

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**Case No. S-2705**

**PETITION OF SAURABH GUPTA**

OPINION OF THE BOARD

(Opinion Adopted October 17, 2007)

(Effective Date of Opinion: October 30, 2007)

Case No.S-2705 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an existing accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on September 14, 2007, closed the record in the case on September 21, 2007, and on September 27, 2007 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 20, Block LL, located at 4705 Iris Place, Rockville, Maryland, 20853, in the R-90 Zone.

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 October 17, 2007. 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 Petitioner shall be bound by all of his testimony, representations and exhibits of record identified in the Hearing Examiner's Report and Recommendation, and in the Board's Opinion.
2. The Petitioner shall take steps to correct the following deficiencies set forth in the September 13, 2007 report of Travis Aldous, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 15), as follows:
  - a. The windows in each of the bedrooms do not meet code standards for emergency egress. The windows shall be at least five (5) square feet in net clear opening. Must be openable without the use of a tool with a minimum of net clear opening height of 24 inches and a minimum net

- clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor. Window wells that meet code may also have to be installed.
- b. The walls & ceiling in the basement bathroom are deteriorated and have peeling, flaking paint.
  - c. A light and switch that the tenant can control is required outside rear entrance door to unit off of kitchen.
3. The accessory apartment may be occupied by no more than two unrelated persons or a family of up to three.
  4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located.
  5. There must be no guest room for rent, boardinghouse or registered living unit on the premises in addition to the accessory apartment. Petitioner must not receive compensation for the occupancy of more than one dwelling unit.
  6. Petitioner shall extend his driveway/parking pad by 18 feet so that it can accommodate two cars, as shown in the revised Site plan (Exhibit 19) and the Lighting and Landscape Plan (Exhibit 20). The driveway/parking pad must be maintained clean, free of unsightly debris and readily available for the exclusive use of vehicular parking at all times.
  7. The tenants of the accessory apartment may have no more than two cars, in total, housed within the general neighborhood, and Petitioner must make available to the tenants at least one parking space on his extended driveway/parking pad.
  8. Petitioner shall have any new tenants of the accessory apartment, and the existing tenants if they remain at the expiration of the current tenancy term, sign a lease agreement, for a minimum of one year, with clearly stated provisions controlling noise, litter, pets, parking and other activities and actions that could have an adverse impact on neighboring properties. Petitioner will continue to be responsible for insuring that noise, litter, pets, parking and other tenant activities and actions that could have an adverse impact on neighboring properties are avoided.
  9. 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 Wendell M. Holloway, seconded by Donna L. Barron, Vice Chair, with Caryn L. Hines, Catherine G. Titus 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.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 30<sup>th</sup> day of October, 2007.

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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.