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Transcript of Hearing

Date: October 10, 2024

Case: Patricia Walshe Parking Waiver, In Re:

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Hearing
Conducted on October 10, 2024

<p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS 2 FOR MONTGOMERY COUNTY, MARYLAND 3 -----x 4 In Re: : Case No. 5 Parking Waiver Application : ADW 25-01 6 Application of Patricia Walshe : 7 -----x 8 9 10 HEARING 11 BEFORE HEARING EXAMINER KHANDIKILE MVUNGA SOKONI 12 Conducted Virtually 13 Thursday, September 10, 2024 14 9:40 a.m. EST 15 16 17 18 19 20 21 22 23 Job No.: 556215 24 Pages: 1 - 23 25 Recorded By: Lhassan Elmilki</p>	<p>1 A P P E A R A N C E S 2 3 AUSTIN MCNAMARA 4 HOUSING CODE INSPECTOR 5 DHCA MONTGOMERY COUNTY 6 100 Maryland Avenue 7 County Office Building, Room 200 8 Rockville, Maryland 20852 9 240.777.0311 10 11 PATRICIA WALSHE, Applicant 12 13 14 ALSO PRESENT: 15 NANA YAA JOHNSON, Montgomery County Office of 16 Zoning And Administrative 17 18 19 20 21 22 23 24 25</p>
<p>1 Hearing, conducted virtually. 2 3 4 5 6 7 8 9 10 Pursuant to agreement, before 11 Lhassan Elmilki, Court Reporter. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 C O N T E N T S PAGE 2 Testimony of Ms. Walshe 10 3 DHCA Response by Mr. McNamara 13 4 5 6 E X H I B I T S 7 (Retained by the Court.) 8 HEARING EXHIBIT PAGE 9 Exhibit 1 Request for Waiver Application 18 10 Exhibit 2 DHCA Preliminary Inspection 19 11 Report, dated September 18th 19 12 Exhibit 3 Notice of Hearing 13 Exhibit 4 Ms. Walshe's Stamped Parking 19 14 Diagram 15 Exhibit 5 Photographs of Street from 20 16 Ms. Walshe 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS 2 (Whereupon, the court reporter was duly sworn.) 3 MS. SOKONI: Good morning. This is a 4 -- the time is now about 9:41, thereabout, 9:41 5 a.m. We -- the applicant has just joined in by 6 phone, so we'll get started, and we're now on the 7 record. Good morning, everyone. 8 This is a -- 9 MR. MCNAMARA: Good morning. 10 MS. SOKONI: -- public hearing -- 11 MS. WALSH: Good morning. 12 MS. SOKONI: This is a public hearing 13 regarding the Parking Waiver Application that has 14 been requested, seeking a waiver from the 15 requirements of Article 59, Section 3.3.3.A, et 16 cetera, by -- the -- the hearing is being 17 conducted by the Office of Zoning and 18 Administrative Hearings, OZAH, and this is in 19 connection with an accessory dwelling unit license 20 at the address, 9627 Singleton Drive, Bethesda, 21 Maryland, and the Department of Housing and 22 Community Affairs, DHCA, license number is 151445. 23 My name is Khandikile Sokoni. I'll 24 spell that for you. K-H-A-N-D-I-K-I-L-E, last 25 name Sokoni, S-O-K-O-N-I. I am the Hearing</p>	<p style="text-align: right;">7</p> <p>1 MS. SOKONI: Okay. 2 And from DHCA? 3 MR. MCNAMARA: Yes. I'm Austin 4 McNamara, M-C-N-A-M-A-R-A. I am a housing code 5 inspector. 6 MS. SOKONI: Just before we get started 7 with the -- with the substance of the hearing, I 8 just want to go over some of the technology. We 9 are doing this on Teams. It's a Teams hearing, so 10 some housekeeping rules. Teams interacts best 11 with Microsoft Edge or Chrome. 12 Now, I know, Ms. Walsh, you are 13 joining by phone. That's exceptional. We 14 actually do require participants to have their 15 video on when speaking. Is that a possibility for 16 you? Is that -- are you able to -- 17 MS. WALSH: No. 18 MS. SOKONI: -- or not? 19 MS. WALSH: I am not able to have a 20 video, no. 21 MS. SOKONI: Okay. I will make an 22 exception in this case, due to special 23 circumstances, that you may participate by calling 24 in and -- and not have your video on. 25 I do ask that everyone mute themselves</p>
<p style="text-align: right;">6</p> <p>1 Examiner in this case, and I should point out, 2 when the Notice of Hearing first went out, the 3 Hearing Examiner identified was Katie Byrne, and 4 we had to switch the case around for scheduling 5 purposes. So I am -- I will be presiding over 6 this as the Hearing Examiner. 7 What that means is that I will listen 8 to the testimony, I will review the evidence, and 9 I will render an opinion on the application 10 pursuant to the criteria that are set forth in the 11 Montgomery County Code Articles 26, Section 26 B. 12 I will be making a finding about whether there is 13 adequate on-street parking to support the 14 accessory dwelling unit. 15 If you disagree with my decision, you 16 may appeal it to the Board of Appeals within 10 17 days of my decision. I would like to proceed and 18 identify the parties, the Applicant, if you could 19 identify yourself full name? 20 MS. WALSH: Patricia Walsh, spelled 21 W-A-L-S-H-E. 22 MS. SOKONI: Thank you. Do you have 23 any other witnesses that will be appearing with 24 you? 25 MS. WALSH: No, I do not.</p>	<p style="text-align: right;">8</p> <p>1 when they are not speaking, that includes both 2 people on video and on phone, just to avoid some 3 of the echo and background noise. And we need to 4 avoid crosstalking because we do have a court 5 reporter who is recording the whole proceeding, 6 and it's very difficult to -- for the -- for the 7 court reporter to keep track of who is saying what 8 when we crosstalk. 9 Unless what you have is an objection as 10 one of the parties is speaking, if there's an 11 objection, you can raise that. But otherwise, 12 just hold -- hold your horses and -- and -- and 13 you'll speak when it's your turn. 14 You might see a sign at the top of the 15 screen that says that this is being recorded. I 16 just want to remind everyone that the Teams 17 recording is merely for the convenience of the 18 court reporter. We have a court reporter who is 19 doing a verbatim transcript, and they may be using 20 the Teams recording just as a backup. 21 The chat function is disabled. And if 22 you have any evidence that's in the record, that 23 you would like me to -- that you would like to 24 refer to, simply refer to it, and I will pull up 25 -- I will share it up on the screen for everyone</p>

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<p style="text-align: right;">9</p> <p>1 to see.</p> <p>2 Okay. With that, I just want to make</p> <p>3 -- I just want to mention some procedural rules.</p> <p>4 This is -- it's a somewhat informal proceeding.</p> <p>5 It's an administrative proceeding, it's somewhat</p> <p>6 informal, but I do want to remind everybody that</p> <p>7 we have some rules of procedure.</p> <p>8 Everyone who testifies will be doing so</p> <p>9 under oath. I will administer an oath. You can</p> <p>10 be asked questions or cross-examined with regard</p> <p>11 to your testimony, and both sides are able to --</p> <p>12 you can make opening statements before you get</p> <p>13 into presenting your case.</p> <p>14 Ms. Walshe, you are the applicant.</p> <p>15 What that means is, you have the burden of showing</p> <p>16 that, you know, you qualify for the -- the waiver</p> <p>17 that you're asking for. And DHCA is present, so</p> <p>18 they may ask you questions, and they may present</p> <p>19 their opposition or -- or -- or their response, as</p> <p>20 the case may be.</p> <p>21 And it -- from -- from what I can tell,</p> <p>22 we don't have anyone present -- anyone else</p> <p>23 present, so I think it's just DHCA and the</p> <p>24 applicant at this point. Any questions for me</p> <p>25 before we start?</p>	<p style="text-align: right;">11</p> <p>1 the street for online Ride On bus, which goes</p> <p>2 between the Metro of Bethesda and -- Medical</p> <p>3 Center, so there -- there would be a possibility.</p> <p>4 And also, within two blocks of my</p> <p>5 property, there is the -- the normal Metro bus,</p> <p>6 which runs frequently and goes into the city.</p> <p>7 MS. SOKONI: Because you're referring</p> <p>8 to the --</p> <p>9 MS. WALSH: And that's all I have to --</p> <p>10 MS. SOKONI: -- before you're --</p> <p>11 because you're referring to the Metro, I just want</p> <p>12 to be clear. I know the --</p> <p>13 MS. WALSH: I -- I am not --</p> <p>14 MS. SOKONI: -- the inspection --</p> <p>15 MS. WALSH: -- within a mile of the</p> <p>16 Metro, which I know is the regulation, yeah. I'm</p> <p>17 -- I'm sorry.</p> <p>18 MS. SOKONI: You are confirming that</p> <p>19 you are not within one mile of the Metro center --</p> <p>20 or the -- or the --</p> <p>21 MS. WALSH: I am not within --</p> <p>22 MS. SOKONI: -- or the Metro station?</p> <p>23 MS. WALSH: But I am within one mile</p> <p>24 of both the bus line and the -- and the Ride On</p> <p>25 bus, you know?</p>
<p style="text-align: right;">10</p> <p>1 MS. WALSH: Not at the moment, no.</p> <p>2 Thank you.</p> <p>3 MS. SOKONI: Okay. Well, why don't we</p> <p>4 get going, then? Ms. Walshe, I'll call upon you.</p> <p>5 And if -- if we could see you, I would say, raise</p> <p>6 your right hand, but even though we cannot see</p> <p>7 you, I still say, please raise your right hand.</p> <p>8 And do you affirm that you will tell -- that you</p> <p>9 -- everything you say will be true, to the best of</p> <p>10 your knowledge and belief?</p> <p>11 MS. WALSH: I do.</p> <p>12 MS. SOKONI: Thank you. You may</p> <p>13 proceed with your application.</p> <p>14 MS. WALSH: Well, I'm requesting a --</p> <p>15 a waiver, a -- a parking waiver, so that I can</p> <p>16 license an auxiliary apartment. There will -- it</p> <p>17 will be a one-bedroom apartment, and the upper two</p> <p>18 levels of the four-level split will be occupied by</p> <p>19 me alone.</p> <p>20 I have one car, and I'm 84 years old.</p> <p>21 I will probably never have a second car. There's</p> <p>22 ample street parking. It is not a snow zone</p> <p>23 parking. In front of my house -- not in front of</p> <p>24 my house, but between my house and the house next</p> <p>25 door, there -- and a -- and a -- a bus stop across</p>	<p style="text-align: right;">12</p> <p>1 MS. SOKONI: I see. So one -- you're</p> <p>2 within a mile of the right -- of the bus, but</p> <p>3 you're not within a mile of a Metro center or of a</p> <p>4 Metro station?</p> <p>5 MS. WALSH: No, I am not.</p> <p>6 MS. SOKONI: Okay. Are -- are you done</p> <p>7 with your presentation-in-chief? Can I ask you</p> <p>8 questions?</p> <p>9 MS. WALSH: Oh -- oh, yes. Yes, I --</p> <p>10 I am done with my presentation, yeah.</p> <p>11 MS. SOKONI: Okay. What is -- you --</p> <p>12 you indicated you have one vehicle right now.</p> <p>13 What -- the parking space that is on</p> <p>14 the premises, what is the dimension -- what are</p> <p>15 the dimensions of that parking space?</p> <p>16 MS. WALSH: Oh. I'm sorry. I don't</p> <p>17 have that information in front of me. Perhaps Mr.</p> <p>18 McNamara would have it, you know?</p> <p>19 MR. MCNAMARA: The measurement that I</p> <p>20 took at the preliminary inspection was 440 square</p> <p>21 feet.</p> <p>22 MS. SOKONI: Since Ms. Walshe indicates</p> <p>23 that she is done with her presentation, Mr.</p> <p>24 McNamara, I will call upon you. If you could</p> <p>25 raise your hand and confirm that you will be</p>

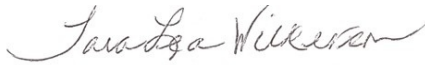

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<p>13</p> <p>1 telling the truth and the whole truth, nothing but 2 the truth, to the best of your knowledge and 3 belief? 4 MR. MCNAMARA: Yes. I do. 5 MS. SOKONI: Do you want to go ahead -- 6 before I ask my questions, do you want to say 7 anything in response to the application? 8 MR. MCNAMARA: Just that I -- as I 9 said, the onsite parking was measured at 440 10 square feet, which is lower than the required 11 minimum of 480 square feet. When I made my 12 inspection, I was easily able to find street 13 parking very near, if not in front of, the 14 Applicant's address. 15 There -- like I said, there was ample 16 street parking. I had no issue whatsoever. The 17 county has issued a fairly large pickup truck, so 18 even given the -- the larger-than-average size of 19 my vehicle, I -- like I said, I was able to find 20 parking without any issue whatsoever. 21 MS. SOKONI: And this was parking on 22 the street? This was street parking? 23 MR. MCNAMARA: That -- that is correct, 24 yes. 25 MS. SOKONI: I noticed in your</p>	<p>15</p> <p>1 MS. SOKONI: Thank you. 2 So Mr. McNamara, what I'm hearing is, 3 you -- you -- you believe the -- even though the 4 onsite parking is inadequate, it is your 5 understanding, or it's your assessment, that the 6 on-street parking is adequate? 7 MR. MCNAMARA: Yes. I see no reason 8 why another vehicle for the resident of the 9 accessory dwelling unit would -- in my opinion, 10 would have no negative impact on the available 11 street parking. 12 MS. SOKONI: And it's -- this Singleton 13 Drive, is that the two -- that's a two-way -- 14 that's a two-way street with -- 15 MR. MCNAMARA: That's correct. 16 MS. SOKONI: -- parking on both sides, 17 or -- 18 MR. MCNAMARA: Yes. That is correct. 19 There's no -- no permit parking, anything of that 20 nature, yes. But it is two-way parking on both 21 sides. 22 MS. SOKONI: Ms. Walshe, are you able 23 to confirm that there's on-street parking options 24 that's two-way parking on both sides of the street? 25 MS. WALSH: Yes. That is correct,</p>
<p>14</p> <p>1 Inspection Report, you indicated that there was -- 2 the required sign was not properly posted on the 3 property for -- for the -- 4 MR. MCNAMARA: That's correct. Yeah. 5 I -- the -- 6 MS. SOKONI: What -- what -- 7 MR. MCNAMARA: Sorry. Yes. That's -- 8 that's correct. To my recollection, the 9 application was accepted, and I was able to make 10 an inspection in a -- a very short amount of time, 11 and Ms. Walshe had not yet had the opportunity to 12 pick up the yard sign. But it has since been 13 posted, to the best of my knowledge. 14 MS. SOKONI: Ms. Walshe, are you able 15 to confirm, has the sign been placed on the 16 property as required? 17 MS. WALSH: Yes. It -- it was placed 18 the next day after Mr. McNamara was there, which, 19 although I don't have my -- my diary with me, I 20 think it was on the 19th -- the 18th or 19th of 21 last month, was placed in the front yard. 22 We -- we went to where he had gave -- 23 gave me the information of where I could collect 24 the sign. Collected the sign, paid the fee, and 25 -- and the sign was posted that night, yeah.</p>	<p>16</p> <p>1 yeah. And it's -- it's quite a wide street. It's 2 easy, even if there's cars parked on both sides, 3 for the city buses to go down and -- and pass each 4 other. It -- it -- it's an older neighborhood, so 5 the streets are wider than a lot of the new 6 neighborhoods. Mm-hmm. 7 MS. SOKONI: Just for the record, I 8 should mention that the hearing examiner may waive 9 the onsite parking standards if these conditions 10 apply: If the available on-street parking for 11 residents within 300 feet of the proposed 12 accessory dwelling unit would permit a resident to 13 park on the street near his or her residence on a 14 regular basis, and if the proposed accessory 15 dwelling unit is not likely to reduce the 16 available on-street parking within 300 feet of the 17 proposed accessory apartment, then -- then the 18 hearing examiner can make that determination. 19 Ms. Walshe, are you able to address 20 the 300-foot requirement, that this available 21 parking should be within 300 feet of the accessory 22 apartment? 23 MS. WALSH: Yes. There -- there would 24 be ample -- there would be ample parking within 25 300 feet.</p>

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<p>17</p> <p>1 MS. SOKONI: Thank you. 2 Any -- any other questions? Mr. 3 McNamara, did you have any questions for Ms. 4 Walshe? 5 MR. MCNAMARA: No, ma'am. 6 MS. SOKONI: Anything you think I 7 should be aware of? 8 MS. WALSHE: Not to -- 9 MR. MCNAMARA: Just to -- 10 MS. WALSHE: -- my knowledge. 11 MR. MCNAMARA: Sorry. Just to reaffirm 12 my testimony that during my inspection, I was able 13 to park my vehicle, as I said, well within 300 14 feet. I don't recall if I was in front of Ms. 15 Walshe's property or slightly in front of her 16 neighbor's property, but it was well within 300 17 feet. 18 I had no issue parking in that 19 vicinity, and I don't think that the accessory 20 dwelling unit will hinder Ms. Walshe or any other 21 residents from parking within 300 feet on the 22 street if they so chose. 23 MS. SOKONI: Thank you. 24 In that case, you know, I have -- I 25 have no further questions. It sounds like Ms.</p>	<p>19</p> <p>1 MS. SOKONI: Just managed to close out. 2 Give me one second. So Exhibit 1 is the Waiver 3 Application itself. 4 Exhibit 2 in the record is the 5 Preliminary Inspection Report Dated September 18th. 6 (EXHIBIT 2 RECEIVED INTO EVIDENCE) 7 MS. SOKONI: Exhibit 3 is the Notice of 8 Hearing. 9 (EXHIBIT 3 RECEIVED INTO EVIDENCE) 10 MS. SOKONI: Exhibit 4 is this -- the 11 Stamped Diagram that Ms. Walshe submitted. 12 (EXHIBIT 4 RECEIVED INTO EVIDENCE) 13 MS. SOKONI: No other exhibits admitted 14 at this time, correct, Ms. Walshe? Do you have 15 anything -- 16 MS. WALSHE: Probably not -- 17 MS. SOKONI: -- else you'd like to -- 18 MS. WALSHE: -- I -- but -- 19 MS. SOKONI: -- add to the record? 20 MS. WALSHE: No. I had furnished 21 street photographs, but they may not have gone to 22 the right place. I don't know, you know? They -- 23 they were immaterial anyway. They were just 24 photographs of the street from -- from the east 25 and the west, showing that there was ample street</p>
<p>18</p> <p>1 Walshe has no further testimony. 2 Did -- did you want to say anything in 3 response to what Mr. McNamara just said? 4 MS. WALSHE: No. Just to thank him for 5 his time. 6 MS. SOKONI: Thank you very much. 7 In that case, I will -- so this 8 concludes the hearing. Now, procedurally, I 9 should let you know that I would keep the record 10 open for at least 10 days, so in this case, I will 11 keep the record open for 10 days, through October 12 21st, 2024. That is to allow for the preparation 13 and submission of the transcript by the court 14 reporter. No new evidence can be submitted after 15 today except for the transcript. 16 With that, I also would like to admit 17 into the record the exhibits that we have, and I 18 would just -- if you give me one second -- I just 19 want to make sure we have all the exhibits 20 properly labeled and admitted into the -- into the 21 record. Okay. 22 So we do have here, Exhibit 1 is 23 admitted into the record. That's the Request for 24 the Waiver Application. 25 (EXHIBIT 1 RECEIVED INTO EVIDENCE)</p>	<p>20</p> <p>1 parking. 2 MS. SOKONI: I will -- I will admit 3 those into evidence. I believe that they were 4 received. I'm just clicking here to see -- I'm 5 not seeing them on the website, but I believe that 6 they were, in fact, received. 7 So I will -- I will keep the -- I will 8 permit inclusion of those photographs in the 9 record that were submitted by Ms. Walshe, and 10 those will be marked Exhibit 5. 11 (EXHIBIT 5 RECEIVED INTO EVIDENCE) 12 MS. SOKONI: So Exhibit 1 is the Waiver 13 Application. Exhibit 2 is a Preliminary 14 Inspection Report Dated September 18th from DHCA. 15 Exhibit 3 is the Notice of Hearing. Exhibit 4 is 16 the Stamped Parking Diagram. And let's mark 17 Exhibit 5 to be the photographs that Ms. Walshe is 18 referring to. I believe they were received to the 19 OZAH -- they were received at the -- in -- in the 20 OZAH mailbox. 21 MS. WALSHE: Okay. Thank you. 22 MS. SOKONI: With that, the hearing is 23 concluded. The record will remain open until 24 October 21st for some -- for inclusion of Exhibit 25 5, which is the photographs that Ms. Walshe has</p>

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<p style="text-align: center;">21</p> <p>1 referred to, that were sent to the OZAH mailbox, 2 and also for inclusion of the transcript. With 3 that, the -- the hearing is closed. 4 MS. WALSH: Okay. Thank you. 5 MS. SOKONI: But the record is kept 6 open until the 21st. Thank you. 7 MR. MCNAMARA: Okay. Thank you. 8 MS. WALSH: Thank you. 9 (Off the record at 10:04 a.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">23</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Tara Lea Wilkerson, do hereby certify 3 that this transcript was prepared from the digital 4 audio recording of the foregoing proceeding; that 5 said proceedings were reduced to typewriting under 6 my supervision; that said transcript is a true and 7 accurate record of the proceedings to the best of 8 my knowledge, skills, and ability; and that I am 9 neither counsel for, related to, nor employed by 10 any of the parties to the case and have no 11 interest, financial or otherwise, in its outcome. 12 13 14 15  16 _____ 17 TARA LEA WILKERSON 18 PLANET DEPOS, LLC 19 OCTOBER 21, 2024 20 21 22 23 24 25</p>
<p style="text-align: center;">22</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Lhassan Elmilki, the officer before 3 whom the foregoing proceedings were taken, do 4 hereby certify that any witness(es) in the 5 foregoing proceedings were fully sworn; that the 6 proceedings were recorded by me and thereafter 7 reduced to typewriting by a qualified 8 transcriptionist; that said digital audio 9 recording of said proceedings are a true and 10 accurate record to the best of my knowledge, 11 skills, and ability; and that I am neither 12 counsel for, related to, nor employed by any of 13 the parties to this case and have no interest, 14 financial or otherwise, in its outcome. 15 16  17 _____ 18 LHASSAN ELMILKI, NOTARY PUBLIC 19 FOR THE STATE OF FLORIDA 20 OCTOBER 21, 2024 21 22 23 24 25</p>	

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