

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

(240) 777-6600

**Case No. S-2760**

**PETITION OF ZI WU ZHANG AND LUK YING KO**

OPINION OF THE BOARD

(Opinion Adopted January 19, 2011)

(Effective Date of Opinion: February 2, 2011)

Case No. S-2760, Petition of Zi Wu Zhang and Luk Ying Ko, is an application under Section 59-G-2.00 of the Zoning Ordinance for a special exception to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on October 28, 2010, closed the record in the case on November 30, 2010, and on December 20, 2010, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 27, Block A, Manors of Paint Branch Subdivision, located at 12509 Stratford Garden Drive, Silver Spring, Maryland 20904 in the R-90 Zone.

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

The Board of Appeals considered the Hearing Examiner's Report and Recommendation and the record in the case on January 19, 2011. 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 Petitioners are bound by their 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 this Opinion;

2. The Petitioner must make the repairs needed to comply with the conditions set forth in the Memorandum of Wright Jolly, Housing Code Inspector, Division of Housing and Community Affairs (Exhibit 12):
  1. Solid Waste: Remove the wood, trash bags, plastic fencing, cement splash block and rubbish from the property.
  2. Trash Cans: Provide enough trash cans for the disposal of solid waste and obtain lids for the trash cans that do not have lids on them.
  3. Kitchen Stove: Replace/repair the front right burner which is inoperable.
  4. Off Street Parking: There are two driveway and two garage parking spaces available.
3. Based on habitable space in the apartment (351.02 square feet), no more than three family members or two unrelated persons may reside in the accessory apartment.
4. The storage or “utility” room can not be used as a sleeping area.
5. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located.
6. Petitioner must not receive compensation for the occupancy of more than one dwelling unit.
7. 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. Petitioners 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 Stanley B. Boyd, seconded by Carolyn J. Shawaker, with Walter S. Booth, David K. Perdue, Vice-Chair, and Catherine G. Titus, 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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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 2nd day of February, 2011.

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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. 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.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.