

**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-2846

PETITION OF SAMANTHA TUTTAMORE

OPINION OF THE BOARD

(Opinion Adopted December 19, 2012)

(Effective Date of Opinion: December 20, 2012)

Case No. S-2846 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to allow an accessory apartment. The subject property is Lot 6, Block B, located at 9323 Cedar Lane, Bethesda, Maryland 20814, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on October 11, 2012, closed the record in the case on November 16, 2012, and on December 3, 2012, issued a Report and Recommendation for approval of the special exception.

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

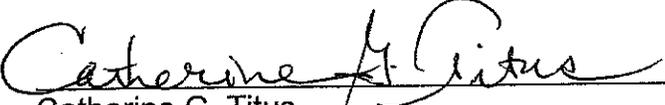
The Board of Appeals considered the Report and Recommendation at its Worksession on December 19, 2012. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. 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 this Opinion;
2. Petitioner must comply with the conditions set forth in the Memorandum of Ivan Eloisa, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 13):

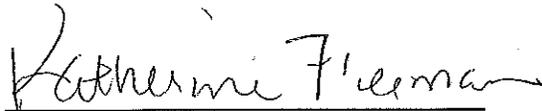
- a. All required building, electrical, and plumbing permits must be obtained and finalized before the unit may be occupied.
 - b. The accessory apartment bedroom must have a window of at least five (5) square feet in net clear opening. The window must open without the use of a tool and have a minimum net clear opening height of 24 inches and a minimum net clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor.
3. Petitioner must comply with the determination of the Housing Code Inspector as to the limits on occupancy in the accessory apartment and must comply with any other directions of the Housing Code Inspector to ensure safe and code-compliant occupancy;
 4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
 6. Petitioner must not receive compensation for the occupancy of more than one dwelling unit; and
 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. 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 Stanley B. Boyd, seconded by Carolyn J. Shawaker, with 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.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 20th day of December 2012.



Katherine Freeman
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.