

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND

Council Office Building
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www.montgomerycountymd.gov/content/council/zah/index.asp

IN THE MATTER OF A PARKING WAIVER
REQUEST FOR ACCESSORY APARTMENT
APPLICATION NO. 143555

LOUISE & JEAN-MARIE TAKOUGNE

License Applicants

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MICHELLE HADRICK

Housing Inspector III
Representing the Department of
Housing & Community Affairs
(DHCA)

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Before: Kathleen E. Byrne, Hearing Examiner

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* OZAH Case No. ADW 23-02
* DHCA Pending License No. 176041
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REPORT AND DECISION

I. CASE SUMMARY

This matter was referred to the Office of Zoning and Administrative Hearings (OZAH) by the Montgomery County Department of Housing and Community Affairs (DHCA) after determining that the subject property located at **4507 W. Frankfort Drive, Rockville, MD 20853**, did not satisfy the number of on-site parking spaces required by the Montgomery County Zoning Ordinance to support the request for an accessory dwelling unit under Pending License No. 176041. *See Montgomery County Zoning Ordinance, §59.3.3.3.A.2.c.ii.*

On November 2, 2022, DHCA issued its Preliminary Inspection Report (“Report”). Exhibit 2. The Report concluded that the proposed accessory dwelling unit (ADU) did not meet the required number of on-site parking spaces. *Id.* The Report found that the existing on-site parking consisted of an open driveway with 234 square feet of parking space and no garage. *Id.* In addition, the Report determined that the property is NOT located within one (1) mile of the Metrorail, Purple Line or MARC Rail Station. *Id.* In an R-90 Zone, two (2) spaces are required for the owner and only one vehicle may be parked for every 160 square feet of surfaced parking area. *Montgomery County Zoning Ordinance*, §59.6.2.5.M.5. The Zoning Ordinance requires one additional on-site parking space to the required on-site spaces for the owner. *Id.* at §59.3.3.3.A.2.c.ii.¹

On November 2, 2022, the License Applicants, Louise & Jean-Marie Takounge, filed a timely Request for Waiver of Accessory Dwelling Unit On-Site Parking Requirement for License Application No. 143555. Exhibit 1.² On May 9, 2023, OZAH issued a notice of public hearing on the waiver request, scheduling the hearing for May 24, 2023. Exhibit 4. The public hearing proceeded as scheduled on May 24, 2023. The Applicants, Mr. and Mrs. Takougne were present and testified. Also present was Housing Inspector Michelle Hadrick representing the Department of Housing & Community Affairs (DHCA). No one appeared in opposition or support to the request.

The Applicants testified in support of the requested waiver. The Applicants are the owners and primary resident of the subject property. Exhibit 1. The principal dwelling consists of 1,806 gross square feet and the ADU consists of approximately 400 square feet. Exhibit 2. Jean-Marie

¹ A minimum of 480 square feet of on-site parking is required for the addition of an ADU.

² While the request for waiver form was dated 11/2/22 by the applicant, OZHA marked the date filed/received as April 20, 2023.

Takougne testified that the property is on the corner of W. Frankfort and Marianna Drives. T. 11. He also stated that the existing driveway and entrance to the ADU face W. Frankfort. *Id.* Mr. Takougne estimates that there are two (2) spaces available for parking in front of the house on the W. Frankfort Drive frontage and an additional two (2) spaces along the Marianna Drive side. *Id.* Mr. Takougne stated he has completed most of the interior work to create the ADU and is waiting on the parking waiver approval and the final inspection before the ADU license can be issued. *Id.* at 12-13.

Housing Inspector, Michelle Hadrick, testified on behalf of DHCA. Inspector Hadrick testified that she inspected the property at different times of the day and did not observe a problem with street parking. *Id.* at 14. She found plenty of parking spaces on W. Frankfort even though there is a school about a block away. *Id.* Inspector Hadrick also observed people parked on both sides of the street and found traffic to be that of a “normal suburban street” with an increase in volume during school times, but still, plenty of space for parking during the busier times. *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 only issue before the Hearing Examiner is whether on-street parking is adequate to serve the proposed apartment. The Report states the property lacks sufficient on-site parking and identifies additional standards for approval of a license. The existing driveway of the subject property totals 234 square feet, 246 square feet less than required to accommodate three (3) parking spaces on-site. Exhibit 2. The Zoning Ordinance requires a minimum of three (3) 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 exhibits filed and the testimony of Mr. Takougne and Inspector Hadrick that the proposed ADU is not likely to reduce the available on-street parking within 300 feet of the property. In addition, the Hearing Examiner finds persuasive the undisputed testimony from Mr. Takougne that on-street parking exists for least four (4) parking spaces. The record in this case does not indicate that public street parking is limited in the surrounding neighborhood and Inspector Hadrick’s observations confirmed the availability of parking, even during busier times of day, along both the W. Frankfort Drive and Marianna Drive, all within 300 feet of the proposed ADU. The evidence in this record supports a finding that on-street parking will be adequate under §29-26(b) of the Montgomery County Code to support an ADU.

ORDER

For the foregoing reasons, the Hearing Examiner hereby orders, on this 9th day of June 2023, that the Applicant’s request for a waiver of the number of spaces required for the accessory apartment located at **4507 W. Frankfort Drive, Rockville, MD 20853** (Pending License No. 176041) be **APPROVED**.



Kathleen E. Byrne

Hearing Examiner

COPIES TO:

Louise & Jean-Marie Takougne, Applicants
Michelle Hadrick, DHCA

NOTICE OF RIGHT TO APPEAL

Any party aggrieved by the Hearing Examiner's decision on a waiver may request the Circuit Court to review the Hearing Examiner's final decision under the Maryland Rules of Procedure. The Civil Division of the Montgomery County Circuit Court is located at: North Tower, 1st Floor, Rm 1200, 50 Maryland Avenue, Rockville, MD 20850. The phone number is (240) 777-9401. Anyone wishing to file an appeal should check with the Court on operations during the COVID-19 emergency at:

<https://www.montgomerycountymd.gov/cct/departments/civil-department.html>.