

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-2688

**PETITION OF DEBORAH K. PRETTYMAN
d/b/a AMERICAN FINANCIAL SERVICES**

OPINION OF THE BOARD
(Opinion Adopted July 18, 2007)
(Effective Date of Opinion: August 20, 2007)

Case No. S-2688 is an application for a special exception to permit a major home occupation, pursuant to Section 59-G-2.29 of the Montgomery County Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on April 27, 2007, closed the record in the case on May 25, 2007, and on June 25, 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 Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on July 18, 2007. The Board also had before it a request for oral argument from Emily J. Vaias, Esquire and Heather Dlhopsky, Esquire, on behalf of the Petitioner. The subject of the request was modification of Condition No. 4 recommended by the Hearing Examiner to allow employees of the special exception to work from 9:00 a.m. to 7:00 p.m. Monday through Friday during Non-Tax Season. After careful consideration and review of the record in the case, together with the request for oral argument, the Board the Board accepts the change to Condition No. 4 contained in the request for Oral Argument, and finds that no further argument is needed on this point. In addition, the Board amends Condition No. 5 to require that no more than two clients may be on site at any one time.

Therefore, 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, including revisions to Condition Nos. 4 and 5:

1. Petitioner is bound by her testimony and exhibits of record, including the final Site Plan, Exhibit 22(b), and by the testimony of her witness and representations of counsel identified in the Hearing Examiner's report and in the opinion of the Board.
2. The major home occupation shall be limited to 1,052 square feet in the basement of the dwelling, as show on the approved Site Plan, Exhibit 22(b).
3. Non-resident employment at the major home occupation shall be limited to two full-time equivalent positions. These may be filled by a combination of one full-time employee and two part-time employees who job share, but no more than two employees may be on site in any one day.
4. Hours of operation:
 - a. Tax Season (January through April):
9:00 a.m. to 7:00 p.m. Monday through Saturday for clients and employees.
 - b. Non-Tax Season (May through December):
9:00 a.m. to 4:00 p.m. Monday through Thursday for clients and
9:00 a.m. to 7:00 p.m. Monday through Friday for employees.
5. Client visits shall be by appointment only, and shall be limited to a total of 10 per day and 50 per week during tax season (January through April), and three per day and ten per week the rest of the year (May through December). No more than two clients may be on site at any one time.
6. Ms. Prettyman must maintain a written log of all arrivals and departures associated with the use, including employees, clients, visitors, deliveries and pick-ups. The log must show names, appointment times, arrival times and departure times. It must be kept up to date at all times, and must be available for inspection by County officials at any time.
7. Deliveries to the special exception shall be made only by delivery services that commonly deliver to single-family residences.
8. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or a use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

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 20th day of August, 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.