

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY, MARYLAND

Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6660

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

IN THE MATTER OF A PARKING WAIVER  
REQUEST FOR ACCESSORY APARTMENT  
APPLICATION NO. 115846

LINDSAY RICHARDS

License Applicant

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OZAH Case No. ADW 22-01  
DHCA Pending License No. 80658

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CLIFTON BOUMA  
TAMALA ROBINSON

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Representing the Department of  
Housing & Community Affairs  
(DHCA)

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Before: Derek J. Baumgardner, Hearing Examiner

**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 finding that the subject property located at **12902 Penrose Street, Rockville, MD 20853**, did not have 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. 80658. *See, Montgomery County Zoning Ordinance, §59.3.3.3.A.2.c.ii.*

On September 14, 2021, DHCA issued its director's report of findings ("Director's Report"). Exhibit 2. The Director's Report concluded that the proposed accessory dwelling unit

(ADU) met all zoning and County Code requirements for an accessory apartment except for the required number of on-site parking spaces. *Id.* The report indicated that the existing driveway totaled 125 sq. ft., whereas 160 sq. ft. per vehicle is required to accommodate on-site parking under §59.3.3.3.A.2.c.ii. *Id.*

On September 27, 2021, License Applicant, Lindsay Richards, filed a timely Request for Waiver of Accessory Dwelling Unit On-Site Parking Requirement for License No. 80658. Exhibit 1.

On September 28, 2021, OZAH issued notice of a public hearing on the waiver request, scheduling the hearing for October 14, 2021. Exhibit 5. The public hearing proceeded as scheduled on October 14, 2021. The Applicant, Ms. Richards, was present and testified. Also present were Clifton Bouma and Housing Inspector Tamala Robinson representing the Department of Housing & Community Affairs (DHCA). No one appeared in opposition to the request.

The Applicant states that she is the owner and a primary resident of the subject property which is a 3,500 sq. ft. single-family residence. The Applicant further states there are approximately six (6) parking spaces along the property's frontage with Penrose Street that are "never used and always available." Exhibit 1. The Applicant further states that the neighborhood is not governed by any Homeowner's Association (HOA) and does not restrict parking along any public streets within the community. The Applicant also submitted a sketch of the floor plan detailing the accessory dwelling unit (ADU) and the front portion of the lot. Exhibits 3 & 4. Exhibit 4 indicates the location and approximate size of the driveway which currently serves the property.

Housing Inspector, Tamala Robinson, testified on behalf of DHCA. Inspector Robinson testified that she inspected the exterior of the property three times during different times of the day and confirmed through each inspection that on-street parking was available along Penrose Street

and throughout the community. Inspector Robinson's testimony confirmed Ms. Richards's testimony and application that this community does not typically experience street parking congestion.

## **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 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).

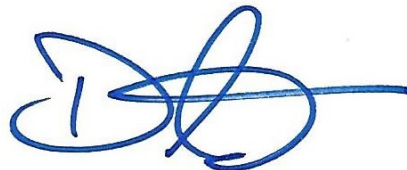
The Director's Report indicates that the existing driveway totals 125 sq. ft. and therefore does not meet the minimum requirement of 160 sq. ft. per parking space for the three (3) parking spaces required under this application. *See Exhibit 2.*

The Hearing Examiner finds from the exhibits filed and the testimony of Ms. Richards and Inspector Robinson that there is sufficient on-street parking available for residents within 300 feet

of the proposed apartment of at least six (6) parking spaces. The record in this case does not indicate that public street parking is limited in the surrounding neighborhood and Inspector Robinson's inspections confirmed the availability of parking along the property's frontage with Penrose Street and neighboring streets, all within 300 feet of the proposed ADU. The Hearing Examiner also finds that the proposed ADU is not likely to reduce the available on-street parking within 300 of the property for the same reasons as stated above. Thus the evidence in this 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 25<sup>th</sup> day of October 2021, that the Applicant's request for a waiver of the number of spaces required for the accessory apartment located at **12902 Penrose Street, Rockville, MD 20853** (Pending License No. 80658) be **APPROVED**.



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Derek J. Baumgardner  
Hearing Examiner

#### **COPIES TO:**

Lindsey Richards  
Ivan Eloisa, DHCA  
Clifton Bouma, 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>.