

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
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Rockville, Maryland 20850

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

(240) 777-6600

**Case No. S-2786**

**PETITION OF JUAN JOSE MELENDEZ**

OPINION OF THE BOARD

(Opinion Adopted April 20, 2011)

(Effective Date of Opinion: May 4, 2011)

Case No. S-2786, Petition of Juan Jose Melendez is an application, under Section 59-G-2.00 of the Montgomery County Zoning Ordinance, for a special exception to allow an accessory apartment. On November 2, 2010, the Board of Appeals issued a Notice of Hearing on the application for February 10, 2011, to the Petitioner, adjoining and confronting property owners, and local citizens' associations. The Hearing Examiner for Montgomery County convened a public hearing on the application on February 10, 2011 and took testimony from the Housing Code Inspector in the case. The Petitioner failed to appear at the hearing. The Hearing Examiner left the record in the case open until February 17, 2011, and on February 17, 2011 sent a certified letter to the Petitioner, offering to leave the record open longer for him to submit necessary evidence into the file. The certified mail receipt was returned, unsigned. On March 2, 2011, the Hearing Examiner issued a Report and Recommendation for denial of the application based upon the Petitioner's failure to meet his burdens of proof under Section 59-G-1.21(c) of the Code.

The subject property is Lot 19, Block Y, Connecticut Avenue Park Subdivision, located at 3937 Isbell Street, Silver Spring, Maryland 20906.

Decision of the Board:                      Special Exception **Denied**.

The Board of Appeals considered the Report and Recommendation at its Worksession on April 20, 2011. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and denies the special exception. On a motion by Carolyn J. Shawaker, seconded by Stanley

B. Boyd, with Walter S. Booth, David K. Perdue, Vice-Chair and Catherine G. Titus, 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.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 2<sup>nd</sup> day of May, 2011.

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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. 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.