

**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-2717

PETITION OF ADIRNE A. BESIRYAN

OPINION OF THE BOARD

(Opinion Adopted March 19, 2008)

(Effective Date of Opinion: April 3, 2008)

Case No. S-2717 is an application for a special exception for an accessory apartment pursuant to Section 59-G-2.00 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on February 1, 2008, and issued a Report and Recommendation for approval of the special exception on March 3, 2008.

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

The subject property is Lot 31, Block 11, Rock Creek Manor Subdivision, located at 5211 Russett Road, Rockville, Maryland, 20853, in the R-90 Zone.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on March 19, 2008. After careful consideration and review of the record in the case, on a motion by Wendell M. Holloway, seconded by David K. Perdue, with Caryn L. Hines and Allison Ishihara Fultz, Chair, in agreement and Catherine G. Titus, Vice-Chair necessarily absent, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. Petitioner is bound by her testimony and exhibits of record.
2. The accessory apartment may be inhabited by no more than two unrelated persons, or a family of no more than three persons.
3. The only rooms that may be used for sleeping are the room in the front right corner of the house, looking at the house from the street, labeled "bedroom" on the floor plan shown on page 9; and the room in the back left corner of the house, looking at the house from the street, labeled "den/office." Each of these rooms

must have at least one window that complies with the window sill height requirement under the Montgomery County Building Code for rooms used for sleeping.

4. Per Code § 59-G-2.00(b)(1), Petitioner must occupy one of the dwelling units on the subject property.
5. Per Code § 59-G-2.00(b)(3), Petitioner must not receive compensation for more than one dwelling unit on the subject property.
6. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits or use-and-occupancy permit, necessary to implement the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and facility comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 3rd day of April, 2008.

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. 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.