

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY, MARYLAND**

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[www.montgomerycountymd.gov/content/council/zah/index.asp](http://www.montgomerycountymd.gov/content/council/zah/index.asp)

**IN THE MATTER OF A REQUEST FOR A  
WAIVER OF PARKING REQUIREMENTS  
FOR ACCESSORY APARTMENT  
LICENSE NO. 128688**

Laurie Torchinsky

License Applicant

Supporting the Request

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OZAH Case No: ADW 22-02  
DHCA License No. 128688

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Tamala Robinson

Housing Inspector

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Before: Andrea LeWinter and Lynn Robeson Hannan,  
Hearing Examiners

Decision by: Andrea LeWinter, Hearing Examiner

**REPORT AND DECISION**

**I. Case Summary**

The applicant for the above accessory apartment license (License No. 128688), Ms. Laurie Torchinsky, sought a waiver from the number of on-site parking spaces required for a proposed accessory dwelling unit located at 11506 Lamberton Court, Silver Spring, MD 20902. Exhibit 2.

The Montgomery County Department of Housing and Community Affairs (DHCA) referred the Applicant to the Office of Zoning and Administrative Hearings (OZAH) on March 14, 2022, 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; see also* Exhibit 2. Ms. Torchinsky filed a request to waive the

*Ordinance*, §59.3.3.3.A.2.c.ii; *see also* Exhibit 2. Ms. Torchinsky filed a request to waive the parking requirement on the same date, March 14, 2022. Exhibit 1. DHCA issued its Preliminary Inspection Report on November 18, 2021. Exhibit 2. The Preliminary Inspection 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 March 17, 2022, scheduling the hearing for April 8, 2022. Exhibit 4.

The April 8, 2022 public hearing proceeded as scheduled. Ms. Torchinsky and Ms. Tamala Robinson, a Housing Inspector from DHCA, testified at the hearing. No one appeared in opposition to the request.

Ms. Torchinsky adopted the preliminary findings contained in the Preliminary Inspection Report as her own testimony. *T. 8.* She testified that the property is located on a no-outlet court and her property occupies the largest part of the court, basically the entire area at the end on a hill, such that there is a substantial amount of street parking bordering and directly across the street from her property that does not border the property of the other residents of the court. *T. 7.* She stated that the other residents of the court prefer to park in front of their own homes and not near her property. *Id.* She estimated that five cars could park on the street within 300 feet of her home with lots of space. *Id.* She stated that there is sufficient parking on-street within 300 feet of her home. *Id.*

The Housing Inspector, Ms. Tamala Robinson, confirmed Ms. Torchinsky's testimony that there is substantial on-street parking bordering and across from Ms. Torchinsky's property that does not border the property of other residents of the court. *T. 9-10.* Ms. Robinson stated that she visited the property four times -- once for the preliminary inspection on November 18, 2022, and three additional times to verify whether on-street parking was regularly available, including March

23, 2022 at 7:00 am; March 24, 2022 at 12:25 pm; and, March 28, 2022 at 5:30 pm. *Id.* When Ms. Robinson conducted the preliminary inspection and at every subsequent visit, she had no difficulty parking on the street and additional on-street parking was always available. *Id.* She testified that she has no reason to believe that on-street parking will not consistently be available within 300 feet of the proposed accessory dwelling unit and that the addition of accessory dwelling unit is unlikely to reduce the availability of on-street parking within 300 feet of the proposed accessory apartment. *T. 10-11.* Ms. Robinson testified that she did not believe any other conditions were required to ensure sufficient access to on-street parking. *T.11.*

## **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 Preliminary Inspection Report sets out the standards for approval of a license. As the Preliminary Inspection Report, which Ms. Torchinsky adopted as her 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.*

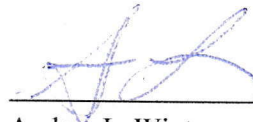
*Montgomery County Code, §29-26(b)(6).*



The Hearing Examiner finds from the testimony of Ms. Torchinsky and Ms. Robinson that there is sufficient on-street parking available within 300 feet of the proposed apartment. There is room for at least five cars to park on the street bordering Ms. Torchinsky's property, and this parking area is not attractive to or used by other residents of Ms. Torchinsky's court. The Housing Inspector observed parking availability on Ms. Torchinsky's court to ensure adequacy within the full 300 feet, and during all four of her inspections, on-street parking was available. Thus, the only evidence in the record supports a finding that 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 20th day of April, 2022, that the Applicant's request for a waiver of the number of spaces required for the accessory apartment located at 11506 Lamberton Court, Silver Spring, Maryland 20902 (License No. 128688), be approved.



Andrea LeWinter  
Hearing Examiner

COPIES TO:

Laurie Torchinsky  
Clifton Bouma, DHCA  
Tamala Robinson, Housing Inspector