



Planet Depos®
We Make It *Happen*™

Transcript of Administrative Hearing

Date: January 8, 2018

Case: Patricia Kennelly Accessory Apartment

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of Administrative Hearing
Conducted on January 8, 2018

1 (1 to 4)

1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	1	C O N T E N T S	3
2	FOR MONTGOMERY COUNTY, MARYLAND		2		PAGE
3	- - - - -x		3	TESTIMONY OF PATRICIA KENNELLY	8
4	In Re: : Case No.		4	TESTIMONY OF ROBERT DREHER	9
5	PATRICIA KENNELLY ACCESSORY : CU 18-01		5	TESTIMONY OF CECE KINNA	11
6	APARTMENT :		6		
7	- - - - -x		7		
8			8		
9			9	E X H I B I T S	
10	HEARING		10		PAGE
11	Before Hearing Examiner Lynn A. Robeson		11	Exhibit 21 Staff Report	5
12	Rockville, Maryland		12	Exhibit 25 Affidavit of Posting	5
13	January 8, 2018		13		
14	9:33 a.m.		14		
15			15		
16			16		
17			17		
18			18		
19			19		
20			20		
21			21		
22			22		
23	Job: 172944		23		
24	Pages: 1 - 21		24		
25	Transcribed by: Molly Bugher		25		
1	A P P E A R A N C E S	2	1	P R O C E E D I N G S	4
2			2		
3	PATRICIA KENNELLY, co-owner of property		3	LYNN ROBESON: All right. I'm calling the case of	
4	7122 Sycamore Avenue		4	CU 18-01; application of Patricia Kennelly for an accessory	
5	Tacoma Park, Maryland		5	apartment at 7122 Sycamore Avenue, Tacoma Park, Maryland.	
6			6	My name is Lynn Roberson. I'm the Hearing Examiner. I'm	
7	ROBERT DREHER, co-owner of property		7	going to take all the testimony and evidence today. If you	
8	7122 Sycamore Avenue		8	disagree with my Decision, you have 10 days to appeal to	
9	Tacoma Park, Maryland		9	the Board of Appeals, but the Board of Appeals won't take	
10			10	any additional evidence. So whatever we have to say, you	
11	CECE KINNA		11	have to say it here. Would the parties please identify	
12	Housing Code Inspector		12	themselves for the record?	
13			13	PATRICIA KENNELLY: Yes. Hello. My name is Patricia	
14	JORDAN DYE		14	Kennelly; K-E-N-E-L-L-Y. And I am the homeowner at 7122	
15	Housing Code Inspector		15	Sycamore Avenue.	
16			16	PATRICIA KENNELLY: Okay.	
17			17	CECE KINNA: Cece Kinna, Housing Code Inspector with	
18			18	the Department of Housing and Community Affairs.	
19			19	LYNN ROBESON: And do --	
20			20	JORDAN DYE: Jordan Dye, Housing Code Inspector for	
21			21	the Department of Health and Community Affairs.	
22			22	LYNN ROBESON: Okay. Thank you. Ms. Kennelly, I was	
23			23	saying it wrong.	
24			24	PATRICIA KENNELLY: Well, that's --	
25			25	LYNN ROBESON: Do you have the affidavit of posting?	

Transcript of Administrative Hearing
Conducted on January 8, 2018

2 (5 to 8)

<p>5</p> <p>1 PATRICIA KENNELLY: I do.</p> <p>2 LYNN ROBESON: Okay. I'm going to make that Exhibit</p> <p>3 25. Thank you. Since there's only a few of us, one thing</p> <p>4 about this hearing, the testimony is under oath and subject</p> <p>5 to cross-examination. There is no one here opposing your</p> <p>6 application, but I should say that one thing to speed</p> <p>7 things up since there are so few of you here today, I'm</p> <p>8 going to swear you in all at once.</p> <p>9 PATRICIA KENNELLY: Okay.</p> <p>10 LYNN ROBESON: All right. So please raise your right</p> <p>11 hand. Do solemnly affirm under penalties of perjury that</p> <p>12 the statement you're about to make are the truth, the whole</p> <p>13 truth, and nothing but the truth?</p> <p>14 PATRICIA KENNELLY: I do.</p> <p>15 CECE KINNA: I do.</p> <p>16 JORDAN DYE: I do.</p> <p>17 LYNN ROBESON: Okay. Thank you. All right. Now, Ms.</p> <p>18 Kennelly, one thing we do with accessory apartments; you</p> <p>19 have a Staff Report. Rather than ask you about each</p> <p>20 criteria -- have you read the Staff Report?</p> <p>21 PATRICIA KENNELLY: Yes, I have.</p> <p>22 LYNN ROBESON: Okay. And that's Exhibit -- well, it's</p> <p>23 Exhibit 21.</p> <p>24 PATRICIA KENNELLY: Twenty-one.</p> <p>25 LYNN ROBESON: One thing we ask; you have a</p>	<p>7</p> <p>1 LYNN ROBESON: Okay.</p> <p>2 ROBERT DREHER: Sorry.</p> <p>3 LYNN ROBESON: Why don't you have a seat.</p> <p>4 ROBERT DREHER: Thank you.</p> <p>5 LYNN ROBESON: And I'm going to ask you to identify</p> <p>6 yourself for the record.</p> <p>7 ROBERT DREHER: Right.</p> <p>8 LYNN ROBESON: I did retile, just for technical</p> <p>9 purposes, I retitled this the application of Patricia</p> <p>10 Kennelly and Robert Dreher.</p> <p>11 ROBERT DREHER: That's me.</p> <p>12 LYNN ROBESON: Simply because of -- we -- you've done</p> <p>13 it with a power of attorney and that means he's act -- you</p> <p>14 are acting on both of your behalves. So that's how I've</p> <p>15 retitled. Mr. Dreher, can you please identify yourself for</p> <p>16 the record?</p> <p>17 ROBERT DREHER: Yes, I'm Robert Dreher. I'm Patricia</p> <p>18 Kennelly's husband. And she is acting for both of us.</p> <p>19 LYNN ROBESON: And you're co-owner --</p> <p>20 ROBERT DREHER: Co-owner.</p> <p>21 LYNN ROBESON: -- of the property.</p> <p>22 ROBERT DREHER: Yes.</p> <p>23 LYNN ROBESON: Okay. In case you want to say</p> <p>24 something, I'm going to swear you in.</p> <p>25 ROBERT DREHER: Okay.</p>
<p>6</p> <p>1 recommendation of approval. Rather than having you go</p> <p>2 through every single criteria, do you wish to adopt -- is</p> <p>3 there a -- the Staff Report as your own testimony.</p> <p>4 PATRICIA KENNELLY: Yes. That would be great.</p> <p>5 LYNN ROBESON: Is there anything that you feel is</p> <p>6 incorrect in the Staff Report?</p> <p>7 PATRICIA KENNELLY: No.</p> <p>8 LYNN ROBESON: Okay.</p> <p>9 PATRICIA KENNELLY: No. There is -- the Staff Report</p> <p>10 says there's only room for one car in the park -- in the</p> <p>11 driveway. And I think that there might be more, room for</p> <p>12 more, but it's sort of irrelevant because there's plenty of</p> <p>13 parking on the street. So --</p> <p>14 LYNN ROBESON: Okay. Well, that's -- do you -- the</p> <p>15 criteria is; are people able to -- is there generally a</p> <p>16 spot on the street within 300 feet of your property?</p> <p>17 PATRICIA KENNELLY: Yes, there is.</p> <p>18 LYNN ROBESON: Okay. I think parking is restricted on</p> <p>19 the opposite side.</p> <p>20 PATRICIA KENNELLY: Correct.</p> <p>21 LYNN ROBESON: But not on the -- okay.</p> <p>22 PATRICIA KENNELLY: Right.</p> <p>23 LYNN ROBESON: All right. The other thing is, you</p> <p>24 actually have -- okay.</p> <p>25 PATRICIA KENNELLY: This is my husband.</p>	<p>8</p> <p>1 LYNN ROBESON: Please raise your right hand. Do</p> <p>2 solemnly affirm under penalties of perjury that the</p> <p>3 statements you are about to make are the truth, the whole</p> <p>4 truth, and nothing but the truth?</p> <p>5 ROBERT DREHER: I do.</p> <p>6 LYNN ROBESON: Okay. Thank you. The one question I had</p> <p>7 is there are seven conditional uses, seven accessory</p> <p>8 apartments. One thing I have to find is, is there an</p> <p>9 over-concentration of accessory apartments in your</p> <p>10 neighborhood. And when I went through, I counted seven</p> <p>11 within the Staff's defined neighborhood. Do you want to</p> <p>12 comment on that? Are accessory apartments typical in that</p> <p>13 area?</p> <p>14 PATRICIA KENNELLY: Actually, they are. When we first</p> <p>15 moved into our house, it was five apartments. Our house was</p> <p>16 five apartments. So --</p> <p>17 LYNN ROBESON: Really?</p> <p>18 PATRICIA KENNELLY: Yeah.</p> <p>19 LYNN ROBESON: Each with its own -- each kitchen?</p> <p>20 PATRICIA KENNELLY: Like a hotplate. It was not a good</p> <p>21 situation. So we converted it back. But the basement</p> <p>22 apartment was the nice apartment in the home because it</p> <p>23 actually had -- it was not just one SRO sort of thing. So</p> <p>24 that's the -- what we have wanted to make the accessory</p> <p>25 apartment is the basement apartment. So yes, there has been</p>

Transcript of Administrative Hearing
Conducted on January 8, 2018

3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 a lot of accessory apartments in that neighborhood. It's 2 very convenient to the metro. But our next-door neighbor, 3 who is the -- you know, she is the closest who has an 4 accessory apartment, she does not rent out her apartment. 5 She rented it out years ago and it was not a good 6 experience, she had told me. And she's not doing it 7 anymore. Her sister lives with her. 8 LYNN ROBESON: Okay. 9 ROBERT DREHER: So I would just add, we are in an 10 older neighborhood with large homes and it's accessible to 11 the metro. So at least -- I think everyone in the 12 neighborhood is comfortable with the, sort of the density 13 of rentals, which are not a lot. I mean, I think a lot of 14 these accessory apartments are not currently rented. But it 15 is something that I think our neighbors support strongly, 16 the idea being able to both provide infill housing, 17 affordable infill housing, and also to provide an 18 opportunity to age in place. So for my wife and I, and I 19 think for others of our neighbors, I think it's really 20 important with a big house, after our children have moved 21 out, to be able to offer housing in it. 22 LYNN ROBESON: Thank you. But you say the one next 23 door is no longer rented. 24 PATRICIA KENNELLY: Correct. 25 LYNN ROBESON: Okay. And I just have one question on</p>	<p style="text-align: right;">11</p> <p>1 brought up the difference in the year built from ESDAT from 2 what they put in. 3 LYNN ROBESON: Yeah. 4 CECE KINNA: They also -- this was referred in 2016. 5 LYNN ROBESON: Yeah. 6 CECE KINNA: Which is why we couldn't find it in our 7 office is because it was over a year old. 8 LYNN ROBESON: Right. 9 CECE KINNA: So where they say on their -- on April 10 28, 2017, Montgomery County Department Of Housing and 11 Community Affairs referred it to OZA, it was actually 2016. 12 LYNN ROBESON: Okay. Thank you. 13 CECE KINNA: So that's all. 14 LYNN ROBESON: Let me ask you something. You, I 15 think -- what I think I saw is a revision of the floor 16 plan -- 17 PATRICIA KENNELLY: Correct. 18 LYNN ROBESON: To meet the code requirements, correct? 19 PATRICIA KENNELLY: Yes. 20 LYNN ROBESON: Because of egress. 21 PATRICIA KENNELLY: Yes. 22 LYNN ROBESON: Okay. Do you want to adopt that as your 23 floorplan in this case? 24 PATRICIA KENNELLY: Yes. 25 LYNN ROBESON: Okay. So you agree to that.</p>
<p style="text-align: right;">10</p> <p>1 when the house was built. I don't think it matters, but the 2 Staff Report says 1921. And ESDAT, the tax records, say 3 1918. 4 PATRICIA KENNELLY: Honestly, I have no idea when my 5 house was built. 6 LYNN ROBESON: Okay. 7 PATRICIA KENNELLY: Sorry. 8 LYNN ROBESON: No, that's okay. I just -- 9 PATRICIA KENNELLY: Any information I put in there, I 10 just got from public records and I don't know which one is 11 correct. 12 LYNN ROBESON: Okay. All right. I don't think it 13 matters. All right. 14 PATRICIA KENNELLY: And I -- 15 LYNN ROBESON: Do you have anything else to say in 16 support of your application, just addressing the criteria? 17 PATRICIA KENNELLY: No. I think -- 18 LYNN ROBESON: No? Okay. 19 PATRICIA KENNELLY: I think we meet all the criteria 20 and -- 21 LYNN ROBESON: All right. 22 PATRICIA KENNELLY: It's a lovely apartment. 23 LYNN ROBESON: Ms. Kinna. 24 CECE KINNA: I did want to point out something on the 25 Staff Report in addition -- which makes me -- when you</p>	<p style="text-align: right;">12</p> <p>1 PATRICIA KENNELLY: Yes. 2 CECE KINNA: Right. We had talked about that at the 3 time. I said they are probably going to ask you if you 4 agree to it. 5 LYNN ROBESON: Yes. Okay. And did you see the 6 remaining actions you needed to take as far as the housing 7 inspector's report? 8 PATRICIA KENNELLY: Yes, putting on some locks, some 9 lighting, moving the bricks, trimming the shrubbery. 10 LYNN ROBESON: I think you have to -- do you have the 11 final out some -- does she have the final out some permits 12 Ms. Kinna? 13 CECE KINNA: No. No. 14 LYNN ROBESON: No? Okay. And, okay, she doesn't have 15 to final out the permits. 16 CECE KINNA: No, and that's from Permitting Services 17 but I guess you want me to wait to say that. 18 LYNN ROBESON: Okay. What? 19 CECE KINNA: You want me to wait to say that when you 20 ask for my testimony. 21 LYNN ROBESON: No. 22 CECE KINNA: Okay. 23 LYNN ROBESON: This is your testimony. 24 CECE KINNA: Okay. Yeah, I had spoken with Mr. Sackett 25 over at DPS when we were reviewing this. And the close that</p>

Transcript of Administrative Hearing
Conducted on January 8, 2018

4 (13 to 16)

<p>13</p> <p>1 he -- he asked a few other people that may have been around 2 back in 1995. And his impression was that it appears that 3 it was a decision to cut back on some long-term outstanding 4 permits, was to administratively close them out. 5 LYNN ROBESON: Oh, it's -- 6 CECE KINNA: But like he said, honestly, I don't see 7 how we could pursue it if something was done wrong. 8 LYNN ROBESON: Right. 9 CECE KINNA: He doesn't know how we could pursue it. 10 So I would rather you know that and if you want to have 11 some electrician come in and just to make sure wiring is 12 okay too, with some testing, I would highly recommend that, 13 but we couldn't pursue it any further. 14 LYNN ROBESON: Okay. All right. Why don't you go to 15 the findings of your report? 16 CECE KINNA: Sure. We did the inspection on December 17 19th. The apartment is located in the basement of the home 18 and at the entrance leading to the apartment is on the 19 right side of the residence. And the apartment is 20 approximately 1066 gross square feet. The applicant was 21 referred to OZA back in April of 2016 due to the fact that 22 there was another apartment within 300 feet. So I didn't 23 realize there is that many though nearby, like just that 24 one. We've already covered the permit issue and we noted 25 that the drawing of the accessory apartment, two rooms have</p>	<p>15</p> <p>1 CECE KINNA: Yes. Yes. 2 LYNN ROBESON: Okay. So all we need basically, what 3 you're saying is all we need is one space. 4 CECE KINNA: No, two. I think -- I'm sorry. Two 5 vehicles back to back. 6 LYNN ROBESON: Right. 7 CECE KINNA: Not side to side. 8 LYNN ROBESON: Oh, okay. 9 CECE KINNA: So one vehicle would pull in. Another 10 could pull in behind it and still be off street. 11 LYNN ROBESON: Right. 12 CECE KINNA: Okay. 13 LYNN ROBESON: So for on street, we need -- under the 14 zoning ordinance, we need room for three vehicles. 15 CECE KINNA: The day we did the inspection, we had 16 three County vehicles pull up, two of which parked 17 within -- either I was right in front of their 18 property -- no, I was at the next house and another 19 inspector right behind -- the house with the apartment. 20 LYNN ROBESON: Oh, okay. 21 CECE KINNA: So Ms. Kennelly's driveway is here. 22 LYNN ROBESON: Well, the record doesn't know -- 23 CECE KINNA: The other apartment is here. I'm sorry. 24 LYNN ROBESON: That's okay. 25 CECE KINNA: Ms. Kennelly's driveway from the road is</p>
<p>14</p> <p>1 been switched. The former study is now the bedroom and the 2 former bedroom is now the study or office. That was due to 3 the fact that the former bedroom window egress did not meet 4 requirements, but the other room has an egress door which 5 does meet emergency escape requirements. The overall 6 layout, no sizes have changed. Just the naming of the rooms 7 really is what's changed. The apartment entrance stairwell 8 had -- a locking device has to be installed on the door 9 separating the main house from the stairwell, that operates 10 from the owner's side only. The -- they also had to install 11 a locking device on the utility room to prevent access by 12 any future tenant. Trim the shrubs along the driveway. And 13 I think this is where, again, with the report I was kind of 14 surprised that the detail on this report, the Staff Report 15 that was provided, the shrubbery kind of partially covered 16 the driveway. And so once that's trimmed back, you can 17 clearly see there is adequate room for two vehicles. 18 LYNN ROBESON: Okay. 19 CECE KINNA: Okay. 20 LYNN ROBESON: So really -- 21 CECE KINNA: But even I didn't see that right away. I 22 didn't see that right away until we were right out there, 23 and I went, oh -- 24 LYNN ROBESON: Is it tandem? Would it be tandem 25 parking?</p>	<p>16</p> <p>1 on the left. The accessory apartment of the adjacent 2 apartment is on the right and we parked just beyond the 3 driveways. 4 LYNN ROBESON: Okay. 5 CECE KINNA: So, because we didn't want to block the 6 driveways. 7 LYNN ROBESON: Right. 8 CECE KINNA: Two vehicles were there. There was 9 another two contractor vehicles working on the next house, 10 I guess to the left. 11 LYNN ROBESON: Okay. 12 CECE KINNA: If they weren't there, absolutely there 13 would've been more than adequate -- 14 LYNN ROBESON: Parking. 15 CECE KINNA: Yeah. 16 LYNN ROBESON: Okay. I'm sorry. Did I interrupt you on 17 your -- 18 CECE KINNA: No, that's okay. That's okay. 19 That's -- because I kind of sidetracked at the trim and 20 maintain shrubs along the driveway. There is a loose pile 21 or a pile of loose bricks alongside the driveway that I 22 wanted her to remove, basically under the solid waste law. 23 And that was it. Everything else in the apartment was fine. 24 LYNN ROBESON: Okay. 25 CECE KINNA: It met all requirements.</p>

Transcript of Administrative Hearing
Conducted on January 8, 2018

5 (17 to 20)

<p>17</p> <p>1 LYNN ROBESON: Okay. Ms. Kennelly and Mr. Dreher, do 2 you have -- do you agree to make the changes required by 3 the license inspector? 4 PATRICIA KENNELLY: Yes. 5 LYNN ROBESON: Okay. Mr. Dreher? 6 ROBERT DREHER: Absolutely. 7 LYNN ROBESON: Okay. 8 ROBERT DREHER: Sure. 9 LYNN ROBESON: Let me just go through the rest of my 10 questions. And also, there are just two conditions on the 11 Staff Report; that you can't have any other residential 12 rental uses, which it sounds like you're going to be living 13 in the main part of the house. 14 PATRICIA KENNELLY: Correct. 15 LYNN ROBESON: And the total number of residents 18 16 years or older can't be more than two. Do you agree to 17 those conditions? 18 PATRICIA KENNELLY: Yes. 19 ROBERT DREHER: Sure. 20 LYNN ROBESON: All right. You said all the right 21 things. No, I do appreciate your clarifying some of the 22 things in the Staff Report. Particularly the room for two 23 vehicles in the driveway. So I appreciate that. And with 24 that, what we do is, technically I have from -- the process 25 from here on is that I have 30 days to write my report and</p>	<p>19</p> <p>1 here. It's when they don't talk -- 2 ROBERT DREHER: Right. 3 LYNN ROBESON: That we get -- that we get the people 4 here. 5 ROBERT DREHER: And we were very careful with our 6 next-door neighbors on each side and they are both entirely 7 supportive. So, I mean, I understand the County's concern 8 about an excessive concentration, but I think this is 9 actually a great situation for infill housing. And the last 10 thing I will say, just because it's a basement apartment, 11 but it actually is -- from the entrance back, is entirely 12 above ground. It has windows all the way around, so it has 13 light and space. It's really a lovely living space. 14 LYNN ROBESON: Maybe I'll move in. No, I'm tired of 15 the commute. Okay. Well, thank you for that. 16 ROBERT DREHER: Thank you. 17 LYNN ROBESON: And I have asked -- I have asked all 18 the questions that I had. So I appreciate that. And with 19 that, I'm going to adjourn the hearing, but keep the record 20 open for 10 days to receive the transcript. And hopefully, 21 you will be getting a Decision from me sooner than 30 days. 22 PATRICIA KENNELLY: Great. 23 ROBERT DREHER: Thank you. 24 LYNN ROBESON: All right. All right. Thank you so much 25 for coming.</p>
<p>18</p> <p>1 Decision in the case. I can tell you now it's not going to 2 take -- well, knock on wood. Absent something -- I hope to 3 have it out much sooner than that. But just keep in mind, 4 that if for some reason you don't agree with what I say in 5 the Decision, you have 10 days to appeal to the Board of 6 Appeals. Now, one thing I have to do is keep the record 7 open for 10 days. So that would be January 18. The reason 8 for that is that we have to cite to a written transcript 9 and we don't get that under the procurement contract for 10 10 business days. So I'm going to keep the record open until 11 January 18, but again, I don't anticipate it's going to 12 take the 30 days to get your Decision out, all right. So 13 with that, I'm going to keep the record open until 1/18. I 14 want to thank Housing, or our inspectors, as usual, for 15 your hard work. And thank you for coming. And before I 16 close, is there anything else anybody has to say? 17 ROBERT DREHER: I just wanted to -- is there anything 18 else that concerns you about our application? Because if 19 there's anything you would like us to address, we are happy 20 to talk about it. We have to -- we have lived on this block 21 for -- how long? Twenty -- 22 PATRICIA KENNELLY: Five. 23 ROBERT DREHER: Twenty-five years. We know our 24 neighbors quite well. We've talked to them. They are -- 25 LYNN ROBESON: Well, clearly because there's nobody</p>	<p>20</p> <p>1 PATRICIA KENNELLY: Thank you. 2 CECE KINNA: Thank you. 3 ROBERT DREHER: Thank you. 4 (Off the record at 9:54 a.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

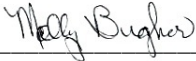
Transcript of Administrative Hearing
Conducted on January 8, 2018

6 (21 to 24)

21

CERTIFICATE OF TRANSCRIBER

I, MOLLY BUGHER, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher

DATE: January 16, 2018