

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-2692

PETITION OF KAREN MAURY

OPINION OF THE BOARD

(Opinion Adopted June 13, 2007)

(Effective Date of Opinion: June 21, 2007)

Case No. S-2692 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on April 13, 2007, closed the record in the case on April 20, 2007, and on May 21, 2007 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 34, Block 5, B.F. Leighton's Addition to Woodside Subdivision, located at 1613 Highland Drive, Silver Spring, Maryland, 20910, 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 June 13, 2007. 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 noted in the Hearing Examiner's Report and the Board's Opinion;
2. The Petitioner will take the following steps to comply with the conditions set forth in the Memoranda of Robert Goff, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibits 14 and 15):
 - a. Replace outlet cover in kitchen
 - b. Install smoke detector outside bedroom 1

- c. Bedrooms window sill height in 55" above floor level, which is 11" above code standards for egress window. Egress window in both bedrooms to be installed and must meet Montgomery County Code.
 - d. Height in doorway to kitchen is at 73". Door opening must be at least 80" in height.
 - e. Bulkheads at both bedrooms are at 75³/₄". Bulkheads must be no less than 80" in height.
3. Based on habitable space in the apartment (675.5 square feet), no more than two unrelated persons or a family of three 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 shall have any tenants of the accessory apartment sign a lease agreement with clearly stated provisions controlling noise, pets, parking and other activities and actions that could have an adverse impact on neighboring properties. If the apartment is occupied by a caretaker because of the medical needs of the family, this provision shall not apply;
 7. Petitioner must make at least two of the off-street parking spaces on her property available to the accessory apartment tenants, and the lease, if required by Condition 6, must limit the tenants to no more than two vehicles housed in the neighborhood;
 8. The property is an historic resource, and Petitioner must comply with the requirements of Montgomery County Code Chapter 24A – Historic Resources Preservation. M-NCPPC's Historic Preservation staff must review any proposed exterior changes to the property, and the Petitioner must obtain Historic Preservation Commission and Staff approvals prior to any exterior changes; and
 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 Caryn L. Hines, seconded by Wendell M. Holloway, with Donna L. Barron, Vice-Chair, 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.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 21st day of June, 2007.

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.