

Transcript of Administrative Hearing

Date: April 2, 2019

Case: Jessica Landman, In Re:

Planet Depos

Phone: 888.433.3767

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		1	3 PROGETERINGS
1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	5	1 PROCEEDINGS
2	FOR MONTGOMERY COUNTY, MARYLAND		2 HEARING EXAMINER ROBESON: Thanks.
3	x		3 MS. LANDMAN: Good morning.
4	In Re: : Case No.		4 HEARING EXAMINER ROBESON: If you could sit
5	Jessica Landman : AAO 19-01		5 closer to that mic. There you go. Thank you. Okay. I'm
6	x		6 calling the case of it's a public hearing in the matter
/			7 of accessory apartment request for waiver requested by
8			8 Jessica Landman, OZAH case number AAO 19-01. And it's a
9	HEARING		9 request to waive the on-site parking requirements for the
11	Before Hearing Examiner Lynn Robeson		10 proposed accessory apartment located at 232 Park Avenue,
12	Rockville, Maryland		11 Tacoma Park, Maryland. My name is Lynn Robeson. I hear
13	Tuesday April 2, 2019		12 all the evidence and testimony. And just to go over
14	9:30 a.m.		13 review what we are looking for today, there is a director's
15			14 report making preliminary findings that we the
16			15 on-street the standard, what we're looking at today, is
17			16 whether there is adequate on-street parking. And the
18			17 standard for that is whether residence within 300 feet of
19			18 the apartment will be able to park near their homes, in
20			19 short. We this is very it's informal, but there are
21			20 some formalities. It will be your testimony will be
22			21 under oath and is subject to questions from the other side
23	Job: 237666		22 so with that, would you please state we will first of
24	Pages: 1 - 22		23 all start with Ms. Landman. For the record, please state
25	Transcribed by: Molly Bugher		24 your name and address.
			25 MS. LANDMAN: My name is Jessica Landman. My
		2	4
1	APPEARANCES		1 address is 232 Park Avenue, Tacoma Park.
2	AUSTIN MCNAMARA, DIRECTOR		2 HEARING EXAMINER ROBESON: Okay. And Mr.
3	DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS		3 McNamara, please state your name and address. Business
4	1401 Rockville Pike 44		4 address.
5	Rockville, Maryland		5 MR. MCNAMARA: Austin McNamara, 1401 Rockville
6			6 Pike 44, Rockville, Maryland.
7	JESSICA LANDMAN, Applicant		7 HEARING EXAMINER ROBESON: Okay. I forget you
8	C O N T E N T C		8 moved.
9	CONTENTS	PACE.	9 MR. MCNAMARA: Yes.
10	TESTIMONY OF MS LANDMAN	PAGE 5	10 HEARING EXAMINER ROBESON: Okay. What I'm going
	TESTIMONY OF MS. LANDMAN TESTIMONY OF MR. MCNAMARA	5 12	11 to do is swear you in the same time. We go first with you,
13	E X H I B I T S	1.2	12 Ms. Landman. And then the housing inspector can summarize
	Exhibits 1-9 Previously submitted		13 his report and raise any issues they have. Okay. So
1.7	Exhibit 10A Photo of main dwelling	16	14 please raise your right hand. Do solemnly affirm under
15	5		15 penalties of perjury that the statements you're about to
	Exhibit 13 Drawing of accessory apt	14	16 make are the truth, the whole truth, and nothing but the
16	Exhibit 13 Drawing of accessory apt Exhibit 17 Director's Report	5	10 make the treat, the whole train, and nothing out the
16 17			17 truth?
16 17 18	Exhibit 17 Director's Report	5	
16 17 18	Exhibit 17 Director's Report Exhibit 20 Affidavit of Posting	5 8	17 truth?
16 17 18 19	Exhibit 17 Director's Report Exhibit 20 Affidavit of Posting Exhibit 21 Driver's license of Ms. Landman	5 8 8	17 truth? 18 MS. LANDMAN: I do.
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16 17 18 19 20 21 22	Exhibit 17 Director's Report Exhibit 20 Affidavit of Posting Exhibit 21 Driver's license of Ms. Landman	5 8 8	 17 truth? 18 MS. LANDMAN: I do. 19 MR. MCNAMARA: I do. 20 HEARING EXAMINER ROBESON: Okay. Let the record 21 reflect that both witnesses were sworn. Okay. So Ms.
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Conducted of	1 April 2, 2019
LIEADING EVAMINED DODESON, I	7
1 HEARING EXAMINER ROBESON: I mean, not the	MR. MCNAMARA: The way yes, the way that I
2 inspector's, the director's report. Yes, that's	2 read that it's just that there is no other uses that are
MS. LANDMAN: Is that the document? Yes, I have.	3 currently being approved at the address.
4 HEARING EXAMINER ROBESON: And that is Exhibit, I	4 MS. LANDMAN: Okay.
5 think 17.	5 HEARING EXAMINER ROBESON: Wait. This is the
6 MS. LANDMAN: Yes.	6 wrong way around here.
7 HEARING EXAMINER ROBESON: For the record, that's	7 MS. LANDMAN: Sorry.
8 Exhibit 17. And do you agree with the findings that they	8 HEARING EXAMINER ROBESON: You are so no, no,
9 made?	9 no.
10 MS. LANDMAN: I do.	10 MS. LANDMAN: I was it was explained to me
HEARING EXAMINER ROBESON: That the director	11 that I should
12 made?	12 HEARING EXAMINER ROBESON: I'm teasing you. I'm
MS. LANDMAN: I do agree with the findings. I	13 teasing you.
14 have a question about the document, but everything that I	14 MS. LANDMAN: Okay.
15 see I agree with, yes.	15 HEARING EXAMINER ROBESON: Well, let me just do
HEARING EXAMINER ROBESON: What do you mean?	16 this for the record.
17 What well, okay. What's your question? Just	17 MS. LANDMAN: Yes.
MS. LANDMAN: Certain boxes are checked and other	18 HEARING EXAMINER ROBESON: Are there any do
19 boxes in other places there is no box. And other places	19 you rent out rooms? Is there any other rental going on or
20 there is no checkmark. So for example, there's something	20 will be going on other than the accessory apartment?
21 labeled, other residential uses passed and other	MS. LANDMAN: No, the rest of the house is
22 residential uses. And I don't know what those refer to.	22 occupied by myself and my husband who is my co-owner.
23 So I don't have an objection to them, but I don't know	HEARING EXAMINER ROBESON: Okay. So any other
24 whether the failure to have a checked in that box it	24 questions?
25 signifies anything of significance. Do you know what I'm	25 MS. LANDMAN: No.
6	8
1 talking about?	1 HEARING EXAMINER ROBESON: Okay. Do you wish to
2 HEARING EXAMINER ROBESON: Mr. McNamara, can you	2 adopt this with the exception of the residential uses blank
3 take a look at that?	3 box? Thanks for your explanation Mr. McNamara.
4 MR. MCNAMARA: From looking at this form, it	4 MS. LANDMAN: Yes, I am willing to adopt that.
5 appears that the question is asking whether there are other	
	5 HEARING EXAMINER ROBESON: As your own testimony?
6 residential uses at the address that have been approved or	6 HEARING EXAMINER ROBESON: As your own testimony? MS. LANDMAN: I'm willing to adopt that as my
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	Conducted on	l A	pm 2, 2019
	9		11
	immediate adjacent neighbors, lack I think only 3, maybe	1	HEARING EXAMINER ROBESON: Okay. Can I steal
2	4, lack driveways. Most people have a driveway to park in	2	this from you for the record?
3	and the remaining houses park on the street. And there is	3	MS. LANDMAN: Absolutely.
4	almost never a problem The house on the opposite side of	4	HEARING EXAMINER ROBESON: I'm going to make this
5	the street is a in a little island. It's sort of a	5	Exhibit 22, plat showing Park Avenue. Okay. And is that
6	house on a little island of land and their they have no	6	true even in during the evening hours?
7	cars.	7	MS. LANDMAN: Yes. The stretch of road in front
8	HEARING EXAMINER ROBESON: Wait, explain island.	8	of my house, which is I don't know exactly how many feet
9	MS. LANDMAN: Let's see if I have a picture of	9	that is, it's probably on the document you have there
10	it. It's basically a the street is called Crescent	10	can accommodate at least three cars.
11	Street. It's a little crescent-shaped street that	11	HEARING EXAMINER ROBESON: Okay.
	surrounds this one house.	12	MS. LANDMAN: Just right in front of my house.
13	· · · · · · · · · · · · · · · · · · ·	13	HEARING EXAMINER ROBESON: Now you are aware that
14			you must attest that you won't have any you won't have
15		15	more than two adults over 18 years of age in the apartment?
	on a street.	16	MS. LANDMAN: Yes.
17	<u> </u>	17	HEARING EXAMINER ROBESON: And you acknowledge
18	•	18	that by obtaining a license, the applicant gives the
19	· · · · · · · · · · · · · · · · · · ·	19	director the right to inspect the lot or parcel including
20	may I?	20	the accessory apartment?
21	HEARING EXAMINER ROBESON: The plat, sure.	21	MS. LANDMAN: Yes.
22		22	HEARING EXAMINER ROBESON: Okay. And do you
23	HEARING EXAMINER ROBESON: Certainly.	23	agree to that? To allowing them in, I assume at reasonable
24	1	24	times? You have to say yes for the transcript.
25	So there's one house on this piece of property.	25	MS. LANDMAN: Yes.
	10		12
1	HEARING EXAMINER ROBESON: Okay. So just mark	1	HEARING EXAMINER ROBESON: Okay. Is there
2	that in blue pen.	2	anything else you would like to say?
3	MS. LANDMAN: Okay. This little crescent-shaped	3	MS. LANDMAN: I don't think so. Are there any
4	house, that has one house on it here. And my house is one	4	other issues that are of concern? In that case, no.
5	of these.	5	HEARING EXAMINER ROBESON: Okay. Mr. McNamara,
6	HEARING EXAMINER ROBESON: What	6	do you want to summarize your preliminary inspection and
7	MS. LANDMAN: I can't read the numbers here.	7	any you may want to if you had the opportunity to
8	But so they have a parking space here. So there is no	8	view the on street parking while you were there, that would
	parking by that family along here.	9	be helpful too.
10	•	10	MR. MCNAMARA: Sure. As far as the house and
11	MS. LANDMAN: And I live opposite there. Most of		accessory apartment, there were no changes necessary to
	these houses and here is the the street actually		meet the housing code for approval. Everything was in good
	exists now, but most of the houses along here have		repair and compliant with the Montgomery County code. As
14	driveways.		far as the on street parking, I had no problem parking when
15	HEARING EXAMINER ROBESON: Wait, when you say		I went for my inspection. And it did not appear that there
	along here		was any shortage of parking. I was able to park directly
17			in front of Ms. Landman's house. The street is set up as a
18			one-way street, kind of half of Park. So there is only
	your side of Park Avenue.	19	houses on the one side, as previous testimony stated.
20	MS. LANDMAN: Along my side of Park Avenue.	20	HEARING EXAMINER ROBESON: Okay.
21	HEARING EXAMINER ROBESON: Okay.	21	MR. MCNAMARA: So there will never be cars parked
22	MS. LANDMAN: And there and this house is	22	opposite.
23	opposite and they park in their garage over there.	23	HEARING EXAMINER ROBESON: Opposite her
24	HEARING EXAMINER ROBESON: Okay.	24	MR. MCNAMARA: Opposite the house that she lives
25	MS. LANDMAN: So there's ample on street parking.	25	in.
		_	

	April 2, 2019
13 LIEADING EVAMINED DODESON: Okoy, All right, And	15 1 MS. LANDMAN: My door is way over here. Oh, you
HEARING EXAMINER ROBESON: Okay. All right. And I noticed in your report you said she had to obtain	2 mean the front door of the house?
2 I noticed in your report you said she had to obtain 3 applicable permits.	3 HEARING EXAMINER ROBESON: Yeah.
	4 MS. LANDMAN: Oh, the front door of the house
5 material. That if there are any permits permitted, that is	-
6 the way that we recommend going about submitting those	6 front is the house is here and my door is here onto the
7 permits.	7 street.
8 HEARING EXAMINER ROBESON: Oh, okay. Because	8 HEARING EXAMINER ROBESON: No, wait. Show me on
9 sometimes we get ones that come in	9 this.
10 MR. MCNAMARA: Yes.	10 MS. LANDMAN: If I were to if I needed to gain
HEARING EXAMINER ROBESON: And they've been in	11 access to the accessory department, I could this is
12 existence, but they never got permits.	12 HEARING EXAMINER ROBESON: No, no. I don't care
MR. MCNAMARA: Correct.	13 about that right now.
14 HEARING EXAMINER ROBESON: So I just wondered	14 MS. LANDMAN: Okay.
15 why.	15 HEARING EXAMINER ROBESON: I want to know where
16 MR. MCNAMARA: No, that	16 the door that you use is to the main dwelling unit.
17 HEARING EXAMINER ROBESON: That's just	17 MS. LANDMAN: That is not pictured on the
18 boilerplate.	18 drawing, but it's if this is
MR. MCNAMARA: Correct. That's just in case any	19 HEARING EXAMINER ROBESON: Oh, gotcha. Gotcha.
20 permits are required.	20 MS. LANDMAN: This is just the accessory
21 HEARING EXAMINER ROBESON: Required.	21 apartment.
22 MR. MCNAMARA: That's the way that we recommend	22 HEARING EXAMINER ROBESON: I understand.
23 going about it. If any permits were required in this case,	23 MS. LANDMAN: And it is in the back of the house
24 it would've been listed in the subsequent lists underneath	24 and the house is here and my door is over here.
25 of the body of the letter.	25 HEARING EXAMINER ROBESON: Oh, when you say the
14	16
1 HEARING EXAMINER ROBESON: I see. Okay. Thank	1 back of the house, just for the record because the record
2 you. Ms. Landman, do you have any questions of the housing	2 doesn't know where here is, what you're saying is the
3 inspector?	3 house, the accessory apartment, is on the rear of the
4 MS. LANDMAN: No, ma'am	4 house.
5 HEARING EXAMINER ROBESON: Okay. Well oh, I	5 MS. LANDMAN: Is in the rear of the main house.
6 have one question on this Exhibit 13. Do you mind coming	6 HEARING EXAMINER ROBESON: Okay. All right. So
7 up one more time? I just I was unclear where the	7 this side entrance and this foyer is for the accessory
8 this sorry. I will turn it this way. Is this I was	8 apartment?
9 unclear where the entrance to the accessory apartment was.	9 MS. LANDMAN: Correct. Correct.
MS. LANDMAN: This is the exterior of the house.	10 HEARING EXAMINER ROBESON: Okay. And what's
11 Stairs good on the side of my house and then there is a	11 marked as you go down these stairs, okay.
12 front door, an entrance door into the accessory apartment.	12 MS. LANDMAN: Yeah.
13 And it has a foyer like this. So this is the outside of	13 HEARING EXAMINER ROBESON: I understand.
14 the house. This is also my house itself abuts the	14 MS. LANDMAN: Okay.
15 apartment here.	15 HEARING EXAMINER ROBESON: That was my other
16 HEARING EXAMINER ROBESON: Yes.	16 question.
MS. LANDMAN: And so there is a door from the	MS. LANDMAN: I have a photo of the house if
18 main house into the accessory apartment through here, which	18 that's helpful. I could show you, but is that does
19 is actually can serve as an additional fire exit or	19 that
20 whatever. But it's also a way to access the main house	20 HEARING EXAMINER ROBESON: I may have it. Let me
21 from the apartment. And it has a lock so that this can be	21 just see. I'm going to admit everything you've already
22 a private apartment. But it's basically just a door that	
22 a private apartifetti. But it's basically just a door that	22 submitted into the record.
23 is	22 submitted into the record.23 MS. LANDMAN: Okay.

	10 April 2, 2019
17 1 oh, there we go. Okay. So the this is the front of the	19 1 MS. LANDMAN: Thank you.
2 house.	2 HEARING EXAMINER ROBESON: And I do appreciate
3 HEARING EXAMINER ROBESON: So your entrance is -	
4 MS. LANDMAN: This is my entrance.	4 appreciate your cooperation. You've been very, very
5 HEARING EXAMINER ROBESON: So this depiction,	5 you've followed through very well. So anyway, I am going
6 10A, is the front of the house and your entrance is going	6 to try to get the decision out as soon as possible. And as
7 through the porch.	7 soon as I do, then well, I don't know what DHCA's
8 MS. LANDMAN: Right there, yeah.	8 process is on the other end, how long it takes them to
9 HEARING EXAMINER ROBESON: And then the exterior	, ,
10 is to the	10 everything but the waiver cleared. So that will be up to
MS. LANDMAN: There are stairs that go down the	11 DHCA, but
12 side here to the right-hand side as you face the front of	MS. LANDMAN: Is that what happened in this case,
13 the house.	13 that it was all there but waiver?
14 HEARING EXAMINER ROBESON: Okay.	14 HEARING EXAMINER ROBESON: I'm sorry.
15 MS. LANDMAN: And they lead to the entrance to	15 MS. LANDMAN: Maybe I misunderstood what you just
16 the accessory apartment.	16 said. Usually they come to you with everything but the
17 HEARING EXAMINER ROBESON: I get it. I just	17 waiver cleared. Does that
18 okay. I didn't understand that that was okay. That's	18 HEARING EXAMINER ROBESON: Yes.
19 fine. Thank you. Any questions on no?	MS. LANDMAN: Is that what happened in this
20 MR. MCNAMARA: No, ma'am	20 instance?
21 HEARING EXAMINER ROBESON: No? You have to sa	y 21 HEARING EXAMINER ROBESON: Yes, we were waiting
22 yes.	22 for the director's report. And as I said, it's brand-new
MR. MCNAMARA: Oh, for any questions?	23 and everybody was adjusting. And, you know, unfortunately,
24 HEARING EXAMINER ROBESON: Yeah.	24 you were the usually it comes to OZHA once the
25 MR. MCNAMARA: I'm sorry. What was the question	25 director's report is out because they verify that you need
18	20
1 you are asking?	1 a waiver.
2 HEARING EXAMINER ROBESON: Are you do you have	2 MS. LANDMAN: Okay. But in any event, the 10 day
3 any questions? And you have to answer yes or no because of	3 period after today's hearing, that is a fixed time period?
4 the transcript.	4 HEARING EXAMINER ROBESON: Yes, it means that no
5 MR. MCNAMARA: No, I do not have any questions.	5 other evidence, no objections to this, nothing can come in
6 HEARING EXAMINER ROBESON: Thank you. Anything	6 the record. You know, once the record closes, we don't
7 else?	7 have any more evidence. And then the decision can then
8 MS. LANDMAN: I'm interested in knowing what will	8 we can issue the decision. And you will get we post
9 happen next.	9 you will get a notice of the decision and we post the full
10 HEARING EXAMINER ROBESON: I figured you would.	10 decision on our website.
11 What happens next is that we write a that I write a	11 MS. LANDMAN: I will get a notice by email or
12 decision. We leave the record open for 10 days to get a	12 HEARING EXAMINER ROBESON: Mail.
13 copy of the transcript, because we have to cite to the	13 MS. LANDMAN: By mail. Thank you.
14 transcript in that. I will issue my report and decision,	14 HEARING EXAMINER ROBESON: Or actually, I have to
15 and based on that, DHCA will either grant or deny the	15 double check. I have to double check. You may get the
16 waiver, the license, okay. So in other words, if I say,	16 full decision. One way or the other, you will get notified
17 yes, you've proven your case, but yes, you've proven	17 of the decision.
18 your case, then DHCA will grant the license must grant	18 MS. LANDMAN: Okay. I heard that there were
19 the license. If I say no, you haven't, if I decide you	19 additional changes pending in the County Council to the
20 haven't proven your case, DHCA will deny the license. If	20 accessory dwelling unit rules. Even if those are adopted
21 DHCA denies the license, you can appeal to the Circuit	21 during the course of the completion of this case, will
22 Court. Technically, I have more time to get a decision	22 those affect or not affect this case?
23 out. We have 30 days, but I can tell you now that it's not	23 HEARING EXAMINER ROBESON: To be honest, I can't
23 out. We have 30 days, but I can tell you now that it's not 24 going to take that amount of time. So we are going to get 25 it out as quickly as possible.	23 HEARING EXAMINER ROBESON: To be honest, I can't 24 tell you because I don't know. They are an entirely I 25 mean, you if the permit is granted, which well, if

_		1 '
	21	
	the permit if the license is granted, the rules don't it's neither here nor there.	
2		
3	MS. LANDMAN: Okay.	
4	HEARING EXAMINER ROBESON: If it's denied, they	
5	may or may not. I really don't know whether they affect	
6	you or not. I we are separate. You know, we keep	
7	separate from the County Council because we have to take	
8	the law as it is today into account. But I you know, I	
9	will say I do not anticipate the decision being delayed at	
10		
11	MS. LANDMAN: Okay.	
12	HEARING EXAMINER ROBESON: Okay. In fact, if I	
13	can, because you've waited, I can try and get an expedited	
	transcript into the record, and that way you know but	
	for now, I'm just going to say the record will stay open	
16	for 10 days. Okay?	
17	MS. LANDMAN: Uh-huh.	
18	HEARING EXAMINER ROBESON: All right. Anything	
19	else? Okay. Thank you, very much.	
20	MS. LANDMAN: Thank you.	
21	HEARING EXAMINER ROBESON: Adjourned. Thank you.	
22	MR. MCNAMARA: Thank you.	
23	(Off the record at 9:52 a.m.)	
24		
25		
25	22	
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