

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. S-2640

PETITION OF ABYE WONDIMU

OPINION OF THE BOARD

(Opinion Adopted November 2, 2005)

(Effective Date of Opinion: November 30, 2005)

Case No. S-2640 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. The subject property is Lot 12, Block B, Oak Spring Subdivision, located at 14809 Birch Springs Court, Silver Spring, Maryland, 20905.

On July 18, 2005, the Hearing Examiner for Montgomery County held a hearing on the application, closed the record on July 25, 2005, and on October 12, 2005, 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 November 2, 2005. 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. Petitioner is bound by his testimony and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.

2. Petitioner must permanently remove from the second dwelling unit in the basement all cooking equipment used for the heating, baking or warming of food.
3. Petitioner must have the exterior trim on the entire structure painted in a good and workmanlike manner within nine months of the Board's Opinion granting the special exception.
4. Petitioner must trim the large tree in the front yard that overhangs the parking areas, to allow easy access to parking spaces.
5. Petitioner must repair shed near accessory apartment to prevent water seepage.
6. The accessory apartment may be inhabited by no more than two persons, whether or not they are related to one another.
7. Occupants of the accessory apartment must be limited, collectively, to a total of no more than two vehicles, which must be parked on-site.
8. Per Code § 59-G-2.00(b)(1), Petitioner must occupy one of the dwelling units on the subject property.
9. Per Code § 59-G-2.00(b)(3), Petitioner must not receive compensation for more than one dwelling unit on the subject property.
10. The accessory apartment may not be rented for a term of less than 12 months, except that after a tenant has completed a one-year term, renewals of the lease may be made for shorter periods, provided that there is no break in tenancy.
11. 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, and 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 Donna L. Barron, seconded by Caryn L. Hines, with Angelo M. Caputo, Wendell M. Holloway and Allison Ishihara Fultz, 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.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 30th day of November, 2005.

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.