

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

**Case No. S-2545**

**PETITION OF FRANCIS XAVIER MCGUIGAN**

OPINION OF THE BOARD

(Public Hearing Date: December 2, 2002)  
(Effective Date of Opinion: April 11, 2003)

Case No. S-2545 is an application for a special exception pursuant to Section 59-G-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

The subject property is Lot 14, Block C, Byeforde Subdivision, located at 4105 Culver Street, Kensington, Maryland, in the R-90 Zone.

Pursuant to the authority in Section 59-A-4.125 of the Montgomery County Code, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct a public hearing on the application. The Hearing Examiner held a public hearing on December 2, 2002, and issued a written Report and Recommendation December 16, 2002.

Decision of the Board:                    Special exception **granted** subject  
    To conditions enumerated below.

At its Worksession on March 19, 2003, the Board of Appeals voted to adopt the Hearing Examiner's Report and Recommendation and approve the special exception subject to the following conditions:

1. The Petitioner shall be bound by his testimony and exhibits of record, including but not limited to Exhibit Nos. 1, 3 and 6, to the extent that such testimony and evidence are identified in the Board's Opinion granting the special exception.

2. The accessory apartment must be maintained in compliance with the Montgomery County Housing Code, including but not limited to the requirement that the Petitioner must install and maintain a single cylinder

deadbolt lock on the apartment entrance door, and limitation of the number of occupants of the apartment based upon its square footage.

3. The Petitioner must reside at the subject property and can receive compensation for only one dwelling unit.

On a motion by Allison Ishihara Fultz, seconded by Donna L. Barron, with Louise L. Mayer, Angelo M. Caputo and Donald H. Spence, Jr., Chairman 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.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 11<sup>th</sup> day of April, 2003.

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Katherine Freeman  
Executive Secretary to the Board

**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.

