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Transcript of Hearing

Date: April 24, 2023

Case: Marlen Zelaya Group Day Care (CU 23-09)

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Transcript of Hearing
Conducted on April 24, 2023

1 (1 to 4)

1	3
1 BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE	1 A P P E A R A N C E S
2 HEARING FOR MONTGOMERY COUNTY, MARYLAND	2
3	3 ON BEHALF OF THE MONTGOMERY COUNTY OFFICE OF
4	4 ZONING AND ADMINISTRATIVE HEARINGS:
5 -----x	5 LYNN ROBESON HANNAN, HEARING EXAMINER
6 In Re: Marlen Zelaya : Case No.: CU 23-09	6 MONTGOMERY COUNTY OFFICE OF ZONING AND
7 -----x	7 ADMINISTRATIVE HEARINGS
8	8 100 Maryland Avenue
9	9 County Office Building
10	10 Room 200
11 HEARING	11 Rockville, Maryland 20850
12 BEFORE THE HEARING EXAMINER - LYNN ROBESON HANNAN	12 240.777.6660
13 Conducted Virtually	13 (Present via videoconference)
14 Monday, April 24, 2023	14
15 8:30 a.m. CST	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23 Job No.: 481572	23
24 Pages: 1 - 16	24 ALSO PRESENT:
25 Recorded By: Malcolm Cooke	25 Karen Trabanino- Ortega - Interpreter
2	4
1 HEARING, held virtually.	1 C O N T E N T S
2	2 EXAMINATION OF MARLEN ZELAYA PAGE
3	3 By Ms. Hannan 9
4	4
5	5
6	6 E X H I B I T S
7	7 (Retained by Counsel.)
8	8 HEARING EXHIBIT PAGE
9	9 Exhibit 21 Staff Report 8
10	10 Exhibit 7 Photos 11
11	11 Exhibit 8 Daycare Features 11
12	12 Exhibit 12 Site Plan 11
13 Pursuant to agreement, before Malcolm Cooke,	13
14 Court Reporter.	14
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2 (5 to 8)

<p>5</p> <p>1 PROCEEDINGS</p> <p>2 (Whereupon, the court reporter was duly</p> <p>3 sworn.)</p> <p>4 THE REPORTER: Testing. One, two, three.</p> <p>5 MS. HANNAN: Thank you. I'm calling the</p> <p>6 case of CU 23-09, the application of Marlen Zelaya.</p> <p>7 Is that the correct way to say it?</p> <p>8 INTERPRETER: Yes.</p> <p>9 MS. HANNAN: -- to expand an existing</p> <p>10 family daycare to a group daycare at 13101 Superior</p> <p>11 Street, Rockville, Maryland. Ms. Zelaya, can you</p> <p>12 identify yourself and -- I -- you've already said</p> <p>13 it's your mom. Can you identify yourself and your</p> <p>14 mom for the record?</p> <p>15 INTERPRETER: So I'm Karen Trabanino.</p> <p>16 Marlen --</p> <p>17 MS. HANNAN: Oh, I'm sorry.</p> <p>18 INTERPRETER: That's --</p> <p>19 MS. HANNAN: That's Marlen? Oh. Ms. --</p> <p>20 Ms. Zelaya, can you just identify yourself for the</p> <p>21 record?</p> <p>22 THE WITNESS: I am Marlen Zelaya.</p> <p>23 MS. HANNAN: Okay. Ms. -- now, how do</p> <p>24 you say it? Ms. -- say it again?</p> <p>25 INTERPRETER: Ms. Trabanino. It's</p>	<p>7</p> <p>1 MS. HANNAN: I do. You're a pro. I can</p> <p>2 tell you've used this before. Okay. You can see a</p> <p>3 -- a notice that the session is being recorded. All</p> <p>4 our sessions are recorded because we have a court</p> <p>5 reporter on here, because the -- we do transcribe</p> <p>6 the session verbatim, and we do that with all our</p> <p>7 cases for a variety of reasons. But this Teams</p> <p>8 recording that's going on here is just a backup for</p> <p>9 Mr. Cooke's recording, and he's the court reporter.</p> <p>10 Do not use the chat box because I can't monitor it,</p> <p>11 so I can't use that. And you must have -- well, you</p> <p>12 already have your camera on. So this is -- this</p> <p>13 hearing is formal with certain -- informal with</p> <p>14 certain formalities. Your -- your testimony is</p> <p>15 under oath and -- well, there's no one here to</p> <p>16 cross-examine, but -- but it is under oath and</p> <p>17 subject to perjury charges. But don't -- I'm not --</p> <p>18 I don't intend to scare anybody. Okay. Now with</p> <p>19 that, what we're going to do, Ms. -- Ms. Trevino --</p> <p>20 I -- I want to say it. I want to say it. I'm</p> <p>21 sorry. And say the whole name, please.</p> <p>22 INTERPRETER: Trabanino.</p> <p>23 MS. HANNAN: Trabanino-Ortega?</p> <p>24 INTERPRETER: Yes. You got it.</p> <p>25 MS. HANNAN: Trabanino-Ortega. Anyway,</p>
<p>6</p> <p>1 Trabanino-Ortega, so I'll give you Ortega so it's</p> <p>2 easier.</p> <p>3 MS. HANNAN: Trabanino-Ortega?</p> <p>4 INTERPRETER: Yes. Oh, okay. We're</p> <p>5 Salvadorian. El Salvador.</p> <p>6 MS. HANNAN: El Salvador? Okay. Okay.</p> <p>7 My name is Lynn Hannan, and I am the hearing</p> <p>8 examiner in this case. And I'm going to listen to</p> <p>9 you today, take all the evidence, and make a</p> <p>10 decision on whether to approve the application. If</p> <p>11 you disagree with my decision, you have 10 days to</p> <p>12 appeal it to the Board of Appeals. And all this</p> <p>13 will be written down in -- in the notification you</p> <p>14 get. Is there anyone else on the -- I don't see</p> <p>15 anyone else. Is there anyone else on this hearing</p> <p>16 that would like to speak? Okay. Seeing and hearing</p> <p>17 none, we have a few separate rules. This is a Teams</p> <p>18 recording, so we have a few separate rules. We ask</p> <p>19 that you not interrupt. Try to use -- see if I can</p> <p>20 share my screen here. Try to use this Raise Your</p> <p>21 Hand -- well, you're not seeing. Up at the top,</p> <p>22 there's a Raise Your Hand button, if you look at it</p> <p>23 at the very top bar. Do you see that?</p> <p>24 INTERPRETER: I see it, and I just tested</p> <p>25 it. Do you see me raising the hand like --</p>	<p>8</p> <p>1 I'm -- could you raise -- are you going to translate</p> <p>2 for Ms. Zelaya?</p> <p>3 INTERPRETER: I am.</p> <p>4 MS. HANNAN: Would you kindly -- I'm</p> <p>5 going to give you a translator's oath that just says</p> <p>6 you will faithfully -- could you raise your right</p> <p>7 hand? Thank you. Do you solemnly swear that you</p> <p>8 will translate Ms. Zelaya's testimony faithfully and</p> <p>9 accurately without any personal bias?</p> <p>10 INTERPRETER: I do.</p> <p>11 MS. HANNAN: Okay. Thank you. Ms.</p> <p>12 Zelaya -- now I'm going to move to her -- would you</p> <p>13 raise -- can you move the camera so I can see her?</p> <p>14 Can you raise your right hand? Do you solemnly</p> <p>15 affirm under penalties of perjury that the</p> <p>16 statements you're about to make are the truth, the</p> <p>17 whole truth, and nothing but the truth?</p> <p>18 THE WITNESS: I do.</p> <p>19 MS. HANNAN: Okay. Thank you. Now, to</p> <p>20 shortcut this, there are a lot of standards. Have</p> <p>21 you had -- I'm going to put on my screen the staff</p> <p>22 report, because rather than go through the</p> <p>23 standards, what we're going to try and do -- do you</p> <p>24 see -- are you seeing the staff report?</p> <p>25 (Exhibit 21 was marked.)</p>

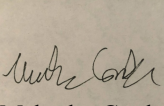

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3 (9 to 12)

<p>9</p> <p>1 INTERPRETER: Yes. I actually printed 2 out the whole report after -- 3 MS. HANNAN: Great. 4 INTERPRETER: -- got it. 5 MS. HANNAN: Well, that has all the 6 standards for approval set out in it. 7 EXAMINATION BY HEARING EXAMINER 8 BY MS. HANNAN: 9 Q So to speed the hearing, what I'm going 10 to do is ask Ms. Zelaya if she has read the staff 11 report. It recommends approval. And does she agree 12 with the findings made by staff? You have to answer 13 in the -- you have to vocally answer so the 14 transcript picks it up. Okay. 15 A Yes. My daughter translated it. 16 Q Okay. Great. And I'm -- what I have on 17 my screen is the staff report with four conditions. 18 Do you agree to abide by those conditions? 19 A Yes. 20 Q Okay. Yes. That much I can get. Okay. 21 Now, we also place conditions at times on no -- 22 because of noise, we say no amplified music. We say 23 -- 24 MS. HANNAN: Oh, go ahead. Ask her that. 25 No, go ahead. It's easier if we do one by one.</p>	<p>11</p> <p>1 Do -- do these fairly and accurately depict the 2 property at the time you took them? Okay. That was 3 Exhibit 7. And I'm also going to show you Exhibit 4 8, which is the floor -- looks like the site plan or 5 the floor plan. 6 (Exhibits 7 and 8 were marked.) 7 A Yes. 8 Q Do the -- do these fairly inaccurately 9 depict the existing house? 10 A Yes. 11 Q Okay. And finally -- we're almost done. 12 I'm showing you Exhibit 12, which is the site plan 13 of your property. Does that fairly and accurately 14 depict your property? 15 (Exhibit 12 was marked.) 16 A Yes. 17 Q Thank you. And where are the parents 18 going to park, and where are the employees going to 19 park? 20 A On Federal Street, there will -- the 21 employees will park on Federal Street. 22 Q And is parking permitted? 23 INTERPRETER: It's -- 24 A (In English) Yes. 25 INTERPRETER: But I think the question</p>
<p>10</p> <p>1 INTERPRETER: Okay. 2 MS. HANNAN: Yeah, she has to answer. 3 BY MS. HANNAN: 4 Q Do -- do you agree to have no amplified 5 music outside? You can have it inside, not outside. 6 A Yes, I agree. 7 Q Thank you. And we also ask that you keep 8 the outside clean and free from debris. 9 A I agree. 10 Q Okay. Last one. We also ask that -- 11 place the condition that you abide by all government 12 regulations and pay the Department of Permitting 13 Services their annual inspection fee. 14 INTERPRETER: You said local government? 15 MS. HANNAN: Well, whatever regulations 16 apply, state, local. 17 THE WITNESS: I do. 18 INTERPRETER: Or -- 19 THE WITNESS: I will do it. 20 BY MS. HANNAN: 21 Q Okay. Thank you. Now I'm going to ask 22 you some questions. Wait. I need to go -- I'm 23 showing you some -- well, I don't know if I'm 24 sharing my screen. Hold on. Okay. I'm showing you 25 some pictures that you submitted of the property.</p>	<p>12</p> <p>1 refers to if they need like a permit to park there; 2 right? 3 MS. HANNAN: Right. 4 THE WITNESS: No. 5 MS. HANNAN: Okay. That's -- that's 6 exactly -- okay. Great. And what about employees, 7 or what about parent -- what I'm trying to -- the 8 second question is, what about parent drop-off and 9 pick-up? 10 INTERPRETER: So she's referring to -- to 11 the other pictures you showed earlier. She's 12 referring to the driveway. There is spot -- spots 13 available on the driveway there. 14 MS. HANNAN: I see. Okay. 15 INTERPRETER: So there should be space 16 for three cars. 17 MS. HANNAN: I'm looking at Exhibit 7. I 18 see that. Okay. 19 BY MS. HANNAN: 20 Q So they drop off and pick up on the 21 driveway? 22 A Yes. 23 Q And your employees park on the street? 24 A Yes. 25 A (In English) Yes.</p>

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4 (13 to 16)

<p>13</p> <p>1 Q All right. Well, that's the questions I 2 had. Do you -- do you want to say anything in 3 support of your application? 4 A Not at the moment. 5 MS. HANNAN: Okay. Well -- no, no, no, 6 no. No. Forget it. I can't do it. 7 INTERPRETER: You can. 8 MS. HANNAN: It's the R's. 9 INTERPRETER: Yeah. 10 MS. HANNAN: Never mind. Thank you very 11 much for your time. We have 30 days to write our 12 decision and order. After the 30 days, you -- you 13 will get a notification in the mail and be able to 14 read the decision online; okay? Within 10 days, if 15 you disagree with my decision, you may appeal that 16 to the Board of Appeals. And -- but in these 17 smaller daycares, we do try to get them out before 18 30 days. But you'll get a notice, a written notice 19 by e-mail and in -- in the mail, and then the 20 decision will be posted online. And again, if you 21 disagree with the decision, you can appeal that to 22 the Board of Appeals within 10 days. Okay. Thank 23 you so much. Have a nice day. 24 INTERPRETER: Thank you. 25 THE WITNESS: You, too.</p>	<p>15</p> <p>1 CERTIFICATE OF COURT REPORTER 2 I, Malcolm Cooke, the officer 3 before whom the foregoing proceedings were taken, 4 do hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10 11  12 13 <u>Malcolm Cooke</u>, Court Reporter 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>14</p> <p>1 INTERPRETER: You have a nice day, too. 2 MS. HANNAN: Okay. 3 (Off the record at 8:46 a.m.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>16</p> <p>1 CERTIFICATION OF TRANSCRIPT 2 I, Krystin Spolar, do hereby certify that 3 the foregoing transcript, to the best of my ability, 4 knowledge, and belief, is a true and correct 5 record of the proceedings; that said proceedings 6 were reduced to typewriting under my supervision; 7 and that I am neither counsel for, related to, nor 8 employed by any of the parties to this case and 9 have no interest, financial or otherwise, in its 10 outcome. 11 12  13 14 Krystin Spolar 15 Planet Depos, LLC 16 May 3, 2023 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: center;">A</p> <p>abide 9:18, 10:11 ability 16:3 able 13:13 about 8:16, 12:6, 12:7, 12:8 accurately 8:9, 11:1, 11:13 actually 9:1 administrative 1:1, 3:4, 3:7 affirm 8:15 after 9:2, 13:12 again 5:24, 13:20 agree 9:11, 9:18, 10:4, 10:6, 10:9 agreement 2:13 ahead 9:24, 9:25 all 6:9, 6:12, 7:3, 7:6, 9:5, 10:11, 13:1 almost 11:11 already 5:12, 7:12 also 3:24, 9:21, 10:7, 10:10, 11:3 amplified 9:22, 10:4 annual 10:13 answer 9:12, 9:13,</p>	<p>10:2 any 8:9, 15:7, 16:8 anybody 7:18 anyone 6:14, 6:15 anything 13:2 anyway 7:25 appeal 6:12, 13:15, 13:21 appeals 6:12, 13:16, 13:22 application 5:6, 6:10, 13:3 apply 10:16 approval 9:6, 9:11 approve 6:10 april 1:14 available 12:13 avenue 3:8</p> <p style="text-align: center;">B</p> <p>backup 7:8 bar 6:23 because 7:4, 7:5, 7:10, 8:22, 9:22 before 1:1, 1:12, 2:13, 7:2, 13:17, 15:3 behalf 3:3 being 7:3</p>	<p>belief 16:4 best 16:3 bias 8:9 board 6:12, 13:16, 13:22 box 7:10 building 3:9 button 6:22</p> <p style="text-align: center;">C</p> <p>calling 5:5 camera 7:12, 8:13 can't 7:10, 7:11, 13:6 cars 12:16 case 1:6, 5:6, 6:8, 15:7, 16:8 cases 7:7 certain 7:13, 7:14 certificate 15:1 certification 16:1 certify 15:4, 16:2 charges 7:17 chat 7:10 clean 10:8 condition 10:11 conditions 9:17, 9:18,</p>	<p>9:21 conducted 1:13 cooke 1:25, 2:13, 15:2, 15:14 cooke's 7:9 correct 5:7, 16:4 could 8:1, 8:6 counsel 4:7, 15:6, 16:7 county 1:2, 3:3, 3:6, 3:9 court 2:14, 5:2, 7:4, 7:9, 15:1, 15:14 cross-examine 7:16 cst 1:15 cu 1:6, 5:6</p> <p style="text-align: center;">D</p> <p>daughter 9:15 day 13:23, 14:1 daycare 4:11, 5:10 daycares 13:17 days 6:11, 13:11, 13:12, 13:14, 13:18, 13:22 debris 10:8 decision 6:10, 6:11, 13:12, 13:14, 13:15, 13:20, 13:21 department 10:12</p>
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