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Transcript of Hearing

Date: October 14, 2021

Case: Lindsay Richards Parking Waiver Request

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Transcript of Hearing
 Conducted on October 14, 2021

<p style="text-align: right;">1</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 IN RE: :</p> <p>5 LINDSAY RICHARDS : Case No. ADW 22-01</p> <p>6 ACCESSORY DWELLING :</p> <p>7 PARKING WAIVER :</p> <p>8 -----x</p> <p>9</p> <p>10</p> <p>11 HEARING</p> <p>12 Before Hearing Examiner Derek Baumgardner</p> <p>13 Conducted Virtually</p> <p>14 Thursday, October 14, 2021</p> <p>15 9:30 AM EST</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job No.: 406618</p> <p>24 Pages: 1 - 20</p> <p>25 Recorded by: Jesse Greer</p>	<p style="text-align: right;">3</p> <p style="text-align: center;">C O N T E N T S</p> <p>2 PAGE</p> <p>3 Testimony/Examination of Ms. Richards 9</p> <p>4 Testimony/Examination of Ms. Robinson 14</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>3 DEREK BAUMGARDNER, HEARING EXAMINER</p> <p>4 LINDSAY RICHARDS, APPLICANT</p> <p>5 CLIFTON BOUMA</p> <p>6 TAMALA ROBINSON</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>2 MR. BAUMGARTNER: Good morning,</p> <p>3 everyone. Thank you all for joining us here</p> <p>4 today. My name is Derek Baumgartner. I'll --</p> <p>5 will be the hearing examiner for this case. This</p> <p>6 session is being recorded. You should see a small</p> <p>7 bar towards the -- the top of your screen letting</p> <p>8 everyone know that -- that this hearing is being</p> <p>9 recorded. We're also joined by our court</p> <p>10 reporter, Mr. Jesse Greer, who is also on the line</p> <p>11 as well.</p> <p>12 A couple of features about our hearings,</p> <p>13 and specifically the virtual hearing format that</p> <p>14 you are seeing in front of you today, let me -- a</p> <p>15 couple of quick things on my screen. So we're</p> <p>16 going to open this case. This is the Montgomery</p> <p>17 County Office of Zoning and Administrative</p> <p>18 Hearings. This is a parking waiver application.</p> <p>19 We have it listed as ADW 2201. The applicant is</p> <p>20 Lindsay Richards for the property located at 12902</p> <p>21 Penrose Street located in Rockville, Maryland, all</p> <p>22 located within Montgomery County, Maryland.</p> <p>23 This is a parking waiver request for an</p> <p>24 accessory dwelling unit, otherwise known as an</p> <p>25 accessory apartment. This is a virtual hearing</p>



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<p style="text-align: right;">5</p> <p>1 format where we're using a platform called 2 Microsoft Teams, as you've -- no doubt can tell as 3 you are logged on. A couple of things about the 4 virtual hearing format. We have a small set of 5 folks who have logged on today, so this will 6 probably not be problematic. But there is a raise 7 your hand feature on the top of your screen, 8 center right. There are several icons, the first 9 of which looks like two people. That is the 10 participant list. 11 So you can click on that to see who is 12 logged in here today. To the right of that is a 13 chat feature or a conversation feature that we 14 will not be using today. And to the right of that 15 is a raise your hand feature. If you scroll your 16 cursor over what looks like an emoticon with a 17 raised hand, there are several different actions 18 that you can click on for busier hearings with 19 lots of participants. If somebody has a question 20 or needs to bring something to my attention, you 21 would click on the hand feature and that would 22 raise your virtual hand. For today, you're 23 welcome to use that. 24 Since we only have one or two folks 25 participating, you can raise your physical hand or</p>	<p style="text-align: right;">7</p> <p>1 have on the line and who might be testifying. If 2 the applicant can identify herself, please give us 3 your full name, your mailing address, and a good 4 e-mail address for you, please. 5 MS. RICHARDS: Okay. Lindsay Richards, 6 12902 Penrose Street in Rockville, Maryland, 7 20853. E-mail is L-I-N-Z0625@gmail.com. 8 MR. BAUMGARTNER: Great. Thank you, Ms. 9 Richards. Good morning. Welcome. 10 MS. RICHARDS: Thanks. 11 MR. BAUMGARTNER: Are there any other 12 persons who were signed in that are interested in 13 testifying here today in this public hearing? 14 MR. BOUMA: Hi. This -- this is Clifton 15 Bouma. Can you hear me? 16 MR. BAUMGARTNER: Yes. 17 MR. BOUMA: I'm -- I'm the -- I'm with 18 Montgomery County Licensing and Registration. I 19 handle the ADU applications, so I'm -- I'm here to 20 testify if needed. 21 MR. BAUMGARTNER: Great. Thank you very 22 much, sir. 23 MS. ROBINSON: Hi. Good morning. 24 MR. BAUMGARTNER: Yes. Ms. Robinson? 25 MS. ROBINSON: Hi. Good morning. I'm</p>
<p style="text-align: right;">6</p> <p>1 otherwise indicate to me that you have a question 2 or an issue. In our hearings in general, please 3 avoid cross talk. It's -- so if you're presenting 4 or if you're answering a question, it's helpful if 5 you complete that question or complete that 6 answer. We're going to try not to interrupt 7 people. It makes it difficult, especially in the 8 virtual format, when multiple people are speaking 9 at the same time. 10 The general format for our hearings, the 11 applicant will go first. I will simply ask them 12 to describe their application, explain what 13 they're requesting from this agency, and provide 14 any documentation that we don't already have. I 15 will -- I have the ability to share my screen, 16 which will have all the exhibits that have already 17 been submitted, the application, site plan, things 18 like that. I'm happy to bring those up for the 19 applicant if they would like to explain them or go 20 into any further detail about things like the site 21 plan or the floor plan or the application itself. 22 We will swear our witnesses in. I think 23 we only probably have one witness, which will be 24 the applicant. I'm going to go through the 25 participant's list right now just to see who we</p>	<p style="text-align: right;">8</p> <p>1 Tamala Robinson. I'm a housing code inspector III 2 with Montgomery County Housing and Community 3 Affairs Code Enforcement and I am here to testify 4 as well. I do have some additional information to 5 add. 6 MR. BAUMGARTNER: Got it. Thank you 7 very much. And, Ms. Robinson, what is the best -- 8 and this is for the benefit of the court reporter 9 -- what is the best mailing address and e-mail 10 address for you, please? 11 MS. ROBINSON: 1401 Rockville Pike, 12 Fourth Floor, Rockville, Maryland 20850, I 13 believe. Yeah. 14 MR. BAUMGARTNER: Okay. Thank you very 15 much. If you see me with my head down, I'm 16 writing notes. Mostly getting over -- over a 17 cold, so if you hear me cough, I apologize. I 18 will try to mute myself if any coughing fits 19 emerge. All right. We are going to get started 20 here today. We're going to start with the 21 applicant, Ms. Richards. Ma'am, can you please 22 raise your right hand. 23 Whereupon, 24 LINDSAY RICHARDS, 25 being first duly sworn or affirmed to testify to</p>

<p style="text-align: right;">9</p> <p>1 the truth, the whole truth, and nothing but the 2 truth, was examined and testified as follows: 3 EXAMINATION BY THE HEARING EXAMINER 4 BY MR. BAUMGARTNER: 5 Q All right. Tell me about your 6 application, what you're requesting, and then I 7 have some questions about the inspection report, 8 which I will go through with you just to get a 9 little more detail about your property, the use of 10 the property, and the area surrounding the 11 property. But you're welcome to tell me about 12 your request, about -- about the ADU, and what 13 you're requesting here today. 14 A So my home -- I -- I live in the house. 15 It's a four-bedroom house with an accessory 16 apartment attached to it. I bought the house with 17 the -- exactly the way it is about two-and-a-half 18 years ago. The apartment has a separate entrance, 19 separate kitchen, separate bathroom, a living 20 room, and one bedroom. You -- it's completely 21 independent, so there's no -- even has its own 22 heating and cooling. So there's -- there's no 23 connection to the house other than it physically 24 being connected. 25 There's a driveway in the front enough</p>	<p style="text-align: right;">11</p> <p>1 director's report, if it shows up. There it is. 2 So as part of this exhibit, there is a final 3 director's report or findings on accessory 4 apartment. And the address listed on this 5 document is 12902 Penrose Street, Rockville, 6 Maryland. And just confirm that is your property, 7 correct -- 8 A Yes. 9 Q -- Ms. Richards? 10 A Yes. 11 Q Okay. Looking at these check boxes, 12 this indicates that it is your primary residence, 13 that the size of the apartment has passed for 14 purposes of ADU registration, various other 15 requirements that have all been checked that apply 16 to this particular ADU and the parking 17 requirement. 18 The one aspect that has not been checked 19 is the parking passed aspect which shows a 20 driveway square footage that is below the minimum 21 for allowing an A -- an ADU, or at least allowing 22 the parking aspect of an ADU to be allowed by 23 right. So do you see that here, Ms. Richards? 24 A Yes. 25 Q Okay. And this is -- is, you know -- it</p>
<p style="text-align: right;">10</p> <p>1 for one car, which I use. However, in the front 2 there is plenty of parking just right in -- it's a 3 small front yard, so just right in front of the -- 4 the fence and the front yard there's plenty of -- 5 of -- of street parking right there. I mean, I 6 myself have -- have more than one car, and I park 7 my other cars there, so there's -- there's plenty 8 of parking there. So I guess that's what I'm 9 asking, is that that be considered in -- in line 10 with the requirements. 11 Q Got it. Let me pull up -- let me see if 12 I can share my screen with you-all. So shortly, 13 in a moment, there should be a document that 14 should be displayed on your screen. Can you see 15 this document that's been -- 16 A Yes. 17 Q Great. So we have this marked as -- if 18 I can find it. This is the DHCA preliminary 19 inspection report. That's how -- that's how we 20 have it marked as an exhibit. This is Exhibit 2. 21 So I'll go back to that exhibit. So this is a 22 report that was issued by Housing on September 23 14th. It deals with the ADU licensing and 24 registration, the inspections that were conducted. 25 And I'll go down a little bit to the</p>	<p style="text-align: right;">12</p> <p>1 seems kind of simple, but we're just making the 2 record here. So that is the purpose for this 3 hearing today. And we'll -- that the -- the 4 driveway square footage is not sufficient under 5 county code to allow the ADU for parking purposes. 6 I will switch over real quick. Just a couple of 7 quick questions for you. Under county code, looks 8 like Montgomery County code Section 29-26 B6 is 9 the ability to seek a waiver for an ADU as long as 10 the parking is adequate. 11 And parking is adequate under the code 12 if, A, the available parking for residents within 13 300 feet of the proposed accessory apartment would 14 permit a resident to park on-street near his or 15 her residence on a regular basis, and, B, the 16 proposed accessory apartment is not likely to 17 reduce the available on-street parking within 300 18 feet of the proposed accessory apartment. So all 19 that really means, and my question for you, ma'am, 20 is: Is there parking adequate within 300 feet of 21 this ADU? 22 A Yes. 23 Q And you just testified that there's 24 parking. I think it's directly in front of the 25 property, so located on Penrose. Your</p>

<p>13</p> <p>1 application, which is Exhibit 1, says I think up 2 to six spots, or you said five to six spots? 3 A Yep. 4 Q And then part B, the proposed accessory 5 apartment is not likely to reduce available 6 on-street parking. And your testimony before -- 7 and if you can just elaborate a little bit, is 8 there -- is there parking congestion in this 9 neighborhood? 10 A No. I mean, there is a little bit, but 11 not on our street. So my house, it's -- it's 12 literally on its own street, so there's -- there's 13 no other cars that ever park in -- in front of the 14 house. 15 Q Okay. So it's your testimony that the 16 parking waiver application and -- meets the 17 standards of this particular part of county code 18 with regard to -- with regard to the adequacy of 19 parking; is that correct? 20 A Yes. 21 Q Okay. Is there a tenant there now in 22 the ADU? 23 A No. 24 Q Okay. And since you purchased the 25 property two years ago, has there been a tenant in</p>	<p>15</p> <p>1 evaluate the parking. On September 27th, at 5:30 2 p.m., I was at the property and there was 3 sufficient parking on the street. 4 September 29th, I went at a different 5 time, which was 12:00 p.m., and there was 6 sufficient parking on the street within the 300 7 feet guidelines. And on October 4th, at 7:00 8 a.m., I did a drive-by as well and there was 9 sufficient parking on the street -- on her street 10 within 300 feet -- at the corner of her street, I 11 think it's Mercury, there was also parking there. 12 Q Great. And was there anything else that 13 you would like to add, ma'am? 14 A Nope. That would be it. 15 MR. BAUMGARTNER: Okay. Thank you very 16 much for your testimony. Ms. Richards -- 17 MS. ROBINSON: You are welcome. 18 MR. BAUMGARTNER: -- was there anything 19 else you wanted to add before we concluded this 20 hearing here today? 21 MS. RICHARDS: No. I don't think so. 22 No. 23 MR. BAUMGARTNER: Okay. Our office -- 24 so the way this typically works is we will hold 25 the record open for ten days following today's</p>
<p>14</p> <p>1 that ADU? 2 A No. 3 Q Okay. All right. Was there anything 4 else that you wanted to add before we turn it over 5 to Ms. Robinson for any further comment? 6 A No. 7 MR. BAUMGARTNER: Okay. Ms. Robinson, 8 are you still with us? 9 MS. ROBINSON: Yes. I'm here. 10 MR. BAUMGARTNER: Great. Can you please 11 raise your right hand. 12 Whereupon, 13 TAMALA ROBINSON, 14 being first duly sworn or affirmed to testify to 15 the truth, the whole truth, and nothing but the 16 truth, was examined and testified as follows: 17 EXAMINATION BY THE HEARING EXAMINER 18 BY MR. BAUMGARTNER: 19 Q Thank you very much. What is it that 20 you would like to add to this hearing today, 21 ma'am? 22 A In addition to the preliminary 23 inspection report, once Ms. Richards, excuse me, 24 advised that she was applying for the waiver, I 25 did three additional drive-bys of the property to</p>	<p>16</p> <p>1 hearing, that allows us to get a copy of the 2 transcript from the court reporter, but also 3 affords the community an extra ten days if there's 4 any additional testimony or comment that they 5 would like to submit. After that time, we will -- 6 that's when the clock starts to tick for our 7 office to issue the written report. 8 It has to be issued within 30 days. We 9 typically issue it in a much shorter period of 10 time than that. These cases are not particularly 11 difficult to write up. If you are unsatisfied 12 with that report and recommendation, you have 30 13 days to file an appeal in the Circuit Court for 14 Montgomery County. Again, that's 30 days from the 15 date that our written report is issued. Any 16 questions about that procedure, ma'am? 17 MS. RICHARDS: So it -- will it be 18 e-mailed or -- I'm sorry, will it be mailed to me, 19 the report? 20 MR. BAUMGARTNER: That's -- that's 21 correct. That's correct. 22 MS. RICHARDS: And I'm assuming it will 23 be sent to Clifton as well because I think he's 24 the one who will ultimately approve the unit, 25 typically.</p>

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<p>17</p> <p>1 MR. BAUMGARTNER: That's correct. So it 2 will go to all interested parties. It'll go to 3 yourself, it'll go to Housing. We can also e-mail 4 it to you as well, like, that's not a big deal. 5 We typically CC the e-mail to Housing when we 6 issue that report just so that it's easier to 7 upload into the system.</p> <p>8 MS. RICHARDS: Okay. And then one more 9 question. I have the sign posted out front of the 10 house. I noticed on the -- on the -- on the 11 report it's not shown because it was not posted at 12 the time that she came out to do the initial 13 inspection, but I got it a few days later. So is 14 it okay for me now to return the sign because it 15 has been there for 30 days?</p> <p>16 MR. BAUMGARTNER: Yeah. Yes. Keep it 17 up at least until the report is issued.</p> <p>18 MS. RICHARDS: Okay.</p> <p>19 MR. BAUMGARTNER: And I'm trying to -- 20 for -- for ADU cases, I'm trying to recall if 21 there's a sign posting requirement after the 22 report is issued. Let our office get back to you 23 about that. I don't want you to take it down too 24 early and then you have some procedural issue and 25 then -- like, that might pop up.</p>	<p>19</p> <p>1 CERTIFICATE OF COURT REPORTER 2 I, Jesse Greer, 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.</p> <p>9 10 11 12  13 14 _____ 15 Jesse Greer, Court Reporter</p> <p>16 17 18 19 20 21 22 23 24 25</p>
<p>18</p> <p>1 MS. RICHARDS: It's fine. I'll just 2 wait until it's -- it's issued. That's -- it's 3 not a big deal. It's not --</p> <p>4 MR. BAUMGARTNER: Okay.</p> <p>5 MS. RICHARDS: Okay.</p> <p>6 MR. BAUMGARTNER: Got you. Anything 7 else from anyone who has logged in here today? 8 Great. Mr. Greer, do you have names and e-mail 9 addresses and case numbers and everything that you 10 need today?</p> <p>11 THE REPORTER: I do. Yes. I do.</p> <p>12 MR. BAUMGARTNER: Great. Then we're 13 going to close the hearing today on ADW 2201, a 14 parking waiver for the property located at 12902 15 Penrose Street, located in Rockville, Maryland. 16 We thank everyone for your time and your testimony 17 and wish you all the best on this relatively sunny 18 Thursday in October.</p> <p>19 MS. RICHARDS: Thank you.</p> <p>20 MR. BAUMGARTNER: Thank you-all very 21 much. Have a good day.</p> <p>22 MS. RICHARDS: Bye.</p> <p>23 THE REPORTER: We are off the record at 24 this time. 25 (Off the record at 9:47 AM.)</p>	<p>20</p> <p>1 CERTIFICATION OF TRANSCRIPT 2 I, Mary Lide, do hereby certify that the 3 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.</p> <p>11 12 13  14 _____ 15 Mary Lide, AAERT-CET 16 Planet Depos, LLC 17 10/22/2021</p> <p>18 19 20 21 22 23 24 25</p>

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