

**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-2773

PETITION OF JENNA ROSS SMITH

OPINION OF THE BOARD

(Opinion Adopted February 9, 2011)
(Effective Date of Opinion: March 17, 2011)

Case No. S-2773 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery held a hearing on the application on November 8, 2010, closed the record in the case on December 10, 2010, and on January 10, 2011, issued a Report and Recommendation for approval of the special exception.

The subject property is Lots 1, 2 and 3, Block 7, Brookmont Subdivision, located at 6430 Ridge Road, Bethesda, Maryland, 20816-2638, in the R-60 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 at its Worksession on February 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 Petitioners are bound by their testimony, representations and exhibits of record to the extent that such evidence and testimony are identified in the Hearing Examiner's Report and in the Opinion of the Board.
2. The Petitioner must install the stove or range in the kitchen area.

3. Based on habitable space in the apartment (344.6 square feet), no more two persons may reside in the accessory apartment.
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located.
5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit.
6. Petitioner must complete all modifications set forth in the letter dated December 3, 2010, from Deputy Fire Marshal Michael A. Donohue (Exhibit 19) prior to occupancy.
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 and Walter S. Booth 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 17th day of March, 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.