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The Montgomery County Department of Housing and Community Affairs (DHCA) referred the Applicant to the Office of Zoning and Administrative Hearings (OZAH) on April 16, 2019, after finding that the subject property did not have the number of on-site parking spaces required by the Montgomery County Zoning Ordinance. *See, Montgomery County Zoning Ordinance*, §59.3.3.3.A.2.c.ii. Exhibit 3. Mr. Gegbeh filed a request to waive the parking required on the same date. Exhibit 1. DHCA issued its initial director's report of findings (Director's Report) on April 17, 2019. Exhibit 7. The Director's Report concluded that the proposed apartment met all zoning and County Code requirements for an accessory

apartment except for the required number of on-site parking spaces. OZAH issued notice of a public hearing on the waiver request on April 17, 2019, scheduling the hearing for April 26, 2019. Exhibit 8.

The April 26, 2019, public hearing proceeded as scheduled. Ms. Gegbeh and Ms. Tamala Robinson, a Housing Inspector from DHCA, testified at the hearing. No one appeared in opposition to the request.

Mr. Gegbeh adopted the preliminary findings contained in the Director's Report as his own testimony. T. 7. He testified that the property has two on-site parking spaces in a garage accessed from an alley. There is space for two cars to park on the street in front of his property. There is always sufficient parking on-street because all of the four homes on his block have two-car garages and space for parking on-street in the front. T. 8-11.

The Housing Inspector, Ms. Tamala Robinson, confirmed Mr. Gegbeh's testimony that all homes on his block have two-car garages and on-street parking in front. She visited the property four times—once for the preliminary inspection on March 27, 2019, and three additional times to verify whether on-street parking was regularly available. She and another Housing Inspector conducted the preliminary inspection and both cars were able to park on the street without problems. T. 12-13. The three additional inspections were conducted on April 2, 2019 at 10:00 a.m., April 8, 2019, at 5:30 p.m. and April 11, 2019 at 12:00 p.m. T. 13-15. In addition to Mr. Gegbeh's block, she inspected the parking on the adjoining block. She testified that, during each of her inspections, there was available parking on both blocks. *Id.*

## **II. Findings and Conclusions**

The standards for approval of an accessory apartment are set out in both the Montgomery County Code (§§29-19, 29-26) and the Montgomery County Zoning Ordinance (§§ 3.3.3.A and B). The Director's Report sets out all of the standards for approval of a license. As the Director's Report, which Mr. Gegbeh adopted as his own testimony, verifies that all other requirements for an accessory apartment have been met, the only issue before the Hearing Examiner is whether on-street parking is adequate to serve the proposed apartment.

The Zoning Ordinance requires a minimum of three parking spaces on the property to support the primary dwelling unit and the accessory apartment. *Zoning Ordinance*, §§59.3.3.3.A.2.c.ii, 59.6.2.4. License applicants may seek a waiver of this if there is “adequate” on-street parking to support the proposed apartment. Parking is adequate if:

- A) the available parking for residents within 300 feet of the proposed accessory apartment would permit a resident to park on-street near his or her residence on a regular basis; and*
- (B) the proposed accessory apartment is not likely to reduce the available on-street parking within 300 feet of the proposed accessory apartment.*

*Montgomery County Code*, §29-26(b)(6).

The Hearing Examiner finds from the testimony of Mr. Gegbeh and Ms. Robinson that there is sufficient on-street parking available for residents within 300 feet of the proposed apartment. All other homes on the same block as the proposed apartment have two-car garages. The Housing Inspector observed the parking on both Mr. Gegbeh’s block and the adjoining block to ensure parking was adequate within the full 300 feet. During all four of her inspections, on-street parking was readily available. Thus, the only evidence in the record supports a finding on-street parking will be adequate under §29-26(b) of the *Montgomery County Code*.

### **ORDER**

For the foregoing reasons, the Hearing Examiner hereby orders, on this 1st day of May, 2019, that the Applicant’s request for a waiver of the number of spaces required for the accessory apartment located at 12549 Blue Sky Drive, Clarksburg, Maryland (License No. 112912), be *approved*.



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Lynn A. Robeson  
Hearing Examiner

#### **COPIES TO:**

Paul Gegbeh  
Clifton Bouma, DHCA  
Tamala Robinson, Housing Inspector