

Transcript of Hearing

Date: July 22, 2025

Case: Jose Menjivar Parking Waiver Application, In Re:

Planet Depos

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MONTGOMERY COUNTY OFFICE
                                                                                       APPEARANCES
         OF ZONING AND ADMINISTRATIVE HEARINGS
                                                                          MEMBERS OF THE BOARD:
                                                                              KHANDIKILE MVUNGA SOKONI - HEARING EXAMINER
                                                                              NANA YAA JOHNSON - OBSERVED
   JOSE MENJIVAR : Case No.
                                                                              JONY GUISAO-OSPINA - OBSERVED
   PARKING WAIVER APPLICATION : ADW 25-03
                                                                               Montgomery County Office of Zoning and
   -----x
                                                                          Administrative Hearings (1100167)
                                                                      8
                                                                              100 Maryland Avenue
                Administrative Hearing
                                                                               County Office Building, Room 200
10 Before Khandikile Mvunga Sokoni, Hearing Examiner
                                                                              Rockville, MD 20850
                Conducted virtually
                                                                              (240) 777-6660
12
                Tuesday, July 22, 2025
                                                                      12
13
                      9:30 a.m.
                                                                         ALSO PRESENT:
                                                                              David Johnson - Inspector
15
                                                                       15
17
                                                                       20
                                                                       21
22
23 Job No.: 590945
24 Pages: 1 - 26
                                                                       24
25 Transcribed by: Debra McCostlin
        Hearing before Khandikile Mvunga Sokoni,
                                                                                          EXHIBITS
   Hearing Examiner, conducted virtually:
                                                                      2
                                                                                            (Retained.)
                                                                         HEARING EXHIBITS
                                                                                                                     PAGE
                                                                          Exhibit 3 - Preliminary Inspection Report
                                                                                                                      13
                                                                          Exhibit 5 - Photos
                                                                                                                      13
12
        Pursuant to notice, before Kylan Barry,
14 Digital Court Reporter and Notary Public in and
  for the Commonwealth of Pennsylvania.
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25
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Conducted of	1 July 22, 2025
PROCEEDINGS HEARING EXAMINER: Good morning. This is a public hearing for a parking waiver requested from the requirements of Article 59, Section 3.3.3.A.2.C.2 received by OZA related to an accessory dwelling unit license at 9638 Cottrell Terrace, Silver Spring, Maryland 20903. It's the Department of Housing and Committee Affairs, DHCA Application Number 151445. This request has been made by the applicant, Mr. Jose R. Menjivar pursuant to Montgomery County Code Sections 29-16, 29-19, and 29-26(a).	1 a few housekeeping rules with regard to Teams. 2 We're using Teams and I should mention that Teams 3 interacts best with either Microsoft Edge or 4 Chrome. It doesn't work so well with Safari. 5 So, if you're on Safari, I would urge you to 6 switch out to a different browser. 7 We also ask that you kindly not 8 interrupt while someone else is speaking unless 9 you are making a legal objection. The reason is 10 because we do have a court reporter who is 11 transcribing word for word. It is very difficult 12 for the court reporter to understand what people
My name is Khandikile Sokoni and I am 14 the hearing examiner in this case which means 15 that I will listen to testimony, review the 16 evidence, and render an opinion on the 17 application pursuant to the criteria set forth in 18 the Montgomery County Code Article 26, Section 19 26(b) with regard to the issue of whether there 20 is adequate on-street parking. If anyone 21 disagrees with my decision, you may appeal it to	13 are saying when there is cross-talk. When you're 14 not speaking, please make sure that you're on 15 mute. 16 And I should also like I mentioned, 17 there is a word for word transcript that is being 18 prepared and that is the only official record 19 that exists for this hearing. If you need to 20 speak, you may have to make sure your camera is 21 on and please note that the chat function is
22 the board of appeals within ten days after my 23 decision is issued. 24 I would like at this point to identify 25 the parties. I know you presented names when we 1 were off the record, but could I just have the 2 applicant identify yourself, please?	22 disabled. 23 Now, I just want to say a little bit 24 about the nature of the proceeding. This is a 25 somewhat informal administrative proceeding. Mr. 1 Menjivar, you as the applicant, you have the 2 burden of presenting to us why you qualify for
MR. MENJIVAR: Good morning everybody. My name is Jose R. Menjivar. I'm the owner of 9638 Cottrell Terrace, Silver Spring, Maryland. So, I hope you approve this waiver for this parking because I think I don't need a driveway because I have plenty of parking in this corner house. HEARING EXAMINER: Okay.	3 the relief that you are asking for, so you 4 present in chief. Of course, Mr. Johnson is 5 here, so I invite him to speak after you have 6 spoken, but at this point and I also want to 7 mention that everything that is said here will be 8 said under oath. 9 So, I would like to turn to you Mr. 10 Menjivar. If you could kindly raise your right
11 MR. MENJIVAR: But it's like ten 12 HEARING EXAMINER: Mr. Menjivar, at 13 this point I'm just limiting it to 14 identification. We will get to you very shortly 15 to present your case. 16 MR. MENJIVAR: Oh, all right. 17 HEARING EXAMINER: And on the record, 18 please, Mr. Johnson.	11 hand to take the oath and unmute yourself. And 12 there will be a little microphone symbol at the 13 bottom of your screen. If you could just make 14 sure you unmute yourself. 15 JOSE R. MENJIVAR, 16 being first duly sworn or affirmed to testify to 17 the truth, the whole truth, and nothing but the 18 truth, was examined and testified as follows:
19 MR. JOHNSON: Yes. Dave Johnson. Good 20 morning. Dave Johnson, Montgomery County 21 Housing. And again, I'm an inspector for 22 Montgomery County Housing. 23 HEARING EXAMINER: Thank you, sir. 24 MR. JOHNSON: Thank you. 25 HEARING EXAMINER: I just want to cover	19 HEARING EXAMINER: Thank you, sir. If 20 you could kindly proceed and just explain what 21 you're asking for. And what you're trying to 22 present to us is that you there is adequate 23 on-street parking to support the waiver that 24 you're asking for. 25 MR. MENJIVAR: Yeah. I think I have a

Conducted on	Conducted on July 22, 2023			
9	11			
1 lot of parking on my house. Because my house,	So, that's the two streets around my			
2 it's a corner house and an intersection with	2 house and the corner. Mr. David Johnson, he			
3 Braddock Road and Cottrell Terrace. I have space	3 knows the property. He have been here, so he			
4 for at least ten cars around my house. So, in	4 knows how much space I have for parking here.			
5 the future if I need more parking, I have a spot	5 HEARING EXAMINER: Thank you very much.			
6 here where I'm going to make a driveway here. I	6 On the middle photograph, I see, you know,			
7 don't know if you can see my where I'm	7 there's some cars parked on both sides. To the			
8 pointing. So, I'm going to in the future I'm	8 north of the picture you have you know,			
9 going to I might do a driveway here. But in	9 there's a red truck there. You have some			
10 the meantime, for now, I think it's okay if I	10 vehicles over there. Can you speak to how I			
11 have a if I don't have a driveway or I don't	11 see that there is parking but, you know, how			
12 provide parking I mean a driveway for my house	12 heavily parked is this area?			
13 because I have plenty of parking space for my	MR. MENJIVAR: It's not it's not			
14 house off the street I mean on the street.	14 heavily parked in this area. Some people, they			
15 So, I think I don't need it now.	15 come to park from whatever houses sometimes, but			
16 HEARING EXAMINER: Thank you very much,	16 it's not heavily parked, like crowded. This area			
17 Mr. Menjivar. Now, it appears that you are	17 is like all the time almost I mean, some			
18 standing at your house. For this proceeding, I	18 people like I say, some people, they come			
19 also I have to go by the record, what	19 sometimes to park here, but I still have room			
20 documents we have on the record. So, I'm happy	20 for in the house we have only two cars and			
21 to pull up for you and I can share my screen	21 we're planning maybe to have another one or two			
22 here. I can pull up for you the photos you	22 cars, so that's going to be four cars, and we			
23 presented if you would that would help orient	23 have ten spaces. So, even if somebody come from			
24 us to where things are. Just one second. Sorry	24 other places, we have plenty of parking for			
25 about that. If you just give me a moment and	25 everybody.			
10	12	:		
10 1 I'll see if I can pull up the photos. I would	12 1 HEARING EXAMINER: Thank you. Are			
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Conducted on July 22, 2025	
13	15
	e used to make a determination
	eles could fit there, and then go
, ,	f inspections that I've
	eview of public records as to
5 be I will pull up your preliminary inspection 5 parking there in th	=
*	comes to what's on that
	ot applicable to this case
I I	hat without that driveway we
1 ' 1	he would need to either install
	e that approved by the
	rmitting Services or, as he's
	you know, through the
,	and Hearings for an exemption to
14 HEARING EXAMINER: So, with regard to 14 this.	
	EXAMINER: Thank you. Thank
	s like he has indicated he's
	a driveway. So, could you
18 us through the dimensions? You know, you have 18 kindly speak to	
	ON: Correct.
, , , ,	EXAMINER: the ultimate
	exists and whether you in
22 driveway on the property. What is give me a 22 your opinion, is the	
	SON: Yes. The top line
	adequate. And to make that
25 MR. JOHNSON: Okay. I'm going to open 25 determination, I've	essentially measured the
14	16
	able on and it is a corner
, ,	ng to, you know, 9638 Cottrell
1 1	corner lot. It has it
	ight-of-way with both Cottrell
5 It's on a phone. 5 Terrace and Bradd	
	corner lot, I'm just going
<u> </u>	ock Road, and I've measured
	ng at Braddock Road and it's
<u> </u>	ly 77 feet. If I take that 77
	the start of the radius of
l	here one couldn't park because
	re than 12 inches off the curb,
	n that to the portion of the
	nere vehicles could park.
	eet, if I divide it by 22
	know, often referred to as a
l ·	would allow parallel parking, I
·	e-and-a-half. So three-and-a-
I =	
·	d be able to park in that area.
I	d be able to park in that area.
21 regarding that because it really specifies a 21 vehicles could par	d be able to park in that area. three. And if we say three
21 regarding that because it really specifies a 22 driveway. 21 vehicles could par 22 establishes the am	d be able to park in that area. three. And if we say three k on Braddock Road, that
21 regarding that because it really specifies a 22 driveway. 21 vehicles could par 22 establishes the am	d be able to park in that area. three. And if we say three k on Braddock Road, that ount of parking that we feel

_	Conducted on	30	11	
	no fine by dwents, thenels no newlying thenels no		and some validage on Durallant	19
1	no fire hydrants, there's no parking, there's no	1	and zero vehicles on Braddock.	
2	painted curbs at that intersection, there's no	2	The second inspection I took of the	
3	restricted parking indicated, and that is both	3	property was on July 10th of '25, and that was at	
4	for Braddock and Cottrell.	4	1:16 p.m., and at that time I found one vehicle	
5	Now, if I step back from Braddock and	5	parked on Cottrell adjacent of course adjacent	
6	we take a look at Cottrell, I'm measuring a total	6	to this property along the curbside, and there	
7	of 88 feet from the intersection to the adjacent	7	was on vehicle on Braddock for a total of two.	
8	property. That would be 88 feet of potential	8	On July 17th of '25 at 7:57 a.m., I	
9	parking off of Cottrell in front of the property	9	conducted an additional inspection. There were	
	9638 Cottrell.		two vehicles on Cottrell at the time and zero	
11	Now, I have to take 20 feet away from		vehicles on Braddock.	
	that 88 because we have 20 feet off of a	12	*	
	crosswalk. We can't allow any parking within		made that I made a record of in preparation for	
	that 20 feet of the crosswalk and that's just		this hearing. I also have many records both	
	going to be reflected under Montgomery County		through Google Maps and MC Atlas that have a	
	Code 30-20(b)(2). So, the remainder of that		historic record of the parking in that area and,	
	would be 68 feet of parking curbside.		if you wish, I could go through my findings with	
18	•		review of the public record.	
	is customarily allocated to the	19		
	parking parallel parking, curbside parking,		hearing, just based on the inspections alone it	
	we're left with 3.09. So, we'll round down to		sounds like there's ample parking. You're	
	three. So, basically three vehicles could park		certainly welcome to go through the public	
	on Cottrell, three vehicles could park on		record, but I don't think you have to because	
	Braddock. So, we have a total of six potential		certainly on the basis of just the inspections	
25	parking spaces that are along the property and	25	alone and your testimony so far it does seem like	
	18			20
1	border the public right-of-way. Now, I'm not	1	the parking does seem adequate. Are you able to	
2	considering parking on the other side of the	2	confirm I know it was noted in your report.	
3	street or in front of other properties, but just	3	Are you able to confirm that this is not this	
4	in front of that property curbside.	4	location is not within a mile of the metro or any	
5	Now, if you would like, I can get into	5	rail?	
6	what my findings were during inspections at that	6	MR. JOHNSON: That's correct.	
7	property as well as a review of the public	7	HEARING EXAMINER: Thank you. Could	
8	record.	8	you say anything about the signs and neighbors on	
9	HEARING EXAMINER: That would be		notice? Is there any signage posted on the	
	fantastic and you can limit it to what's		property?	
	relevant, because I know you were inspecting for	11	,	
	more than just the parking, but you can simply		my initial inspection and June 11th, the sign was	
	limit it to what's relevant to the parking.		posted giving notice to the neighbors of the	
14	•		property owner's application to the Department of	
	focused on that parking. So, the three		Housing for an accessory dwelling unit license,	
	inspections that I have a record of however		and I found that sign was posted in that area at	
	I've been by that property a number of times.		that time and the property owner was informed	
	I'm somewhat familiar with the neighborhood. But		that the sign needs to remain posted for that	
	the three of record would be the initial	19	full 30 days.	
	inspection there would be June 11th of '25 and	20	•	
21	that was at approximately 10:18 a.m. and during	21	Mr. Menjivar, can you confirm whether	
	that time, although I have incomplete photos and		you had the sign posted for the required amount	
23	of course I wasn't photographing it for the	23	of time? How long was your sign up for?	
	purposes of this hearing at that time, my records	24	MR. MENJIVAR: My sign has been more	
25	reflect that there was one vehicle on Cottrell	25	than a month. I still have it here. I think I'm	
		_	SEROG	

_	Conducted on	July 22, 2023	
	21		23
	going to return it today because it's only	1 MR. JOHNSON: Yes, sir.	
	like they say that it's only for 30 days. I	2 HEARING EXAMINER: In that case, I	
3	still have it here on my property. You can see	3 believe we have covered everything we need to	
	it? I don't know. You see, it's here. So, I'm	4 cover. I will go ahead and close before I	
5	going to return it today because I thought I have	5 close the hearing, let me just say a little bit	
	more time, but it's for 30 days. I don't think	6 about next steps. The record will be closed	
	it's a problem if I return it later than 30 days,	7 to in fact, one second before I do that.	
8	right?	8 Mr. Johnson, you mentioned some	
9	HEARING EXAMINER: No. No. The longer	9 additional inspections. We have this inspection	
	it's out there, the better. So, no, you're	10 report which is Exhibit 3. Do you have reports	
	only yes, that's fine. Thank you for	11 for the subsequent inspections or those are not	
	confirming that it's still there. Have you heard	12 formal reports?	
	from any neighbors about your application? Has	MR. JOHNSON: That's correct, they are	
14	anyone contacted you?	14 not formal reports. They're opportunities I took	
15	MR. MENJIVAR: Yes, some neighbors they	15 to stop by the property to walk the public right-	
	asked me what is this for and I told them that	16 of-way and make a determination of how many	
	it's about the parking waiver. And they asked	17 vehicles were out there, but no formal reports	
	what I'm doing on my house and I told them I'm	18 were prepared.	
	building an ADU unit to my basement, and they say	19 HEARING EXAMINER: Okay. Then that's	
	everything is fine. They like it because my	20 absolutely fine. That doesn't need to be, but I	
	house is it look like I applied for that and	21 wanted to be clear on that. So, we'll rely on	
	it's a very nice unit that I'm doing and they	22 your testimony for that.	
23	like how my house very clean and they say it's a	In that case, I will close the record	
24	good idea. So, all my neighbors, they approve	24 to no more documents will be added to the	
25	it, at least two or three that three	25 record except for a transcript which will be	
	22		24
	neighbors, they have asked me about this, and	1 ready which we expect to be ready within ten	
	they kind of like agree with me that it's a good	2 business days, and therefore the record will be	
3	idea what I'm doing.	3 held with the exception of the transcript	
4	HEARING EXAMINER: Thank you very much.	4 which will be added when it's ready, no more	
	I have no further questions for either of you, so	5 records will be added to the official record.	
	unless you have any questions for each other, I'm	6 We'll keep the record open for ten business days	
	happy to conclude.	7 until August 5th, 2025 for receipt of the	
8	Mr. Menjivar, did you have any	8 transcript and thereafter I will render a	
	questions for Mr. Johnson? Anything he said that	9 decision within 30 days.	
	you agree or disagree with?	10 I therefore at this point will	
11	MR. MENJIVAR: I have a question. So,	11 officially close the hearing and would like to	
	like I say, can I return this sign today? They	12 thank you all for your thank you for your	
	going to pay me some money. I think that he say	13 testimony and for your participation. This has	
	like 100 something I'm going to get. Maybe I get	14 been very helpful.	
	more if I have it two months, right? No, I'm	15 (Off the record at 9:56 a.m.)	
	joking. I just want to return it today, this	16	
	sign. So, I don't need it, right, Mr. Johnson?	17	
	I don't need it anymore, right?	18	
19	MR. JOHNSON: Yes, sir. The Department	19	
	of Housing's position is if the sign is posted	20	
	for 30 days that then after that point in time	21	
	the sign can be returned. So, if it's been	22	
23	posted for the full 30 days, absolutely.	23	
24	MR. MENJIVAR: Okay. Thank you so	24	
	much. I will do it today.	25	

		2
•	25	
1	CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC	
2	I, Kylan Barry, the officer before whom	
3	the foregoing proceedings were taken, do hereby	
4	certify that any witness(es) in the foregoing	
5	proceedings were fully sworn; that the	
6	proceedings were recorded by me and thereafter	
7	reduced to typewriting by a qualified	
8	transcriptionist; that said digital audio	
9	recording of said proceedings are a true and	
10	0 accurate record to the best of my knowledge,	
11	1 skills, and ability; and that I am neither	
12	2 counsel for, related to, nor employed by any of	
13	3 the parties to this case and have no interest,	
	4 financial or otherwise, in its outcome.	
15		
16	7/ /\doc/	
	7 KYLAN BARRY,	
	8 NOTARY PUBLIC FOR THE COMMONWEALTH OF	
	9 PENNSYLVANIA	
20		
21		
23	3	
22 23 24	4	
25		
	26	
1	CERTIFICATE OF TRANSCRIBER	
2	I, Debra McCostlin, do hereby certify	
3	that this transcript was prepared from the	
4		
	digital audio recording of the foregoing	
	digital audio recording of the foregoing	
5	proceeding; that said transcript is a true and	
5 6	proceeding; that said transcript is a true and accurate record of the proceedings to the best of	
5 6 7	proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am	
5 6 7 8	proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by	
5 6 7 8 9	proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no	
5 6 7 8 9 10	proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no 0 interest, financial or otherwise, in its outcome.	
5 6 7 8 9 10	proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no 0 interest, financial or otherwise, in its outcome.	
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ability	<u> </u>	9:17	16:13, 17:5
25:11, 26:7	all	applicable	barry
able	6:16, 10:20,	14:19, 15:7	2:13, 25:2,
10:4, 16:19,	11:17, 21:24,	applicant	25:17
20:1, 20:3	24:12	5:10, 6:2, 8:1	based
about	allocated	application	19:20
7:24, 9:25,	17:19	1:6, 5:9, 5:17,	basement
13:23, 13:24,	allow	20:14, 21:13	10:15, 21:19
20:8, 21:13,	16:17, 17:13	applied	basically
21:17, 22:1,	almost	21:21	17:22
23:6	11:17	apply	basis
absolutely	alone	15:12	19:24
18:14, 22:23,	19:20, 19:25	approve	because
23:20	along	6:6, 21:24	6:7, 6:8, 7:10,
accessory	12:2, 17:25,	approved	9:1, 9:13,
5:6, 20:15	19:6	15:10	14:21, 16:11,
accurate	also	approximately	17:12, 18:11,
25:10, 26:6	3:13, 7:7,	16:9, 18:21	19:23, 21:1,
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