

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2799

PETITION OF TYLER AND ANNE HOLT

OPINION OF THE BOARD

(Opinion Adopted April 20, 2011)

(Effective Date of Opinion: April 29, 2011)

Case No. S-2799, Petition of Tyler and Anne Holt, is an application, under Section 59-G-2.00 of the Montgomery County Zoning Ordinance, for a special exception to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on March 14, 2011, closed the record in the case on March 24, 2011, and on March 31, 2011 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 11, Block 3, Bradley Woods Subdivision, located at 5811 Wilson Lane, Bethesda, Maryland 20817, in the R-90 Zone.

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 April 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 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 the Opinion of the Board;
2. The Petitioners must make the repairs needed to comply with the conditions set forth in the Memorandum of Lynn McCreary, Housing Code Inspector,

- Division of Housing and Code Enforcement (Exhibit 13);
- a. The chipping and peeling paint on the foundation wall of the window well must be eliminated, scraped, prepped and repainted in a professional, workmanlike manner.¹
 - b. The door separating the unit from the utility room and the door separating the unit from the main house must be self-closing and self-latching and must have a minimum 20-minute fire protection rating.
3. Based on habitable space in the apartment (355.45 square feet), no more than two persons may reside in the accessory apartment;
 4. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 5. Petitioners must not receive compensation for the occupancy of more than one dwelling unit;
 6. Petitioners must make parking spaces available on their driveway and/or in their garage for the number of cars maintained in the neighborhood by themselves and the accessory apartment tenants; 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

¹ Petitioners testified that they have already completed this task. Tr. 11.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 29th day of April, 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.