

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/board.asp](http://www.montgomerycountymd.gov/content/council/boa/board.asp)

**Case No. S-2676**

**PETITION OF ALICIA RIVERA**

OPINION OF THE BOARD

(Opinion Adopted: September 27, 2006)  
(Effective Date of Opinion: November 2, 2006)

Case No. S-2676 is an application, pursuant to Section 59-G-2.00 of the Montgomery County Zoning Ordinance, to permit an accessory apartment. The Hearing Examiner for Montgomery County held a hearing on the application on August 29, 2006, closed the record on September 5, 2006, and on September 11, 2006 issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 28, Block 40, Wheaton Hills Subdivision, located at 11305 Veirs Mill Road, Silver Spring, Maryland 20902.

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 September 27, 2006. 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 her testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Board's Opinion and in the Hearing Examiner's Report and Recommendation;
2. The Petitioner will take the following steps to comply with the conditions set forth in the Memorandum of Travis Aldoous, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 13):

a) The windows in the bedrooms do not meet code requirements for emergency egress. Windows shall be at least five(5) square feet in net clear opening and must be openable without the use of a tool with a minimum net clear height of 22 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. The clear path of egress must lead safely to the street, not just an -enclosed yard and not just into a blocked window well. If the required minimum window area is not entirely above the grade of the adjoining ground, a window well with a minimum of three (3) foot width extended out from the exterior building wall will satisfy this condition.

b) The exterior door light must be wired according to National Electrical Code Standards.

c) The bedroom adjacent to the rear exit does not meet code standards for light, ventilation or emergency egress and can only be used for storage.

d) A wall outlet with GFCI circuit interrupter must be installed in the bathroom.

e) A kitchen type stove must be properly installed in the kitchen with either electric or gas.

f) The flue for the water heater must be properly repaired.

g) The rear exit door needs a new striker plate for deadbolt and dead latch assemblies.

3. Based on habitable space in the apartment (341 square feet), no more than 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 make at least one of the parking spaces on her property available to the accessory apartment tenant; and

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 Angelo M. Caputo, seconded by Wendell M. Holloway, with Caryn L. Hines, Donna L. Barron and Allison Ishihara Fultz, 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.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 2<sup>nd</sup> day of November, 2006.

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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.

