

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2630

PETITION OF MARIA AND CAITANO FERNANDES

OPINION OF THE BOARD

(Opinion Adopted June 1, 2005)

(Effective Date of Opinion: June 1, 2003)

Case No. S-2630 is an application for a special exception pursuant to Section 59-G-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

Pursuant to the provisions of Section 59-A-4.125 of the Montgomery county Zoning Ordinance, the Hearing Examiner for Montgomery County held a public hearing on the application on March 4, 2005, and on March 24, 2005, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 18, Block 71A, Conn Ave Subdivision, located at 12727 Feldon Street, Silver Spring, Maryland, 20906, in the R-60 Zone.

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

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at a Worksession on June 1, 2005. After careful consideration and review of the record, 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;
2. The Petitioners will take the following steps to comply with the items set forth in the Memorandum of Timothy Pillgreen, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 13):

- a. Relocate smoke detector to entrance of bedroom.
 - b. A single cylinder (key operated from the outside, thumb turn on the inside) deadbolt lock is required for the rear exit door.
 - c. A viewer is required for the rear exit door.
 - d. A handrail is required for the rear steps to the unit.
 - e. Adequate ventilation must be provided for the furnace and hot water heater. A louvered door must be installed.
 - f. A four burner range type stove must be installed. An electric work permit for the range plug must be obtained and finalized or a plumbing permit must be obtained and finalized if using a gas range.
3. Based on habitable space in the apartment (501 square feet), no more than two unrelated persons may reside in the unit or a family of up to four individuals;
 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 make at least one of the parking spaces on their property available to the accessory apartment tenant.

On a motion by

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.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 1st day of June, 2005.

Katherine Freeman
Executive Secretary to the Board

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.