

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY

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CASE NO. ADO-26-02

HEARING EXAMINER'S DISMISSAL ON GROUNDS OF TIMELINESS OF
OBJECTION TO THE FINDINGS OF DHCA ON THE ACCESSORY APARTMENT
LICENSE APPLICATION (NO. 1560377) OF DERESSA SOLOMON

OPINION

Section 29-26 of the Montgomery County Code sets for the procedures required by an applicant for an accessory apartment to apply to the Department of Housing and Community Affairs (DHCA) for an accessory apartment license.¹ After an inspection of the property, the DHCA Director must enter formal findings regarding the application. A license applicant or an aggrieved party may challenge DHCA's findings by filing a formal objection with the Office of Zoning and Administrative Hearings for Montgomery County (OZAH) within 30 days after the DHCA Director issues his findings. MONTGOMERY COUNTY CODE §29-26. Under County Code §29-26, OZAH may decide only the issues raised in the objection.

FACTS

On July 20, 2025, Deressa Solomon filed an application with DHCA, seeking a Class III Accessory Apartment Rental License (License Application No. 1560377) for her single-family home, which is located at 13720 Bridgewater Drive, Silver Spring, Maryland 20904 ("property") in the R-200 Zone (Tax Account Number 01526566).

On September 8, 2025, DHCA issued a preliminary inspection report identifying adequate onsite parking, detailing next steps for the Applicant regarding approval of the basement apartment identifying related code requirements and set a reinspection date for March 10, 2026 (Exhibit 3). On October 13, 2025 an objection was filed with OZAH via email by Erin Harrell. It was assigned OZAH Number ADO 26-02 (Exhibit 1).

Housing Code Inspector Julia Thom inspected the property on August 27, 2025 and reported her findings via the preliminary inspection report dated September 8, 2025 (Exhibit 3). DHCA Director's approval of any license would be conditioned on Applicant correcting any problems noted during the housing inspection. Ms. Harrell's objection identified an existing daycare at the property, noted traffic congestion resulting in fender benders at the property

¹ See also, <https://www.montgomerycountymd.gov/dhca/housing/licensing/accessory.html>

during drop-off and pick-up hours, and asserted that adding an ADU to this property will worsen the traffic problem. (Exhibit 1).

FINDINGS AND CONCLUSIONS

Under the statutory scheme, a license applicant or an aggrieved party may challenge DHCA's findings by filing a formal objection with OZAH **within 30 days after the DHCA Director issues his findings.** *Code §29-26.* The Hearing Examiner finds that OZAH received the written objection via email on October 13, 2025 five (5) days past the required 30-day timeline for an objection to be filed.² OZAH has no authority under the Code to hear an objection outside the time frame established by the Code and must deny the objection on that ground.

Even if OZAH could hear the matter, the issues raised by Ms. Harrell may also be outside OZAH's authority. Ms. Harrell identifies two grounds for her objection, first the operation of the daycare and second the traffic caused by the daycare which will be exacerbated by the ADU. None of the criteria specified in Code §§29-19(b)(1) and 59.3.3.3 addresses the issue of a business being run from the home and therefore none of the DHCA Director's findings in Exhibit 3 address those issues.

Code §29-26(b)(2) permits an objection from an aggrieved person only to:

- (A) a finding of fact by the Director; or
- (B) an issue regarding the adequacy of on-street parking.

The portion of the objection that addresses a business run from the home is not properly before OZAH as it does not relate to any finding by the Director. If these allegations are a legitimate concern to the community, this objection proceeding is not the proper forum in which to raise them. The second issue raised by the Objector may be relevant as it relates to parking. It should be noted, however, that Ms. Harrell does not appear to be objecting to the adequacy of parking, but rather to the traffic generated by the number of cars visiting or parking at the property. Because the hearing examiner does NOT have jurisdiction to decide this objection because it was untimely filed, she cannot hold a hearing and decide the merits of the objection regarding traffic to determine if "traffic" concerns fall within scope of "parking". With that said, the Hearing Examiner urges DHCA to investigate whether any of the square footage calculated for onsite parking may be impacted by the daycare use in such a way that would limit parking as required under the Code for the owner and tenant.

DECISION

Based on the foregoing findings and conclusions, the Objection of Erin Harrell, OZAH #ADO 26-02, to License Application # 1560377 for an Attached Accessory Apartment is **denied.**

² The September 8, 2025 date on of the preliminary inspection report serves as the date of the "action" by DHCA. OZAH received the objection 35 days after the action date.

Dated: November 10, 2025

Office of Zoning and Administrative Hearings



by: _____
Kathleen E. Byrne
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Any aggrieved party who objected under subsection 29-26(b) may request the Circuit Court to review the Hearing Examiner's final decision under the Maryland Rules of Procedure. An appeal to the Circuit Court does not automatically stay the Director's authority to grant a license.

cc: Deressa Solomon
Erin Harrell
Tom Howley, DHCA
Clifton Bouma, DHCA
Julia Thom, DHCA