

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**Case No. S-2707**

**PETITION OF KATHERINE T. SMITH**

OPINION OF THE BOARD

(Opinion Adopted November 14, 2007)

(Effective Date of Opinion: November 27, 2007)

Case No. S-2707 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, for an accessory apartment. The Hearing Examiner for Montgomery County held a public hearing on the application on October 15, 2007, closed the record in the case on October 22, 2007, and on October 29, 2007 issued a Report and Recommendation for approval of the special exception.

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

The subject property is Lot 23, Part of Lot 20 and Part of Lot 14, Block 96, Hodges Heights Subdivision, 205 Hodges Lane, Takoma Park, Maryland 20912 in the R-60 Zone.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on November 14, 2007. After careful consideration and review of the record in the case, on a motion by Catherine G. Titus, seconded by Wendell M. Holloway, with Caryn L. Hines and Allison Ishihara Fultz, Chair in agreement, and Donna L. Barron, Vice-Chair necessarily absent, the Board adopts the Hearing Examiner's Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner is bound by her testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board;

2. The Petitioner must maintain repairs already made to comply with the conditions set forth in the Memorandum of Cynthia Caudillo, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 12):
  - a. Must provide a cover plate for an electrical switch in the bathroom.
  - b. Must replace or repair the electrical wiring in the bathroom for the service panel.
  - c. The exterior of all windows in the entire facility must be painted, cleaned, scraped, and prepped as necessary.
  - d. The entire facility must be provided with screens for all windows.
  - e. The windows in the entire facility must be repaired or replaced so that they open, close and lock.
  - f. Solid waste on the property such as branches, wire, and wood must be removed and the grounds must be maintained.
  - g. All of the breakers in panel box which is located in the laundry room must be accurately labeled.
  - h. Must secure hanging electrical light fixture located in the living room area.
3. Based on habitable space in the apartment (355 square feet), no more than two persons may reside in the accessory apartment;
4. Petitioner must maintain a residential style light fixture outside the rear entrance to the home and residential style solar-powered lighting along the path to the accessory apartment, as indicated on the revised Lighting and Tree Plan;
5. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
6. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
7. Petitioner must maintain her driveway/parking pad clear of debris, and keep it accessible and available for parking a vehicle, either her own or one belonging to the accessory apartment tenant. The tenants of the accessory apartment may have no more than one car, in total, housed within the general neighborhood, and that restriction should be included in a lease with the tenants; and
8. 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. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 27<sup>th</sup> day of November, 2007.

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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.