

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. S-2733

PETITION OF BARBARA BEELAR

OPINION OF THE BOARD

(Opinion Adopted November 19, 2008)
(Effective Date of Opinion: January 8, 2009)

Case No. S-2733 is an application for a special exception to permit 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 October 10, 2008, closed the record in the case on October 31, 2008, and on November 3, 2008 issued a Report and Recommendation for approval of the special exception.

The subject property is Parcels 024 and 025, Block 95, Beales Subdivision, located at 422 Ethan Allen Avenue, Takoma Park, Maryland 20912, 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 its Worksession on November 19, 2008. 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 Petitioner is bound by her testimony, representations 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. The Petitioner must complete repairs to comply with the conditions set forth in the Memorandum of Cynthia Lundy, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 24):
 - a. A smoke detector must be placed in the interior stairwell that descends from the main dwelling to the accessory apartment.
 - b. An electrical outlet cover plate must be installed in the kitchen.

- c. [Petitioner] Must install a kitchen-type stove with a convection oven for cooking purposes;
3. Based on habitable space in the apartment (646.9 square feet), no more than two unrelated persons or a family of up to four may reside in the accessory apartment;
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
6. Petitioner must maintain the steps leading from Boyd Avenue to her home clear of debris, and keep it accessible and available for access to her home;
7. The tenants of the accessory apartment may have no more than two cars housed in the defined neighborhood, and they must be parked in off-street space provided by Petitioner on the subject site. That restriction must be included in a lease with the tenants; and
8. 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 Carolyn J. Shawaker, seconded by Walter S. Booth, with David K. Perdue, 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.

Catherine G. Titus
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 8th day of January, 2009.

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.