

**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

(240) 777-6600

Case No. S-2836

PETITION OF YANGJING LIN AND XUEQIN XU

OPINION OF THE BOARD

(Opinion Adopted July 11, 2012)

(Effective Date of Opinion: August 3, 2012)

Case No. S-2836 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to allow an accessory apartment. The subject property is Lot 15, Block D, Snowden's Mill Subdivision, located at 2215 Aventurine Way, Silver Spring, Maryland 20904, in the R-200 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on June 7, 2012, closed the record in the case on June 14, 2012, and on June 18, 2012, issued a Report and Recommendation for approval of the special exception.

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 11, 2012. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation 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 representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.
2. The Petitioners must comply with the conditions set forth in the Memorandum of Julia Thom, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 13):

- a. There is one accessory apartment in the surrounding area.
- b. The unit is located on a lot consisting of 34,803 square feet.
- c. The unit consists of two bedrooms, one bathroom, and a kitchen/living area. The bedrooms are 120 square feet and 150 square feet. The living room is 270 square feet. The kitchen is 54 square feet. The unit is a total of 594 square feet of habitable space.
- d. The unit will accommodate 2 unrelated people or a family of 3 based on square footage code requirements.
- e. The unit has off street parking consisting of a paved driveway that will accommodate four vehicles if parked side by side. There is also street parking in front of the house.
- f. The house has a sprinkler system and working smoke detectors.

3. Petitioners must comply with the determination of the Housing Code Inspectors as to limits on occupancy in the accessory apartment (up to two unrelated persons or a family of up to three) and must comply with any other directions of the Housing Code Inspectors to ensure safe and code-compliant occupancy;

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

5. Petitioners must not receive compensation for the occupancy of more than one dwelling unit; and

6. 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.

On a motion by Catherine G. Titus, Chair, seconded by David K. Perdue, Vice-Chair, with Carolyn J. Shawaker, Walter S. Booth and Stanley B. Boyd 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 3rd day of August 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.