

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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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-2845**

**PETITION OF HECTOR F. MAYSONET**

OPINION OF THE BOARD

(Opinion Adopted November 7, 2012)  
(Effective Date of Opinion: November 23, 2012)

Case No. S-2845 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment in the basement of an existing single-family home. The subject property is Lot 4, Block 16, located at 13804 Bonsal Lane, Silver Spring, Maryland 20906, in the R-150 Zone.

The Hearing Examiner for Montgomery County held a public hearing on the application on September 27, 2012, closed the hearing in the case on October 8, 2012, and on October 19, 2012, issued a Report and Recommendation for approval of the special exception, with conditions. On November 6, 2012, the Hearing Examiner issued an Errata Statement to make two clerical corrections.

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

The Board of Appeals considered the Report and Recommendation and the Errata Statement at its Worksession on November 7, 2012. After careful consideration and review of the record, and in order to be consistent with its other opinions in accessory apartment cases, the Board adds Condition 5 below, adopts the Report and Recommendation, with the Errata Statement, and grants the special exception subject to the following conditions:

1. The Petitioners are bound by their testimony, representations and exhibits of record to the extent that such evidence and testimony are identified in

the Hearing Examiner's Report and Recommendation and in this Opinion;

2. The Petitioner must comply with the conditions set forth in the Memorandum of Lauren Cary, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14), requiring the following repairs and maintenance be performed prior to occupancy of the accessory apartment:
  - a. Must install a handrail for the steps in the rear of the property.
  - b. Must install an operable smoke detector outside of Bedroom 1.
  - c. Must remove all solid waste, including, but not limited to the yard debris, consisting of tree limbs, branches, leaves, and any other debris or rubbish throughout the entire property, and continue to maintain grounds.
  - d. Bedroom 2 [labeled the "office" on the Petitioner's floor plans (Exhibit 5(b))] may not be used for sleeping; this room is unfit for human habitation. This room does not contain any windows.
3. No more than two unrelated individuals or a family of three may occupy the accessory apartment;
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
6. Petitioner must not receive compensation for the occupancy of more than one dwelling unit; and
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. 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.

On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with 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.



Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 23<sup>rd</sup> day of November 2012.



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.