

**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-2864

PETITION OF MATTHEW OAKES

OPINION OF THE BOARD

(Opinion Adopted April 24, 2013)
(Effective Date of Opinion: June 20, 2013)

Case No. S-2864 is an application for a special exception, under Section 59-G-2.00 of the Montgomery County Zoning Ordinance, to permit an accessory apartment. The subject property is Lot 4, Block 21, BF Gilbert Addition to Takoma Park Subdivision, located at 7126 Sycamore Avenue, Takoma Park, Maryland, 20912, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on March 21, 2013, closed the record on April 2, 2013, and on April 10, 2013 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 April 24, 2013. After careful consideration and review, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner is bound by his testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this Opinion;
2. To avoid a hardship, the Board hereby grants a three-day waiver of the requirement of Zoning Ordinance §59-G-2.00(b)(2) that "one year must have elapsed between the date when the owner purchased the property (settlement

date) and the date when the special exception becomes effective." This special exception will therefore become effective on May 19, 2013. The cited section expressly permits a hardship waiver by the Board;

3. The Petitioner must complete repairs to comply with the conditions set forth in the Memorandum of Robert Goff, Division of Housing and Code Enforcement (Exhibit 14). These conditions require Petitioner to install an exterior light on rear of house to light the walkway to the Accessory Apartment;
4. Based on habitable space in the apartment (193.55 square feet), no more than two unrelated persons or a family of up to two may reside in the accessory apartment;
5. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
6. Petitioner must not receive compensation for 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 Stanley B. Boyd, seconded by Carolyn J. Shawaker, with John H. Pentecost, David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

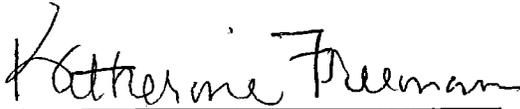
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Catherine G. Titus

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 20th day of June, 2013.



Katherine Freeman
Katherine Freeman
Executive Director

NOTE:

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.

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.

