

**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-2808**

**PETITION OF OLUWASEYI AGBELUSI**

OPINION OF THE BOARD

(Opinion Adopted November 9, 2011)

(Effective Date of Opinion: November 17, 2011)

Case No. S-2808 is an application for a Special Exception under Zoning Ordinance Section 59-G-2.00 to allow an accessory apartment. The subject property is Lot 13, Block 4, Harmony Hills Subdivision, located at 3821 Palmira Lane, Silver Spring, Maryland 20906-5227.

The Hearing Examiner for Montgomery County held a hearing on the application on September 2, 2011, closed the record in the case on September 21, 2011, and on October 18, 2011, issued a Report and Recommendation for approval of the special exception.

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 at its Worksession on November 9, 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 Petitioner is bound by his 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 Elba Benitez, Housing Code Inspector,

## Division of Housing and Community Affairs (Exhibit 12):

- (1). Double cylinder dead bolt will have to be replaced with single thumb turn lock.
- (2). Windows in bedroom must meet code standard for emergency egress. The windows shall be at least (5) square feet in net clear opening [and] have an opening height of 24" and a minimum net clear opening width of 20", with the bottom opening not more than 44" above the floor.
3. Based on a habitable space in the accessory apartment (508 square feet), no more than two (2) unrelated persons or a family of four may reside in the accessory apartment;
4. The main dwelling unit must not be occupied by a family of unrelated persons;
5. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
6. Petitioner's must make parking spaces available for their accessory apartment tenants, either on the existing driveway or on the street directly in front of Petitioner's home;
7. Petitioner must not have a guest room for rent, a boardinghouse or a registered living unit, in addition to the accessory apartment, and must not receive compensation for the occupancy of more than one dwelling unit; 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. 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 Walter S. Booth, with David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, and Carolyn J. Shawaker necessarily absent, 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  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 17<sup>th</sup> day of November, 2011.

---

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.