

**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-2796

PETITION OF RAMON ZEENDER

OPINION OF THE BOARD

(Opinion Adopted July 20, 2011)

(Effective Date of Opinion: July 22, 2011)

Case No. S-2796 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 Lot 9 and Part 8, Block 3, Woodhaven Subdivision, located at 8312 Woodhaven Boulevard, Bethesda, Maryland, 20817, in the R-90 Zone.

The Hearing Examiner for Montgomery County held a public hearing on the application on April 8, 2011, closed the record in the case on May 31, 2011, and on June 28, 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 July 20, 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 in this Opinion;
2. The Petitioner must make the repairs needed to comply with the conditions set forth in the Memorandum of Cynthia Lundy, Housing Code Inspector,

Division of Housing and Code Enforcement (Exhibit 20):

- a. Must construct a masonry (concrete) wall that covers the entire door that leads to the garage
 - b. Must install a wall that completely separates the 'living-room' from the sleeping area
 - c. Must install a window in the sleeping area that is at least five (5) square feet in net clear opening and must be able to open without the use of a tool with a minimum net clear height of 24 inches, and a net clear opening width of 20 inches, with the bottom of the opening not more than 44 inches above the floor *(a window that opens down or otherwise blocks the way out is unacceptable)
 - d. The smoke detector must be secured to the wall or ceiling in the family room (area currently used as the master bedroom)
 - e. Must not use for sleeping any area of the unit that houses a gas dryer system
 - f. Interior glass doors must provide privacy
 - g. Must install a wall with built-in door to utilize the front entrance area for sleeping
 - h. The kitchen stove burners must be functioning properly
 - i. Must repair or replace the exterior light at the entrance door
 - j. Must remove all debris including, but not limited to dead branches, license tags, glass, construction debris and organic waste
 - k. Must install louvered doors to furnace area or install door vents to insure proper ventilation
 - l. Must paint all exterior wood trim
3. Based on habitable space in the apartment (833 square feet), no more than a family of four or two unrelated individuals may reside in the accessory apartment;
 4. Petitioner and/or his children 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; and
 6. 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 David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Walter S. Booth, Stanley B. Boyd, and Catherine G. Titus, Chair, in agreement:

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 July, 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.