

**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-2834

PETITION OF CHRISTOPHER AND SHIVANI SUTTON

OPINION OF THE BOARD

(Opinion Adopted July 25, 2012)

(Effective Date of Opinion: August 13, 2012)

Case No. S-2834 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, for an accessory apartment. The subject property is Lot 20, Block 12, Gilbert Subdivision, located at 7307 Piney Branch Road, Takoma Park, Maryland 20912, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on May 24, 2012, closed the record in the case on June 11, 2012, and on July 11, 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 Report and Recommendation at its Worksession on July 25, 2012. After careful consideration and review of the record, the Board revises Condition 2 to eliminate subsection "e", deletes the word "solely" from Condition 7, and with those changes 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 representations 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 Robert Goff, Housing Code Inspector, Division of Housing

and Code Enforcement (Exhibit 12):

- a. Install egress window in bedroom. Window must be at least 5 square feet net clear opening. Pursuant to the Housing Code Inspector's testimony during the hearing, Petitioner has the option of preserving the existing bedroom window ("French" window) instead of installing a new window with the following conditions: 1) Petition must remove the exterior storm window; and 2) repair the existing window to make it weather tight and secure by replacing the latch with a secure window lock.
 - b. Install range and range hood in kitchen. Range hood must vent to the exterior of the building.
 - c. Install door knob on door going into laundry room.
 - d. The Accessory Apartment is 334.4 square feet. 150 square feet per person and 100 square feet for each additional person. 2 unrelated or a family of 2 may live in the unit.
3. The Petitioners must comply with the conditions set forth in the Technical Staff report (Exhibit 13), including condition #4 as follows: the applicant must provide a lighted path that meets the building code along the side of the house from the door of the accessory apartment unit to the public sidewalk. Pursuant to the Housing Code Inspectors testimony during the hearing, low voltage ground lights (i.e., solar garden lights) along the existing path would be acceptable lighting that meets the building code;
 4. The Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 5. 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;
 6. The Petitioners must not receive compensation for the occupancy of more than one dwelling unit;
 7. The Petitioners must maintain one of their four off-street parking spaces for the use of the occupant or occupants of the accessory apartment;
 8. The Petitioners must submit any proposed future exterior modifications on any portion of the subject property to the Historic Preservation Commission and the Historic Preservation Section of the MNCPPC for their review and approval prior to the commencement of such modifications;
 9. The 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. 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 Stanley B. Boyd, Walter S. Booth 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 13th day of August, 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.