

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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(240) 777-6600

Case No. S-2847

PETITION OF JONATHAN KATZ AND TERRIE MORELAND

OPINION OF THE BOARD

(Opinion Adopted January 9, 2013)

(Effective Date of Opinion: January 18, 2013)

Case No. S-2847 is an application for a special exception under Section 59-G-2.00 of the Zoning Ordinance to permit an accessory apartment. The subject property is Lots 11 & 12, Block 115, in the Glazewood Manor Subdivision, located at 914 Larch Avenue, Takoma Park, Maryland, 20912, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on November 1, 2012, closed the record on December 12, 2012, and on December 27, 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 Hearing Examiner's Report and Recommendation at its Worksession on January 9, 2013. After careful consideration and review of the record in the case, the Board does not adopt the Hearing Examiner's proposed Condition No. 3, which incorporates Planning Staff's recommended conditions by reference. All conditions are re-stated herein. With that slight change, 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 Petitioners must comply with the conditions set forth in the Memorandum of Robert Goff, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14):
 - a. Install an egress window in bedroom number 1 and bedroom number 2. Each window must be at least 5 sq. feet opening.
 - b. Remove existing door between bedroom number 1 and 2. Install a wall between bedroom 1 and bedroom 2. There must be a total separation between rooms.
 - c. Install new light fixture in bedroom 1.
 - d. Remove sink and all plumbing pipes from bedroom 1 in front of window. Plumbing pipes can be capped inside the wall.
 - e. Remove keyed lock from storm door.
 - f. Install one smoke detector between the each bedroom in the middle of the hallway.
 - g. Install full size stove/range in the unit.
 - h. Install vent over stove/range to vent to the exterior.
 - i. Remove all keyed deadbolts from all doors in the Accessory Apartment.
 - j. Glaze bathroom sink.
 - k. Secure thermostat to wall.
 - l. The Accessory Apartment is 1,024 square feet in size with 345 square feet of habitable space. As a result, two (2) unrelated persons or no more than a family of three (3) can occupy the Accessory Apartment;
3. The Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
4. 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;
5. The Petitioners must not receive compensation for the occupancy of more than one dwelling unit;
6. 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.

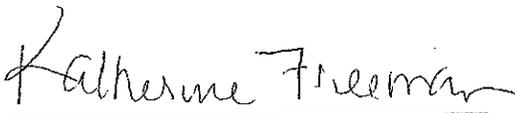
On a motion by David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Stanley B. Boyd and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

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 18th day of January, 2013.



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.