

**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-2813

PETITION OF SUSAN OGDEN AND HANK PRENSKY

OPINION OF THE BOARD

(Opinion Adopted May 16, 2012)

(Effective Date of Opinion: May 22, 2012)

Case No. S-2813 is an application for a special exception, under 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 October 20, 2012 and March 15, 2012, closed the record in the case on March 30, 2012, and on April 20, 2012, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 44, Block 53, Flower Avenue Park Subdivision, located at 7921 Sligo Creek Parkway, Takoma Park, Maryland, 20912.

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 May 16, 2012. After careful consideration and review, 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 in this opinion;
2. The Petitioners must comply with the conditions set forth in the Memorandum of Ivan Eloisa, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14):

- a. The existing dwelling is located on a lot consisting of 16,898 square feet of land.
 - b. The AA consists of 511 square feet of habitable space including one sleeping room measuring 108 square feet.
 - c. Based on square footage requirements, the AA may be occupied by up to two people.
 - d. The existing dwelling was constructed in 1952 and contains approximately 1,609 square feet.
 - e. The existing dwelling has off street parking consisting of a large area in front of the house which would allow for the parking of more than 5 vehicles on the premise.
 - f. The ceiling height in the bedroom ranges from 6'09"-6'10". All other areas are over the required 7' ceiling height.
 - g. The AA entrance door from the exterior currently has a double cylinder deadbolt lock that must be replaced with a single cylinder lock that operates with a thumb turn from inside and a key from outside the premises.
 - h. The door separating the AA from the main house dwelling must have a lock to divide the units.
 - i. The bathroom door must be repaired or replaced to close and latch as designed.
 - j. The bedroom door must be repaired or replaced to close and latch as designed.
 - k. The bathroom toilet seat needs to be replaced.
3. Petitioners must comply with the determination of the Housing Code Inspectors as to limits on occupancy in the accessory apartment (up to two persons) and must comply with any other directions of the Housing Code Inspectors to ensure safe and code-compliant occupancy;
 4. Given the waiver of Code Section 26-25(d), granted by DHCA, pursuant to Code Section 26-17, Petitioners must install hardwired, interconnected smoke detectors throughout the house. No smoke detector or alternative system may be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit is first obtained from the Department of Permitting Services. A Maryland certified electrician must perform the smoke detector upgrade;
 5. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 6. Petitioners must not receive compensation for the occupancy of more than one dwelling unit; and
 7. Petitioners 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 Carolyn J. Shawaker, 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 22nd day of May 2012.

Katherine Freeman
Executive Director

NOTE:

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.

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.