

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2681

PETITION OF ALLA BAHKTINA

OPINION OF THE BOARD

(Opinion Adopted February 28, 2007)
(Effective Date of Opinion: April 19, 2007)

Case No. S-2681 is an application by Alla Bahktina for a special exception to permit an accessory apartment in a single family home. The Hearing Examiner for Montgomery County held a hearing on the application on November 17, 2006, closed the record in the case on January 29, 2007, and on January 30, 2007, issued a report and recommendation for approval of the special exception.

The subject property is Lot 7, Block A; Bedford Village Subdivision, located at 5312 Locust Avenue, Bethesda, Maryland, 20814, in the R-60 Zone.

Decision of the Board: Special Exception **Granted** Subject to
Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on February 28, 2007. After careful consideration and review of the record in the case, the Board adopts the Hearing Examiner's report and grants the special exception subject to the following conditions:

1. Petitioner is bound by her testimony and exhibits of record and by any representations of counsel referenced in the Hearing Examiner's report and in the Board's opinion.

2. The accessory apartment may be inhabited by no more than two persons.

3. At least one off-street parking space will be available to tenants of the accessory apartment at all times. Any on-street parking by tenants must be in accordance with applicable parking regulations.

4. Petitioner must carry out the following improvements, identified on Exhibit 15, before the accessory apartment may be licensed by DHCA or occupied:

- (1) A handrail must be installed in the stairwell for the accessory apartment.
- (2) A convection oven must be installed in the accessory apartment kitchen.
- (3) At least one window in each room to be used for sleeping must be enlarged to meet code requirements for emergency egress. Such windows must be at least five (5) feet square in net clear opening and must be openable without the use of a tool with a minimum net clear height of 22 inches, and a net clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor. A window that opens down or otherwise blocks the way out is unacceptable. The clear path of egress must lead safely to the street, not just an enclosed yard. Additional building code requirements apply if a window well must be constructed to enlarge a window.

5. Per Code § 59-G-2.00(b)(1), Petitioner must occupy one of the dwelling units on the subject property.

6. Per Code § 59-G-2.00(b)(3), Petitioner must not receive compensation for more than one dwelling unit on the subject property.

7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein.

On a motion by Caryn L. Hines, seconded by Wendell M. Holloway, with Donna L. Barron, Catherine G. Titus and Allison Ishihara Fultz, Chair in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 19th day of April, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.