floor area to that structure). Accordingly, in other cases, this office has found that the incorporation of residential units into existing habitable space with a headroom of 6’-6” would not constitute an expansion of a structure’s Gross Floor Area necessitating an increase in overall Floor Area Ratio.

In regards to the case at hand – 1862 Mintwood Place NW – it is my opinion that three new units could be incorporated into the subject Building’s Lower Level without expanding the Building’s overall Gross Floor Area or Floor Area Ratio. Further, if the Building is deemed to be a “Nonconforming Structure” because aspects of the Building are found to be inconsistent with the current RA-2 development standards, the proposed addition of three units in the Lower Level would not constitute an expansion to the “Nonconforming Structure”

Further, because the Property is a contributing building to the Kalorama Historic District, no gross floor area is being added, and the number of units are being expanded by less than 50%, the proposed addition of three units will not trigger vehicular or long-term bike parking spaces pursuant to Subtitle C § 704.2 and/or Subtitle C §802.6. Also, the three new units would not trigger the requirements of the District’s Inclusionary Zoning (“IZ”) program pursuant to Subtitle C §1001.2(b), which establishes that IZ is only required when “proposing new gross floor area that would result in ten (10) or more dwelling units.”

Conclusion

Based on our discussion and the attached exhibits, three units could be added to the Lower Level as a matter of right without expanding the Building’s Gross Floor Area and/or Floor Area Ratio or increasing any existing nonconformity. Also, the addition of these units would not trigger

incorporating units into such an area does not increase a building’s overall Gross Floor Area, the key component of Floor Area Ratio.

vehicle or bicycle parking spaces or require participation in the District's Inclusionary Zoning program.

Based on the above, when building permit application(s) necessary to incorporate three units into the Lower Level are filed, my office will approve such application(s) provided they are consistent with the Zoning Regulations in effect at the time.

This determination letter constitutes the first writing reflecting the administrative decision for the Property. Therefore, under Subtitle Y § 302.5 of the District's Zoning Regulation, no subsequent document, including a building permit or certificate of occupancy, can be appealed unless the document modifies or reverses this letter or reflects a new decision.

Please let me know if you have any further questions.

Sincerely,



Matthew Le Grant
Zoning Administrator

DISCLAIMER: This letter 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 letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter 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 letter based on the information submitted for the Zoning Administrator's review. Therefore this letter 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.

Attachments:

- Tab A – Zoning Map
- Tab B – History Quest website
- Tab C – Certificate of Occupancy No. 18879
- Tab D – Photos of the Property frontage
- Tab E – "Basement Floor Plan" of the original 1915 building permit
- Tab F – Photos of current the Lower Level

File: Det Let re 1862 Mintwood Pl NW to Mazo 5-7-18