

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

IN THE MATTER OF A PARKING WAIVER
REQUEST FOR ACCESSORY APARTMENT
APPLICATION NO. 156287

TIGIST G. GEBRESILASSIE

License Applicant

* * * * *

DAVID JOHNSON

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

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Before: Khandikile Mvunga Sokoni, Hearing Examiner

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* OZAH Case No. ADW 25-02
* DHCA Pending License No. 156287
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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 **13915 Bauer 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. 156287. *See Montgomery County Zoning Ordinance*, §59.3.3.3.A.2.c.ii.

On April 21, 2025, DHCA issued its Preliminary Inspection Report (“Report”) regarding a preliminary inspection conducted on April 2, 2025. (Exhibit 3). The Report concluded that the on-sight parking measured approximately 360 square feet, with no garage. The property lot is not within one mile of the Metrorail, Purple Line, or MARC Rail Station. The Principal Dwelling is approximately 2,072 gross square feet, and the Accessory Dwelling Unit is planned to be approximately 1,152 gross square feet. (*Id.*)

In an R-60 Zone, approval of an ADU license by DHCA requires parking spaces for three (3) vehicles including parking spaces 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 April 30, 2025, the License Applicant, Tigist G. Gebresilassie, filed a timely Request for Waiver of Accessory Dwelling Unit On-Site Parking Requirement for License Application No. 156287. (Exhibit 1). On the same day the Hearing Examiner acknowledged receipt of the application and offered the applicant possible hearing dates in May. (Exhibit 5.a). On May 1, 2025, OZAH issued a Notice of Public Hearing on the waiver request, scheduling the hearing for May 22, 2025. (Exhibit 4). The public hearing proceeded as scheduled remotely, via Teams, on May 22, 2025. The Applicant, Ms. Gebresilassie, participated via Teams and testified under oath. Also present, virtually via Teams, was Housing Code Inspector David Johnson representing the DHCA who also testified under oath. No one appeared in opposition or support of the request.

The Applicant testified in support of the requested waiver. Ms. Gebresilassie is the owner of the subject property. (Exhibit 1). She stated that she is applying for a license for an accessory apartment and that the current driveway and parking on-site is 80-square feet short of the parking

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

required to support at least three vehicles. T.9.² Using photographs of the area surrounding her property, Ms. Gebresilassie testified that hers is a quiet neighborhood with sufficient unrestricted on-street parking. She explained that her driveway is wide enough to accommodate two vehicles. T. 11.

Housing Inspector, David Johnson, testified on behalf of DHCA that he inspected the property and did not observe a problem with street parking. T. 13. Mr. Johnson testified that there is ample unrestricted parking, that he measured 50 feet of street parking directly in front of the house which would accommodate two average-sized vehicles, and that there were no fire hydrants or any posted parking restrictions. *Id.* He further testified that on the opposite side of the street he measured 80 feet of street parking that could park three vehicles, with an additional 80 feet to the left of the property. Mr. Johnson testified that he reviewed aerial photographic snapshots of the area around the property for several years, 2015, 2017, 2019, 2020, 2021, 2023 and 2024 and in all that time there were only two occasions when he observed any vehicle parked on the street in front of Ms. Gebresilassie's house and on both of those occasions there was only one vehicle parked. T. 14.

Applicant testified that she kept the required notice posted on her property for 42 days and that no one has contacted her to express any concerns with her application. T. 17-18.

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

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

the proposed ADU. The Inspection Report states with regard to parking to support the ADU license to be approved there must be:

“6. 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 3, p.2).

The subject property has a driveway that measures 80 feet less than the required off-street parking space requirement of 480 square feet. T. 12. 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).

Ms. Gebresilassie testified that she was given the options by DHCA to either widen her driveway to provide the 80-ft shortfall or seek a waiver from the on-site parking requirements. She selected the latter option. T. 9.

The Hearing Examiner finds from the exhibits filed and the testimony of Ms. Gebresilassie and Inspector Johnson that there is adequate available on-street parking for residents and the proposed ADU is not likely to reduce the available on-street parking within 300 feet of the

property. 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.

ORDER

For the foregoing reasons, the Hearing Examiner hereby orders, on this 17th day of June 2025, that the Applicant's request for a waiver of the number of spaces required for the accessory apartment located at 13915 Bauer Drive, Rockville, MD 20853 (DHCA Pending License No. 156287) is granted.

Office of Zoning and Administrative Hearings



Khandikile Mvunga Sokoni
Hearing Examiner

COPIES TO:

Tigist G. Gebresilassie, Applicant
David Johnson, 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>.