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# Transcript of Hearing 

Date: December 17, 2021<br>Case: Vladimir Gurevich Group Day Care

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Conducted on December 17, 2021


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| PROCEEDINGS <br> MS. ROBESON: Vladimir Gurevich for a <br> group daycare of up to 12 people located at 9000 16th <br> Street in the -- Silver Spring in the R-60 zone. <br> Would the parties please state their names and address -- identify themselves for the record? Mr. Brown, you're on mute. <br> MR. BROWN: Good morning, Madam Hearing <br> Examiner. David Brown. I'm here for Vladimir <br> 10 Gurevich, who is the applicant in this case. <br> MS. ROBESON: Okay. The court reporter <br> 12 asked for the name of your firm and your business 13 address. If you could kindly state that for the 4 record. <br> MR. BROWN: Right. The firm is called <br> 6 Knopf \& Brown, K-N-O-P-F and B-R-O-W-N. 401 East <br> 17 Jefferson Street, Suite 206, Rockville, Maryland <br> 8 20850. And with me today is my legal assistant Joy <br> 9 Johnson, who has done most of the detailed work on <br> 0 this case to keep expenses down and will be available <br> 1 to help me answer any specific questions that you <br> 2 have in addition to Mr. Gurevich, who is here who will now identify himself. <br> MS. ROBESON: Okay. Mr. Gurevich, can you <br> 25 state your name and address for the record? | you. I'm not going to go in -- Mr. Brown, I don't -- <br> not going to go into the usual speech because it's <br> just -- it looks like it's just Mr. Gurevich today. <br> So with that, is Mr. Gurevich your first witness? <br> MR. BROWN: He is. <br> MS. ROBESON: Mr. Gurevich, please raise <br> your right hand. Okay. Do you solemnly affirm under <br> penalties of perjury that the statements you're about <br> to make are the truth, the whole truth, and nothing <br> 0 but the truth? <br> MR. GUREVICH: I do. <br> MS. ROBESON: Okay. Go ahead, Mr. Brown. <br> MR. BROWN: Mr. Gurevich, would you please <br> introduce yourself and provide your summary statement <br> 15 of your -- the purpose of the application and what <br> 16 you hope to accomplish if it's approved. <br> MR. GUREVICH: Hi, my name is Vladimir <br> Gurevich and I'm the owner of 9000 16th Street in <br> Silver Spring. I have filed a conditional use number <br> 0 -- it's CU22-02 -- requesting that the daycare <br> 1 currently run in my home be allowed to increase from <br> eight children to 12 children. I've been running <br> daycare since 2002 and on this site since 2020. <br> 24 The many years the site has been running, <br> 25 there have been no complaints by neighbors, the |
| MR. GUREVICH: My name is Vladimir <br> Gurevich, 9000 16th Street, Silver Spring, Maryland 20910. <br> MS. ROBESON: Thank you. And is there <br> anyone in this hearing that is not going to be called as a witness by Mr. Brown or that opposes this application? <br> Okay. Hearing none, I'm just going to say <br> a few words for everybody about Microsoft Teams <br> 10 Meetings. It's very important not to try and cross <br> 1 talk or to -- don't interrupt each other. If you <br> 2 need to speak, I can monitor hands raised. If you <br> 3 need to speak, I will call on you to speak, but try <br> 4 not to interrupt because it messes up the recording <br> 15 for the court reporter. <br> The other thing is we're going to record <br> the meeting. It's recorded anyway because there's a <br> court reporter, but we do it just as backup on the <br> Teams meeting so that there's some -- if they need <br> help with the transcript. Okay? <br> Now with that, we'll present your case. <br> The hearing is informal, but it does have certain <br> formalities. Without opposition today, there -- <br> 24 there could be cross-examination, but your testimony <br> 25 will be under oath, and I may have some questions for | county or anyone. Along with my application, I have filed supporting documentation demonstrating the site is able to handle this increase while maintaining its good standing with the county and with the neighborhood. <br> My property sits on an irregular shaped triangular lot where 2nd Avenue and 16th Street intersect at about 45 degrees angle in the business district of Silver Springs. The only access is from 10 a 16th Street driveway. There is a wall built at the 1 tip of the property covered in greenery which 2 elevates most noise and traffic issues that might be 13 present with other daycare programs. <br> And because of the overgrowth and the 5 right of the way, the day care is rendered nearly 16 invisible to any vehicle or foot traffic coming from 7 all directions. The parents come in the driveway and 8 have plenty of room to turn and to load or unload 9 without moving out into the roadway or causing 20 queuing on 16th Street. The children are safe when <br> 21 they get out of the cars, and the parents can safely 22 navigate cars without fear of accident from oncoming 23 cars. <br> 24 My daycare's Russian immersion program <br> 25 where students come and learn Russian and most of the |

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time leave with the ability to speak Russian
fluently.
    MS. ROBESON: Okay. Let me just
interrupt. For the record, I put Exhibit 19, the
staff report, on the screen simply because I wanted
to follow what you were saying about the property.
    MR. GUREVICH: Very well.
    MS. ROBESON: Okay. Go ahead.
    MR. GUREVICH: I speak Russian fluently --
    MS. ROBESON: Now can you tell me where do
they enter? I -- I'm having trouble seeing a
driveway. Is it this --
    MR. GUREVICH: Yes, ma'am. That's --
    MS. ROBESON: -- [crosstalk]?
    MR. GUREVICH: -- [crosstalk]. Yes,
ma'am.
    MS. ROBESON: For the record, that's on
16th Street just past a set of it looks like tall
bushes. Okay. Go ahead.
    MR. GUREVICH:Thank you. I speak Russian
fluently and the program maintains complete Russian
language the entire stay of the children every day.
There is a great need for childcare in this area due
to the growing number of children in the area and the
current decrease in the childcare assistance
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currently available because of COVID-19.
The program is new and innovative and
first -- and fits into the artistic nature of the
downtown Silver Spring area. The application we
filed addressed each code requirement and our
response to it. We have answered all concerns by the
planning board staff and are available to respond to
any concern with either the neighbors or the board.
Thank you.
MS. ROBESON: [Russian].
MR. GUREVICH: Very well. You're doing a
great job. Excellent. Wow.
MS. ROBESON: I had to take six years. Go
ahead.
15 MR. GUREVICH: It is very difficult.
MS. ROBESON: I spoke Russian, for the --
for the transcript, I said I speak Russian. Go
ahead.
19 MR. GUREVICH: We done and if I can answer
20 any questions, I am here.
21 MS. ROBESON: I do. My major questions
22 are the safety of pick up and drop off. And so I'd
23 like you to explain how that's going to work with the
24 additional children and where you're going to park
25 this car on the grass.
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21 MS. ROBESON: I do. My major questions
22 are the safety of pick up and drop off. And so I'd
23 like you to explain how that's going to work with the
24 additional children and where you're going to park 25 this car on the grass.

1 supplemental traffic statement. Would you like me to
--

MS. ROBESON: Yeah, but I'd like -- now that I'm visualizing it, would you mind just going through it for the record?

MR. GUREVICH: Of course. Would you like
me to read off the statement or just explain
verbally? How would you like me to do that?
MS. ROBESON: Just explain -- well, I
asked Mr. Brown a question about the front and -- DPS
said you can't park in the side or the front yard on
the grass. Did you see that correspondence?
4 MS. JOHNSON: I'm under the understanding 15 that we can't park in the front.
16 MR. GUREVICH: Is that a question to me or 17 is that a question to Mr. Brown?
18 MR. BROWN: Ms. Robeson, as I read that 19 correspondence, the DPS said there's no express 20 prohibition on parking on the grass in the side or 21 the rear yard. Are we in agreement on that?

MS. ROBESON: Oh, well let me double check. Are you seeing it up here?

MS. JOHNSON: Yes. Not [unintelligible] in the front.

MS. ROBESON: Okay. You -- you're correct. I apologize for that. I must have missed read -- misread it.

MR. BROWN: Let me add -- if I might add a couple of comments about the issue of side and rear yard. Your -- your email to me got me thinking, well, what is the side yard and what is the rear yard?

MS. ROBESON: Well, yeah, that's -- that's 0 why I want to know where you can park for this.

MR. BROWN: Let me tell you about the investigation that I made. First of all, I looked at the plat for the property which is dated 1940. It's 4 called plat 1199. I'd be happy to submit it for the 15 record.
16 MS. ROBESON: Okay. You don't have to do 17 it now, but I would like it in the record.
18 MR. BROWN: I want you to know that that 19 plat says that it's a re-subdivision of block 15 . On
20 an earlier plat -- that earlier plat is from 1890.
1 And -- and I have that, and I can submit it also.
It's --
23 MS. ROBESON: Okay.
24 MR. BROWN: -- it's plat 60 in plat book
25 A. And you will be surprised to know that there's

|  | 13 |  | 15 |
| :---: | :---: | :---: | :---: |
| 1 absolutely no resemblance either in streets or |  | 1 one a side or rear. |  |
| 2 configurations of this property between those two |  | 2 MR. BROWN: In that case I would -- we |  |
| 3 plats. These -- the State Department of Assessment |  | 3 would elect the 15.8 feet of the house that faces 2 nd |  |
| 4 and Taxation records say that the -- that the house |  | 4 Avenue as the front of the house. But that, you |  |
| 5 was built in 1939. So I have an 1890 plat that looks |  | 5 know, of course none of these dimensions meet the |  |
| 6 nothing like the -- the -- the land that's there |  | 6 really minimum requirement for a front yard, which |  |
| 7 today. And I have a 1940 plat which supposedly is a |  | 7 was 20 feet even back in 1940 and 1930. So I don't |  |
| 8 year after the house was built. |  | 8 know. I cannot explain to you how we got to where we |  |
| 9 I've looked at the 1930 zoning ordinance |  | 9 got except that perhaps these streets came -- these |  |
| 10 at the rules and regulations for side yards and rear |  | 10 streets, I don't know, they might have even been |  |
| 11 yards and it is a mystery to me how all of this |  | 11 constructed after the house was built under the old |  |
| 12 occurred, how all of this happened. I think when you |  | 12 configuration of the lot as shown on the 1890 plat. |  |
| 13 look at the issue of parking in the side yard or rear |  | 13 MS. ROBESON: Oh, you're saying none of |  |
| 14 yard, perhaps the fairest way would -- for my client |  | 14 the setbacks apply? |  |
| 15 would be to look at how those yards were defined in |  | 15 MR. BROWN: I -- I cannot tell you what -- |  |
| 161939 or '40. I can't for the life of me figure out |  | 16 what applies. I can only tell you that this house is |  |
| 17 what the answer is. And as for |  | 17 there. It's been there for -- for 80 years and |  |
| 18 MS. ROBESON: Well, the fact is -- |  | 18 nobody has been complaining about the size of the |  |
| 19 MR. BROWN: -- as -- as -- as for today, I |  | 19 front yard. And nobody has ever made an election, as |  |
| 20 think if we could look at the plat, which I think is |  | 20 far as I know, as to what is the front yard. |  |
| 21 Exhibit 9, the -- the plat of the house on the land. |  | 21 MS. ROBESON: Well, I think that -- I |  |
| 22 MS. ROBESON: Let me get it up. Well, |  | 22 think that under state law you can't object to an |  |
| 23 this is the site plan. Oh it is the plat, yeah. |  | 23 encroachment in the side yard if it's after five |  |
| 24 MR. BROWN: Yeah, that's what I want you |  | 24 years, -- |  |
| 25 to look at. In my opinion, the -- the -- the most |  | 25 MR. BROWN: Right. It's a statute -- |  |
|  | 14 |  | 16 |
| 1 logical way to look at it is to draw a line across |  | 1 MS. ROBESON: -- something like that. |  |
| 2 the front of the house until it intersects with 16th |  | 2 MR. BROWN: It's a statute of limitations. |  |
| 3 Street. And anything behind that line would be |  | 3 MS. ROBESON: So I'm less concerned with |  |
| 4 considered either the side yard or the rear yard |  | 4 the setback, I just want to know where the -- so that |  |
| 5 depending upon which street you chose as the front |  | 5 I can, you know, in case DPS comes and want -- I |  |
| 6 yard. So what I would like Mr. Gurevich to testify |  | 6 don't want Mr. Gurevich to get in trouble for parking |  |
| 7 about is whether or not he can park two cars behind |  | 7 in the wrong yard. So I would like to -- I assume |  |
| 8 that imaginary line extending across the front of the |  | 8 that you're going -- you're saying make 2nd Avenue |  |
| 9 house -- |  | 9 the front -- the front yard. And then where it says |  |
| 10 MS. ROBESON: Well, I -- I -- |  | 10 green area flat grass, that's now where he can park? |  |
| 11 MR. BROWN: -- to 16th Street. |  | 11 MR. BROWN: That's the rear yard. |  |
| 12 MS. ROBESON: I thought in the zoning |  | 12 MS. ROBESON: Yeah. Is that -- |  |
| 13 ordinance under front lot line definition, if you go |  | 13 MR. BROWN: And the rear yard would extend |  |
| 14 to -- let me -- let me go to it really quickly. I |  | 14 along -- would -- would extend at least from the -- |  |
| 15 thought the owner can elect which -- which line is |  | 15 from the side of the house where it says stone -- |  |
| 16 the front. But if you can bear with me a moment. It |  | 16 MS. ROBESON: Correct. |  |
| 17 said something like on a corner lot -- I have to go |  | 17 MR. BROWN: So what I would like Mr. |  |
| 18 to a lot. |  | 18 Gurevich is to show you a picture of that particular |  |
| 19 Okay. It says lot line front -- a lot |  | 19 area, which is part of one of our supplemental |  |
| 20 line abutting a right-of=way or common open space. |  | 20 exhibits, and ask him whether or not there is room |  |
| 21 On a corner lot, the owner must elect which lot line |  | 21 behind the -- behind that side of the house to park |  |
| 22 is the front lot line. So I thought -- I don't know |  | 22 two cars. |  |
| 23 where he has the space to park the car, you know, on |  | 23 MS. ROBESON: Okay. |  |
| 24 the grass, but he could elect a front lot line that |  | 24 MR. BROWN: That -- that exhibit -- |  |
| 25 would allow you to park -- that would make the other |  | 25 MS. ROBESON: I have -- I can put your |  |

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supplemental -- is it Exhibit 1, do you know, or
Exhibit 2?
    MS. JOHNSON: It's Exhibit 2.
    MR. BROWN: That's correct.
    MS. ROBESON: Is that correct? Is this
the area that you're -- and when I say this I'm
pointing to an -- a grassy area in front of a shed.
    MS. JOHNSON: That's Exhibit 1 she has up.
MR. GUREVICH:That's Exhibit 1.
10 MS. ROBESON: Okay.Let me go -- let me
go -- we must have mislabeled them, so --
    MS. JOHNSON: No, no, she has the right
exhibit.
    MR. GUREVICH: Ma'am, it's -- no, no,
you're -- you're right. Yeah, it's just it was cut
% off a little bit somehow. We submitted the exhibit
where you can clearly see what's happening on the
greener area.
    MS. ROBESON: Okay. So it is that green
area in front of the shed that you would like to --
    MR. GUREVICH: Right. That's -- that's --
it's a further -- you need -- I don't know if you can
see the full picture in that screen --
    MS. ROBESON: It's okay.
    MR. GUREVICH: -- but it's a much bigger
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    area if you look further to the right, I guess, from
    the stump and the shed.
    MS. ROBESON: For -- for the record, we're
    looking at the picture -- viewing the picture towards
    the front of the house. So when Mr. Gurevich says to
    the right, that means an area beyond a grassy area.
    Is it this area? I'm going back to the -- the site
    plan -- the plat again.
    MR. GUREVICH: Yes.
    10 MS. ROBESON: On the plat, I see a green
    area fat -- flat grass.
    12 MR. GUREVICH: That's affirmative, ma'am.
    13 Yes, ma'am.
14 MS. ROBESON: Okay. Now is this -- is
15 there landscaping and things along this area here?
16 MR. GUREVICH: It is a wall along with the
trees and shrubs. There's a brick wall --
MS. ROBESON: Oh, that's -- that's where
the wall is?
20 MR. GUREVICH: Yes, the wall goes all
21 around the property.
MS. ROBESON: Oh, okay. I wasn't able to
23 see for some reason -- oh, I went to the wrong place.
24 For some reason, I was not able -- I kept looking at
25 this on the staff report and I couldn't tell from the

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aerial they had exactly -- it's from a pretty far
distance. So I'm looking at page four of the staff
report which contains an aerial of the property. And
I see -- along 16th Street, I see a line. Is that
the shrubs -- shrubs that border the -- the roadway?
MS. JOHNSON: Yes.
MR. GUREVICH: And the wall, yes, ma'am.
MS. ROBESON: And -- okay. All right.
That -- that's helpful because I just wanted that straight in the record so I can say you -- you need to park in this area, and then DPS won't have a question as to whether it's rear or front or what. So I didn't want you to get in trouble.
14 MR. BROWN: Mr. Gurevich, I want to ask 5 you also, how many cars are there likely to be in
6 that area that are not -- these are your personal
17 cars as opposed to the -- as opposed to the -- the 8 parents of the children coming and going in the 9 unloading area. How many of your cars are -- are -0 are expected to be in that parking area?

MR. GUREVICH: Two at most.
MR. BROWN: Do you have two cars to park 3 in that area?

MR. GUREVICH: There -- do -- do I have a space to park two cars in that area? Is that the
question? Forgive me.
MR. BROWN: No, do you actually have two cars that would go in that area?

MR. GUREVICH: Right now, one. But again, just in case if we're going to need another one, we have enough space for it.

MR. BROWN: Okay.
MS. ROBESON: Do you have a problem with a condition saying you can have two -- you can park up 10 to two cars in that grassy area?
11 MR. GUREVICH: I have no problem with it 12 whatsoever.
13 MS. ROBESON: Okay. And then your front, 14 your pad, the concrete pad, how many cars can park in 15 there?
16 MR. GUREVICH: According to the staff 17 report, there's enough space to park perfectly well 18 about five cars, if I'm not mistaken. But I can look 19 it up one more time.
20 MS. ROBESON: Okay. Well --
21 MR. GUREVICH: Four cars, yeah. But
22 there's more space in there. A lady who did the
23 measurement were very, very helpful and she said
24 let's just put four cars in here just, you know, but 25 there's more --


| 25 |  | 27 |
| :---: | :---: | :---: |
| MS. ROBESON: Anything else, Mr. Brown? <br> MR. BROWN: No. Only we're just here to <br> answer any further additional specific questions you might have. <br> MS. ROBESON: No, my main concern was the drop off and pick up when I looked at it. And I didn't know you were a Russian immersion program, but I'm not going to try to speak any Russian because it's terrible. <br> MR. GUREVICH: No, I don't think so, it's that terrible. <br> MS. ROBESON: I feel like the ugly <br> American when I try to speak it. Okay. But with 14 that, I will tell you that I think we have everything 15 I need. Mr. Brown, can you submit those plats -6 since you did refer to them, can you submit a copy into the record? It could be a paper copy, or if you 18 can scan them that would be great. It's up to you, if there's a download -- <br> MR. BROWN: I have them here. I will down 21 -- I will download them for you. <br> 22 MS. ROBESON: Okay. And they'll be <br> 23 Exhibits 27 and 28, I believe. So with that, I'm <br> 24 going to leave the record of the case open solely to <br> 25 receive the transcript. And -- and we had -- we | ```CERTIFICATE OF NOTARY PUBLIC I, Merinda Evans, the officer before whom the foregoing proceedings were taken, do hereby certify that said proceedings were electronically recorded by me; 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. Afterimla L. Cuana Merinda Evans, Court Reporter``` |  |
| don't get the transcript for ten days. So I'm going to leave the record open till December 27th. And if during that time, Mr. Brown, if you can submit those two exhibits, that would be great. <br> After that I have 30 days to write my <br> decision. You will be notified when the decision is issued, and it will be posted on our website. And for the record, I did speak with Mr. Gurevich. I was in the office and just picked up the phone, but it was solely about how to get into the hearing. So -I mean, how to remotely find the link, so I am I disclosing that. Anything else, Mr. Brown? <br> MR. BROWN: No, ma'am. <br> MS. ROBESON: Okay. If you disagree with <br> my decision, Mr. Gurevich, you have ten days to <br> 16 appeal to the Board of Appeals. And the instructions will be on the notification letter. <br> MR. GUREVICH: Thank you, ma'am. <br> MS. ROBESON: Okay. [Russian]. <br> (Off the record at 10:06 a.m.) | CERTIFICATE OF TRANSCRIBER <br> I, Sheila Martin, 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 and of the parties to this case and have no interest, financial or otherwise, in its outcome. <br> 3 <br> 4 SHEILA MARTIN <br> December 22, 2021 | 28 |

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| accident | all | 26:16 | B |
| $8: 22$ | $\begin{aligned} & 8: 17, \quad 10: 6, \\ & 12: 12, \quad 13: 11, \end{aligned}$ | applicant | $b-r-o-w-n$ |
| accomplish | $\left\lvert\, \begin{array}{ll} 12: 12, & 13: 11, \\ 13: 12, & 18: 20, \end{array}\right.$ | application | $5: 16$ |
| $7: 16$ | $19: 8,21: 16,$ | $6: 7,7: 15, \quad 8: 1,$ | back |
| according $20: 16,24: 1$ | 22:3, 22:18, | $10: 4, \quad 22: 13$ | 15:7, 18:7 backup |
| across | 22:21, 22:22 | applies | 6:18 |
| 14:1, 14:8 | allow $14: 25,22: 12$ | 15:16 | bear |
| actually | allowed | apply 15:14 | 14:16 |
| $\begin{aligned} & 20: 2 \\ & \text { add } \end{aligned}$ | 7:21 | approved | because |
| 12:4 | along | 7:16 | $6: 14, \quad 6: 17,$ |
| addition | 8:1, 16:14, | area | $10: 1,19: 9,$ |
| 5:22 | $\begin{aligned} & 18: 15, ~ 18: 16, \\ & 19: 4 \end{aligned}$ | 9:23, 9:24, | $21: 7, \quad 25: 8$ |
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| 10:24, 25:3 | 12:21, 19:15 | $\begin{aligned} & 16: 19, \quad 17: 6, \\ & 17: 7, \quad 17: 18, \end{aligned}$ | $7: 22,7: 24,$ |
| address | american | $\begin{aligned} & 17: 7, \quad 17: 18, \\ & 17: 20 \quad 18: 1 \end{aligned}$ | 7:25, 15:10, |
| $5: 6, \quad 5: 13,5: 25$ | $25: 13$ | $18: 6,18: 7,$ | $\begin{aligned} & 15: 17, \quad 15: 18, \\ & 23: 1 \end{aligned}$ |
| addressed $10: 5$ | angle | 18:11, 18:15, | before |
| administrative | 8:8 | 19:11, 19:16, | $2: 10,27: 2$ |
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