

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND
Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660

**IN THE MATTER OF A PARKING WAIVER
REQUEST FOR ACCESSORY APARTMENT
APPLICATION NO. 156742**

Oscar Flores

License Applicant

* * * * *

DAVID JOHNSON

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

* * * * *

Before: Kathleen Byrne, Hearing Examiner

*
*
*
*
* OZAH Case No. ADW 26-01
* DHCA Pending License No. 156742
*
*
*

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 **10701 Edgewood Road, Silver Spring, Maryland 20901**, 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. 156742. *See Montgomery County Zoning Ordinance, §59.3.3.3.A.2.c.ii.*

On July 7, 2025, DHCA accepted the application referencing the required Preliminary Inspection Report (“Report”), which would follow a preliminary inspection that was conducted on August 7, 2025. (Exhibit 3). The Report issued on August 11, 2025 concluded that the on-site parking contains two off-street parking spaces measured approximately 330 square feet, with no garage.¹ The property lot is not within one mile of the Metrorail, Purple Line, or MARC Rail Station. *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.²

On September 3, 2025, the License Applicant, Oscar Flores, filed a Request for Waiver of Accessory Dwelling Unit On-Site Parking Requirement for License Application No. 156742. (Exhibit 1). On September 4, 2025 the Hearing Examiner acknowledged receipt of the application and offered the applicant possible hearing dates in September. On September 11, 2025, OZAH issued a Notice of Public Hearing on the waiver request, scheduling the hearing for September 15, 2025. (Exhibit 3). The public hearing proceeded as scheduled remotely, via Teams, on September 15, 2025. The Applicant, Mr. Oscar Flores and his son also Mr. Oscar Flores, 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. Mr. Flores is the owner of the subject property. (Exhibit 1). He identified a series of photographs taken from the front of the

¹ See [License# 156742 Lic - 156742 ADU Preliminary Inspection Report\(1\).pdf](#)

² A minimum of 480 square feet of on-site parking is required for the addition of an ADU.

property and along the side, noting that the property sits on a corner lot providing parking on the street in front and along the side. (Exhibits 2a-2f), T. 11-12. He further explained that there are 54 feet of parking along the front of the house and 48 feet of parking on the right side of the property. T. 12. Mr. Flores stated no one parks in front of the property and plenty of room exists for a car to park on the street. T. 13. He also explained that the current driveway can accommodate two vehicles. T. 12.

Housing Inspector, David Johnson, testified on behalf of DHCA that he inspected the property and did not observe a problem with street parking. T. 16. Mr. Johnson testified that he reviewed the aerial photographs for the property dating back to 1993 up until his most recent inspection on September 8, 2025, reviewing 20 data points and found at no point did he see more than four vehicles parked at the property including parking in the driveway. T. 15. Including required setbacks from each corner, Mr. Johnson determined there is approximately 50 feet of available parking on Edgewood and 40 feet of parking on Eisner. T. 14-15. To the Hearing Examiner's knowledge no one has contacted either DHCA or OZAH to express any concerns with the application.

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 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 150 feet less than the required off-street parking space requirement of 480 square feet. 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).

Mr. Johnson testified that he gave Mr. Flores the option to either widen the driveway to provide the square footage shortfall or seek a waiver from the on-site parking requirements. T. 17. DHCA cannot approve the application at the final inspection unless a waiver is granted. T. 17.

The Hearing Examiner finds from the exhibits filed and the testimony of Mr. Flores 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 25th day of September 2025, that the Applicant’s request for a waiver of the number of spaces required for the

accessory apartment located at 10701 Edgewood Avenue, Silver Spring, Maryland 20901 (DHCA Pending License No. 156742) is granted.

Office of Zoning and Administrative Hearings



Kathleen E. Byrne
Hearing Examiner

COPIES TO:

Oscar Flores, 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>.