

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND

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IN THE MATTER OF A PARKING WAIVER
REQUEST FOR ACCESSORY APARTMENT
APPLICATION NO. 151445

PATRICIA WALSH

License Applicant

* * * * *

AUSTIN MCNAMARA

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

* * * * *

Before: Khandikile Mvunga Sokoni, Hearing Examiner

OZAH Case No. ADW 25-01
DHCA Pending License No. 151445

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 **9627 Singleton Drive, Bethesda, MD**, 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. 151445. *See Montgomery County Zoning Ordinance*, §59.3.3.3.A.2.c.ii.

On September 18, 2024, DHCA issued its Preliminary Inspection Report (“Report”) regarding a preliminary inspection conducted on September 17, 2024. 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 there is on-site parking measuring 440 square feet as well as a one-car garage on the premises *Id.* The Hearing Examiner conducted a review of local area maps and MC ATLAS and determined that the Report correctly concludes that the property is NOT located within one (1) mile of the Metrorail, Purple Line or MARC Rail Station. In an R-60 Zone, approval of an ADU license by DHCA requires parking spaces for three (3) vehicles. Parking spaces are required for the owner and only one vehicle may be parked for every 160 square feet of the surfaced parking area. *Montgomery County Zoning Ordinance, §59.6.2.5.M.5. Id. at §59.3.3.3.A.2.c.ii.*¹

On September 18, 2024, the License Applicant, Patricia Walshe, filed a timely Request for Waiver of Accessory Dwelling Unit On-Site Parking Requirement for License Application No. 151445. Exhibit 1. On September 24, 2024, OZAH issued a Notice of Public Hearing on the waiver request, scheduling the hearing for October 10, 2024. Exhibit 3. The public hearing proceeded as scheduled remotely, via Teams, on October 10, 2024. The Applicant, Ms. Walshe, participated via telephone and testified under oath. Also present, virtually via Teams, was Housing Inspector Austin McNamara representing the DHCA who also testified under oath. No one appeared in opposition or support to the request.

The Applicant testified in support of the requested waiver. Ms. Walshe is the owner and primary resident of the subject property. Exhibit 1. She stated that she is applying for a license for a one-bedroom accessory apartment and that the upper two levels of the four-level split residence

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

will be occupied by her alone. T.10.² The principal dwelling consists of 4,620 gross square feet and the attached ADU which is in the basement with an entrance door on the right of the principal dwelling is approximately 2,310 gross square feet. Exhibit 2. Ms. Walshe testified that she has only one vehicle and at 84 years old she does not expect that she will ever own a second vehicle. *Id.* She explained that there is ample parking on the street which is not a snow zone. Ms. Walsh also submitted photographs that depict views of the street parking in the vicinity of her home including the intersection of Singleton Drive and King Ford Road, east of Singleton Drive and west of Singleton Drive. Exhibit 5.

Housing Inspector, Austin McNamara, testified on behalf of DHCA that he inspected the property and did not observe a problem with street parking. T. 13. He testified that he found ample parking spaces on Singleton Drive and was able to park very close if not in front of Ms. Walshe's house. *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 Inspection Report states the property lacks sufficient on-site parking and identifies additional standards for approval of a license. Specifically, regarding parking requirements, the Inspection Report says that for an ADU license to be approved there must be:

“4. *Onsite parking of at least 480 square feet, the minimum parking space for three vehicles, however, if a new driveway must be constructed for the ADU then a total of at least two on-site parking spaces must be provided. On-site parking is not required if the property is located within 1 mile of Metrorail, Purple Line, or MARC Rail Station.*”

Exhibit 2.

² References to the transcript appear in this decision as T. __ referring to the page number of the transcript.

The subject property has an off-street parking space measuring 440 square feet. In addition, the property has a one-car garage. *Id.* 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 whose property does not meet the onsite parking requirements may seek a waiver of the parking requirements if there is “adequate” on-street parking to support the proposed apartment. Alternate 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).

If Ms. Walshe’s property at 9627 Singleton Drive, Bethesda, MD meets all other requirements for an ADU license, DHCA must determine whether the combination of a one-car garage plus an onsite parking space of 440 square feet meets the requirements of the Zoning Code to warrant approval of the ADU license. If DHCA concludes that onsite parking is deficient, the Hearing Examiner grants approval of a waiver. The Hearing Examiner finds from the exhibits filed and the testimony of Ms. Walshe and Inspector McNamara that the proposed ADU is not likely to reduce the available on-street parking within 300 feet of the property. The Hearing Examiner also finds persuasive the fact that Ms. Walshe has only one vehicle and is unlikely to need a second vehicle. The evidence in this record supports the finding that on-street parking will be adequate under §29-26(b) of the Montgomery County Code to support an ADU if needed.

ORDER

For the foregoing reasons, the Hearing Examiner hereby orders, on this 24th day of October 2024, that if DHCA finds the onsite parking to be deficient, the Applicant’s request for a waiver

of the number of spaces required for the accessory apartment located at 9627 Singleton Drive, Bethesda, MD (DHCA Pending License No. 151445) is granted.

Office of Zoning and Administrative Hearings



Khandikile Mvunga Sokoni
Hearing Examiner

COPIES TO:

Patricia Walshe, Applicant
Austin McNamara, 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 at: <https://www.montgomerycountymd.gov/cct/departments/civil-department.html>.