

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

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

(240) 777-6600

Case No. S-2768

PETITION OF XINGZHU LIU, LAN CHEN AND VINCENT LIU

OPINION OF THE BOARD

(Opinion Adopted July 21, 2010)

(Effective Date of Opinion: September 10, 2010)

Case No. S-2768 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner held a hearing on the application on May 20, 2010, closed the record in the case on June 1, 2010, and on July 1, 2010, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 9, Block 6, Ayr lawn Subdivision, located at 8925 Bradmoor Drive, Bethesda, Maryland 20817 in the R-60 Zone.

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

The Board of Appeals considered the Report and Recommendation at its Worksession on July 21, 2010. After careful consideration and review of the record in the case, on a motion by David K. Perdue, Vice-Chair, seconded by Stanley B. Boyd, with Walter S. Booth, and Catherine G. Titus, Chair, in agreement and Carolyn J. Shawaker not in agreement, the Board voted to delete Condition No. 7 proposed by the Hearing Examiner.

On a motion by Carolyn J. Shawaker, seconded by Walter S. Booth, with David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement and Stanley B. Boyd not in agreement, the Board adopted the Report and Recommendation, as amended and granted the special exception subject to the following conditions:

1. The Petitioners shall be bound by all of their testimony, representations and exhibits of record identified in the Hearing Examiner's Report and in the Board's

Opinion;

2. Petitioners must comply with the Department of Housing and Community Affairs (DHCA's) determination of the maximum permitted occupancy for the accessory apartment (*i.e.*, the accessory apartment may be occupied by no more than two (2) unrelated persons or a family not to exceed five (5) persons), and any other DHCA directives needed to ensure that the accessory apartment is maintained up to Code;

3. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;

4. Petitioners must not have a guest room for rent, a boardinghouse or a registered living unit, in addition to the accessory apartment, and they must not receive compensation for the occupancy of more than one dwelling unit;

5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons;

6. Petitioners must make parking spaces available for their accessory apartment tenants, either off-street or on the street directly in front of Petitioner's home. Tenants and their guests must not park on the street in the curb space between the subject site and the abutting neighbor at 9003 Ewing Drive, Bethesda, Maryland;

7. Petitioners 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. Petitioners 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.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 10th day of September, 2010.

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. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.