

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Rockville, MD 20851
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<http://www.montgomerycountymd.gov/boa/>

Case No. A-6685

**APPEAL OF WILLIAM CHERNICOFF, BRUNA CHERNICOFF, OZAN KOKNAR,
AND SERPIL KOKNAR**

OPINION OF THE BOARD

(Hearing held March 24, 2021.
Effective Date of Opinion: April 28, 2021.)

Case No. A-6685 is an administrative appeal filed January 14, 2021 by William Chernicoff, Bruna Chernicoff, Ozan Koknar, and Serpil Koknar (the "Appellants"). The Appellants charge error on the part of Montgomery County's Department of Permitting Services ("DPS") in the November 20, 2020 issuance of Building Permit No. 923939 to construct a single-family dwelling located at 612 Potomac Avenue, Silver Spring (the "Property"). The subject Property is owned by Richard and Pavitra Bacon, who were permitted to intervene in this matter (the "Intervenors"). The Chernicoff Appellants reside at 610 Potomac Avenue, Silver Spring, and the Koknar Appellants reside at 611 Gist Avenue, Silver Spring.

The Appellants assert that Building Permit No. 923939 was issued in error because "[t]he building being utilized for the ADU is a lawful nonconforming structure pursuant to §59.7.7.1.A.1 and §59.3.3.3.2.b. Under those provisions, its pre-existing height and floor area may not be increased." Appellants assert that because the Building Permit No. 923939 permitted both the height and floor area of the building to be increased, the permit was issued in violation.

Pursuant to section 59-7.6.1.C of the Zoning Ordinance¹, the Board held a public hearing on March 24, 2021.² The Appellants were represented by David W. Brown, Esquire. Associate County Attorney Charles L. Frederick represented Montgomery County. The Intervenors appeared *pro se*.

¹ All references to the Zoning Ordinance refer to the Montgomery County Zoning Ordinance (2014) unless otherwise indicated.

² Due to the COVID-19 pandemic, the public hearing was held remotely via Microsoft Teams.

Decision of the Board: Administrative appeal **DENIED**.

FINDINGS OF FACT

The Board finds by a preponderance of the evidence that:

1. The Property, known as 612 Potomac Avenue in Silver Spring, is an R-60 zoned parcel identified as Lot 64, Block 64, B.F.G. Takoma Park Subdivision.

2. On or about August 18, 2020, Saul Architects applied to DPS for a residential building permit to convert an existing garage into an Accessory Dwelling Unit (ADU) and add a new second floor storage room over the existing footprint of the garage on the subject Property. See Exhibit 6, circle 9-13. On November 20, 2020, Building Permit No. 923939 was issued to add a single-family dwelling on the Property. See Exhibit 6, circle 7-8.

3. On January 14, 2021, the Appellants timely filed an appeal charging error by DPS in its decision to issue Building Permit No. 923939. See Exhibits 1, 3(b).³

4. At the outset of the hearing, the Board questioned whether this appeal was timely filed since, under section 8-23(a) of the County Code, a person aggrieved by the issuance of a building permit must appeal to the Board within 30 days after the permit is issued, and this appeal was filed over 30 days after Building Permit No. 923939 was issued. Intervenor Pavitra Brown explained that, although the building permit was approved on November 20, 2020, the Intervenor's signs for the building permit were lost in the mail and were not posted at the Property until December 24, 2020. However, she argued that the Appellants had actual notice that the building permit had been issued on December 8, 2020.

Mr. Brown, on behalf of the Intervenor, argued that the building permit was filed on December 26, 2020, and that therefore the Appellants' appeal on January 14, 2021 was timely. Mr. Frederick, on behalf of the County, argued that his investigation into the timeliness issue led to the conclusion that the Appellants had actual notice that the building permit had been issued more than 30 days before the appeal was filed. However, he noted that pursuant to section 8-25A(d) of the County Code, "[i]f the recipient of a permit does not post a sign as required by this Section, the permit is automatically suspended until the recipient has posted the proper sign. If the recipient begins work under the permit without having posted the sign as required, the Director must immediately issue a stop work order. During the 30-day period after the sign is properly posted, any person may appeal the issuance of the permit as if the permit had been released to the recipient on

³ Argument as to why the appeal was timely filed is outlined below.

the day the sign was posted.” Mr. Frederick stated that the appeal was filed within the 30-day period after the sign was properly posted on the Property.

On a motion by Chair John H. Pentecost, seconded by Member Richard Melnick, with Vice Chair Bruce Goldensohn, Member Mary Gonzales, and Member Caryn Hines in agreement, the Board voted 5 to 0 to find the appeal was timely filed under section 8-25A(d) of the County Code and to proceed with the hearing on the administrative appeal. Mr. Brown then clarified that the appeal was limited to one issue: whether Building Permit No. 923399 was properly issued because it authorized the increase in height and the increase in floor plan of a legal nonconforming structure.

5. Mr. Frederick argued that the Board previously granted the variances the Intervenor requested in order for the Intervenor to build the ADU that was presented to the Board at the variance hearing on July 15, 2020. See Exhibit 6, circle 14-28. He argued that Building Permit No. 923939 allows the Intervenor to build the ADU that the Board approved through these granted variances.

Mr. Frederick argued that the Board’s opinion in Case No. A-6659 granting the variances for the ADU required the Intervenor to submit as-built plans to the Board once the ADU was finished. See Exhibit 6, circle 24. He argued that the Appellants are now arguing issues that they should have raised at the variance hearing, and that once the variances were granted this garage is no longer a nonconforming building, it conforms to the variances that the Board granted. Mr. Frederick argued that the Board already authorized these variances and that this case should be over.

Mr. Frederick argued that the ADU law was amended in 2019 with the intent that the law would be simplified. He argued that in amending the law, the district council did not intend for the Intervenor to have to go through all of these hearings. Mr. Frederick introduced into evidence all the County’s exhibits. See Exhibit 6, circle 7-61. He argued that these exhibits plainly show that Building Permit No. 923939 was issued based on the plans that conform to Exhibits 4 and 5(a)-(b) from the variance hearing. See Exhibit 6, circle 26-28. Mr. Frederick argued that, in the Board’s variance opinion, the Board required that construction be in accordance with Exhibits 4 and 5(a)-(b) and reiterated that Building Permit No. 923939 was issued according to these exhibits.

6. Mr. Brown argued that the issue in this case is that a building permit cannot be granted that authorizes an increase in height or floor area of a nonconforming structure. He argued that this issue was not before the Board in the variance hearing because no permit had been issued at that time. Mr. Brown argued that his prehearing submission details at length his legal argument that the Board has no authority to authorize a height increase or increase in floor area for this ADU, and that Building Permit No. 923939 allows these increases. He argued

that the variances for these increases that the Board approved have no purpose other than to legitimize an improper use.

Mr. Brown argued that, if the Intervenor want to maintain a nonconforming structure, they cannot increase the structure's height or floor area. He argued that there is a flat prohibition against doing so, and that allowing these increases is the same as allowing a second ADU on the Property. Mr. Brown argued that the Board has no authority to grant a variance for a second ADU on the Property, and likewise has no authority to grant variances for height and floor area increases for the nonconforming structure. He argued that the Intervenor could have used this structure for an ADU without increasing the height or floor area without objection.

Mr. Brown argued that it is undisputed that Building Permit No. 923939 authorizes increases in height and floor area for a nonconforming structure. He argued that these increases are not permitted under section 59.7.7.1.A.1 and section 59.3.3.3.C.2.b of the Zoning Ordinance. Mr. Brown argued that the limitations to converting the detached garage into an ADU under section 59.3.3.3.C.2.b of the Zoning Ordinance are part of the "Use Standards" of the Zoning Ordinance and that, pursuant to section 59.7.3.2.E of the Zoning Ordinance, the Board does not have the authority to authorize a use variance.

Mr. Brown argued that there was no permit or permit validity issue before the Board at the variance hearing. He argued that the issue before the Board at this hearing is the validity of the building plans before DPS, and that despite the County's argument to the contrary, this issue has not been presented to the Board or the circuit court, and the Appellants are not precluded from raising this issue. Mr. Brown argued that the circuit court never discussed whether the Board could grant a variance to increase the height or floor area of an ADU, and instead found that this argument could not be raised for the first time on appeal. He argued that this argument is now before the Board. Mr. Brown argued that if the Board deals with this case on the merits, the building permit should be denied.

7. Appellant William Chernicoff testified that he and his wife are standing up for their rights as property owners. He testified he is not opposed to the Intervenor installing an ADU on the Property, and that he provided the Intervenor with the contact information for their architect. Appellant Chernicoff testified that he did not know the Intervenor had started the process to build an ADU until he saw a variance request sign on the Property. He testified that the issue he has with the ADU is the height increase and the addition of a second story, not the ADU on the first floor.

Appellant Chernicoff testified that he is aggrieved by this ADU, and that while he acknowledges that the existing garage is by law a legal nonconforming use that can be used for proper accessory use, including an ADU, the garage cannot be increased in height, size, or floor area. He testified that he expects the County to protect citizens during the permit process and not to approve plans for

such structures with increases in height and size. Appellant Chernicoff testified that the increases are not a small change and will result in a 10-foot increase. He testified that this is a large addition due to the oversized first floor. Appellant Chernicoff testified that these height and floor area increases will fundamentally change the character of his property, and that they are inconsistent with why he purchased his property, for the layout and the views. He testified that he is standing up for his right as a property owner to enjoy his home, and that in doing so he is experiencing stress for something that should not be allowed.

8. Appellant Ozan Koknar testified that he first learned about the Intervenor's plans to install an ADU during discussions with the Intervenor about a tree that affects both their properties. He testified that the Intervenor told him that they were excited about building an ADU and that he understands grandparents living with and spending time with parents and grandchildren. Appellant Koknar testified that he has never been opposed to the ADU and that he understands ADUs are important for families.

Appellant Koknar testified that the Intervenor testified at the variance hearing that they would have to extend the roof of the existing garage 3 feet for heating, ventilation, and air conditioning (HVAC). He testified that he does not believe there was substantial proof that the roof must be raised in order to install the HVAC. Appellant Koknar testified that there are many ways to install HVAC and it does not have to be done in this manner.

Appellant Koknar testified that one of the most important aspects of his property is how open the backyard is, and that this structure will be a huge obstruction and will have a huge impact on both his enjoyment of his property and on the economic value of his property. He testified that, under the law, the Intervenor can either create an ADU on the existing garage without changing the footprint or demolish the existing garage and create a new structure. Appellant Koknar testified that, due to the topography of the land, if the garage was demolished and an ADU was built in an appropriate place it would have less impact on his property.

Appellant Koknar testified that when he opposed the granting of the variances for this structure, he was not educated on the laws and just mentioned the hardship the granting of the variances would have on him. He argued that this case is not just about today, and that in five or ten years the Intervenor could make a new variance request on this structure and the building as it is now approved with the increased height and floor area will be grandfathered.

9. Intervenor Pavitra Bacon testified that at each legal challenge associated with this ADU, the Appellants have asserted that the County Council instituted a flat prohibition against increasing the height and size of a structure to be converted to an ADU. She testified that the Appellants set forth these arguments before the circuit court in the appeal of the Board's grant of the

variances for this structure, and that the circuit court made a ruling affirming the Board's grant of the variances. See Exhibit 6, circle 29-37. Intervenor Bacon testified that the Appellants are now asking the Board to make a new ruling even though the Appellants' claims are the same as they were before the circuit court.

Intervenor Bacon testified that the Appellants' prehearing submission asserts that "DPS has unlawfully approved an impermissible use of land, evidently in the erroneous belief that, through the guise of area variances sought from and approved by the Board, an impermissible use could be given an imprimatur of validity." See Exhibit 7(b), circle 10. She testified that this argument is the same as the argument the Appellants made before the circuit court, there arguing "under the guise of two area variances, neither of which was needed, the Board allowed a height increase. But it did so where the legislative judgment of the County Council, just as with the new window prohibition, was a flat prohibition on any height increase when an accessory structure constructed legally before May 31, 2012, is proposed to be converted to an ADU." See Exhibit 8(a), circle 36.

Intervenor Bacon testified that Appellants' prehearing submission also asserts that "the flat prohibition on any floor area or height increase to a lawful nonconforming structure is not a numerical dimension restriction that might be varied upon meeting the area variance test of an extraordinary condition peculiar to the property." See Exhibit 7(b), circle 11. She compared this assertion to the Appellants' memorandum before the circuit court, which stated "while not necessarily an invariable rule, a request to depart from a Use Standard in Article 59-3 should be viewed as a use variance, whereas a request to depart from a numerical development standard in Article 59-4 should be viewed as an area variance." See Exhibit 8(a), circle 29. Intervenor Bacon noted that Judge Lease's circuit court opinion stated "[t]he Board certainly has the statutory authority to grant 'area' variances like those at issue in this matter, but rather attack the effect the 'area' variances have under the facts of this specific matter." See Exhibit 6, circle 34.

Intervenor Bacon argued that issue preclusion prevents the Appellants from relitigating these issues which have already been decided by the circuit court. She argued that the easiest question for the Board to consider is if the Board's decision on this building permit appeal were to be appealed to the circuit court, and the case were to come before Judge Lease again, would he view this new appeal as anything new or would he wonder why he was listening to the same arguments again. Intervenor Brown argued that before ZTA 19-01, ADUs were approved through conditional uses, and that as noted by the Appellants, the intent of ZTA 19-01 was to make the approval process for ADUs easier. See Exhibit 7(a), circle 8-9. She noted that the Appellants prehearing submission stated that, under ZTA 19-01, "[r]ather than have to undergo multiple administrative reviews and hearings, they [ADUs] were redefined as 'limited use.'" See Exhibit 7(a), circle 9. Intervenor Bacon testified that the fact that the Intervenor have had to relitigate the same issues multiple times has not made the ADU process easier, and that ZTA 19-01

was enacted to encourage the creation of more ADUs, especially for properties such as the Property, which is close to two metro stops.

Intervenor Bacon testified that ZTA 19-01 included the safe harbor provision in section 59.3.3.3.C.2.b of the Zoning Ordinance, which states “[a]ny structure constructed legally before May 31, 2012 that is not increased in size or building height and does not have new windows on a wall nearest an abutting property may be used for a Detached Accessory Dwelling Unit without regard to setbacks or floor area.” She testified that, as noted by the Appellants, use of an existing structure “is likely to be seen as the quickest and most economical way to reach that goal.” See Exhibit 7(b), circle 4-5.

Intervenor Bacon testified that she is lucky to have a large garage on the Property. She testified that she would have loved to utilize section 59.3.3.3.C.2.b of the Zoning Ordinance and avoid obtaining the variances but, as her architect testified about at the variance hearing, they will need to replace the roof on the garage and incorporate HVAC to convert the garage to an ADU. Intervenor Brown testified that they had two options: keep the garage and build the ADU on top, which was not a good option since the ADU would be used by her parents, who have limited mobility, or make the ADU the bottom floor and have storage on top.

Intervenor Bacon testified that the Appellants had no problem with the ADU, and that their concerns were about the second-floor space impacting their privacy, invading into the setback, and potentially being used as a second ADU. She testified that the Board had denied the variance request for windows on the neighbor’s side of the structure and required the Intervenor to submit as-built plans, which she thought was a compromise between the Intervenor and the Appellants. Intervenor Bacon testified that the Appellants are now seeking to challenge the ADU through yet another attack, and that the Intervenor should be allowed to rely on the Board and the circuit court’s decision in granting the variances. She testified that the Board could only find for the Appellants in this case if the Board decided that the original variance approval was in error. Intervenor Brown testified that Judge Lease found “[t]he Board’s factual findings and conclusions were supported by substantial evidence and its decision was not based upon an erroneous conclusion of law.” See Exhibit 6, circle 36.

Intervenor Bacon testified that she understands ADUs are not welcomed by all and that she attended numerous hearings pertaining to ZTA 19-01. She testified that opponents to ZTA 19-01 worried that approval of the ZTA would crowd neighborhoods, create more traffic, and attract low income residents, among other things. She testified that the County decided to enact ZTA 19-01 and that the County is in the midst of an affordable housing crisis. Intervenor Bacon testified that the problem is that, now that ZTA 19-01 has been enacted, it has not made it any easier to build an ADU, and opponents may have numerous challenges. She testified that even before they have begun construction on the ADU, they have paid an architect \$20,000, and that adding in legal costs,

construction, and the intimidating nature of hearings, she feels it is highly unlikely that the County's population will be able to take advantage of the new ADU laws.

Intervenor Bacon testified that she appreciates that the neighbors have a voice but that they should not have veto authority over the approval of an ADU by having multiple bites of the apple. She testified that DPS has limited authority and is not intended to second guess the Board's authority to grant variances. Intervenor Bacon testified that DPS must follow the Board's grant of variances when issuing a building permit.

10. Srirangam Sethuraman Mohan Ram, Intervenor Pavitra Brown's father, testified that he immigrated to the United States from India and that multi-generational living is common in India, where he lived with his grandparents. He testified that he looked for apartments in downtown Silver Spring but could not find anything suitable at a reasonable price. Mr. Ram testified that he is currently renting a place in Wheaton but that it is not ideal for his wife and him to rent because they are retired and have no regular income. He testified that they have been looking for an affordable place near their daughter and grandchildren.

Mr. Ram testified that he and his wife were thrilled to learn of the new law regarding ADUs and felt an ADU would be a wonderful opportunity to be close to their daughter and grandchildren. He testified that they do not own a car and have not used public transportation due to the COVID-19 pandemic, and that if they are living in an ADU, then Intervenor Richard Bacon will not have to drive them back and forth to visit their grandchildren. Mr. Ram testified that he and his wife are looking forward to the open spaces where his daughter lives, picking up gardening, and bringing treats to their grandchildren.

Mr. Ram testified that now that he is fully vaccinated against COVID-19, he has started to use public transportation again, and that the Property is near two metro stops. He testified that he does not own and does not plan to own a car. Mr. Ram testified that his requirements are simple, that he is certain that a ground floor residence is sufficient for his needs and those of his wife, and that they cannot risk using the second floor of the structure because they are concerned about using stairs at their advanced ages. He testified that the second floor will contain HVAC and a boiler and be used to store things that were previously stored in the garage. Mr. Ram testified that, in response to questions about whether the second floor would be made into a second rental unit, that that would not happen because it would tremendously impact his privacy, that the second floor would be a cramped space with inadequate height and area, and that the HVAC located on the second floor would be noisy.

Mr. Ram testified that construction on the ADU has been delayed due to the pandemic and multiple legal challenges. He testified that he is hopeful that now that the building permit has been issued that the legal issues will be resolved soon, and he and his wife can move into the ADU this summer.

CONCLUSIONS OF LAW

1. Section 2-112(c) of the Montgomery County Code provides the Board of Appeals with appellate jurisdiction over appeals taken under specified sections and chapters of the Montgomery County Code, including section 8-23.

2. Section 2A-2(d) of the Montgomery County Code provides that the provisions in Chapter 2A govern appeals and petitions charging error in the grant or denial of any permit or license or from any order of any department or agency of the County government, exclusive of variances and special exceptions, appealable to the County Board of Appeals, as set forth in section 2-112, article V, chapter 2, as amended, or the Montgomery County Zoning Ordinance or any other law, ordinance or regulation providing for an appeal to said board from an adverse governmental action.

3. Section 8-23(a) of the County Code provides that “[a]ny person aggrieved by the issuance, denial, renewal, amendment, suspension, or revocation of a permit, or the issuance or revocation of a stop work order, under this Chapter may appeal to the County Board of Appeals within 30 days after the permit is issued, denied, renewed, amended, suspended, or revoked or the stop work order is issued or revoked. A person may not appeal any other order of the Department, and may not appeal an amendment of a permit if the amendment does not make a material change to the original permit. A person must not contest the validity of the original permit in an appeal of an amendment or a stop work order.”

4. Section 8-25A(d) of the County Code provides “[i]f the recipient of a permit does not post a sign as required by this Section, the permit is automatically suspended until the recipient has posted the proper sign. If the recipient begins work under the permit without having posted the sign as required, the Director must immediately issue a stop work order. During the 30-day period after the sign is properly posted, any person may appeal the issuance of the permit as if the permit had been released to the recipient on the day the sign was posted.”

5. Section 59-7.6.1.C.3 of the Zoning Ordinance provides that any appeal to the Board from an action taken by a department of the County government is to be considered *de novo*. The burden in this case is therefore upon the County to show that Building Permit No. 923939 was properly issued.

6. Section 2-42B(a)(2)(A) of the County Code makes DPS responsible for “administering, interpreting, and enforcing the zoning law and other land use laws and regulations.”

7. Section 59.3.3.3.C.2. of the Zoning Ordinance, which governs Detached Accessory Dwelling Units, states:

- a. Where a Detached Accessory Dwelling Unit is allowed as a limited use, it must satisfy the use standards for all Accessory Dwelling Units under Section 3.3.3.A.2.
- b. Any structure constructed legally before May 31, 2012 that is not increased in size or building height and does not have new windows on a wall nearest an abutting property may be used for a Detached Accessory Dwelling Unit without regard to setbacks or floor area.
- c. A Detached Accessory Dwelling Unit built after May 30, 2012 must have the same minimum side setback as the principal dwelling and a minimum rear setback of 12 feet.
- d. For any Detached Accessory Dwelling Unit with a length along a rear or side lot line that is longer than 24 feet, the minimum side or rear setback must be increased at a ratio of 1 foot for every 1 foot that the dimension exceeds 24 linear feet. The additional rear setback is from a 12-foot setback as its starting point.
- e. The maximum gross floor area for a Detached Accessory Dwelling Unit must be the least of:
 - i. 50% of the footprint of the principal dwelling;
 - ii. 10% of the lot area; or
 - iii. 1,200 square feet of gross floor area.

8. Section 59.7.7.1.A.1 of the Zoning Ordinance provides “[a] legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased, except as provided for in Section 7.7.1.C for structures in Commercial/Residential, Employment, or Industrial zones, or Section 7.7.1.D.5 for structures in Residential Detached zones.”

9. The Board finds, based on the testimony presented, the documents provided, and the Board’s prior variance hearing on July 15, 2020 in Case No. A-6659, that there is no disagreement that the garage at issue is a legal nonconforming structure pursuant to section 59.7.7.1.A.1 of the Zoning Ordinance. The Board further finds that DPS, the entity responsible for interpreting and enforcing the Zoning Ordinance, had previously found that the Intervenor needed a variance from section 59.3.3.3.C.2.d of the Zoning Ordinance, which requires a side setback of 17 feet, because the garage is five feet from the right side lot line, in order to convert the garage into an ADU. See Exhibit 4, circle 14-28. DPS also found the Intervenor needed a variance from section 59.3.3.3.C.2.e.i of the Zoning Ordinance for the size of the ADU. See Exhibit 4, circle 14-28. The Board finds that the Board granted these variances for the right side lot line and the size of the ADU through an Opinion of the Board effective July 29, 2020, that the Appellants appealed this Opinion to the circuit court, and that the circuit court affirmed the Board’s decision. See Exhibit 4, circle 29-37.

The Board further finds that the Board's grant of these variances held that construction be in accordance with Exhibits 4 and 5(a)-(b), except with regard to windows on the north side of the structure, and that DPS issued Building Permit No. 923939 based on these plans that were the subject of the variance request and previously approved by the Board. See Exhibit 4, circle 24-28. The Board finds that due to the grant of the variances, the nonconforming structure was made conforming, and thus DPS properly issued Building Permit No. 923939 based on the variances that the Board had previously granted.

10. Based on the foregoing, the Board finds that DPS has met its burden of demonstrating by a preponderance of the evidence that Building Permit No. 923939 was properly issued, and that the appeal should be denied.

The appeal in Case A-6685 is **DENIED**.

On a motion by Chair John H. Pentecost, seconded by Member Richard Melnick, with Vice Chair Bruce Goldensohn, Member Mary Gonzales, and Member Caryn Hines in agreement, the Board voted 5 to 0 to deny the appeal and adopt the following Resolution:

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


John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of April, 2021.


Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within ten (10) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 2A-10(f) of the County Code).

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 (see Section 2-114 of the County Code).