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Transcript of Hearing

Date: January 4, 2024

Case: ADU Parking Waiver (ADW 24-01)

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Transcript of Hearing
Conducted on January 4, 2024

<p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS 2 MONTGOMERY COUNTY, MARYLAND 3 -----x 4 IN RE: : 5 REQUEST BY EILEEN CARBONELL TO : 6 WAIVE THE PARKING UNITS FOR AN : 7 ACCESSORY DWELLING UNIT LOCATED : 8 AT 23 EAST MOORE DRIVE, SILVER : 9 SPRING, MARYLAND, LICENSE : 10 NUMBER 182524 : 11 -----x 12 13 14 HEARING 15 BEFORE LYNN ROBESON HANNAN, HEARING EXAMINER 16 Conducted Virtually 17 Thursday, January 4, 2024 18 9:31 a.m. EST 19 20 21 22 23 Job No.: 518605 24 Pages: 1 - 16 25 Recorded By: Julio Mendieta</p>	<p>1 A P P E A R A N C E S 2 3 EILEEN CARBONELL (Applicant) 4 AUSTIN MCNAMARA (Montgomery County OZAH) 5 CHAD MOORE (Montgomery County OZAH) 6 7 8 9 10 11 12 13 14 15 16 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 Julio Mendieta, 11 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 Proceedings 5 3 4 5 E X H I B I T S 6 (None marked) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>


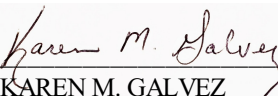
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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS 2 (Whereupon, the court reporter was duly 3 sworn.) 4 HEARING EXAMINER: Okay. I'm calling the 5 case of OZAH Case Number ADW 24-01, which is a 6 request to waive the parking units for an accessory 7 dwelling unit located at 23 East Moore Drive, 8 Silver Spring, License Number 182524, and it was 9 filed by Ms. Eileen Carbonell. 10 What we're going to do here today is -- 11 Ms. Carbonell, this is informal, but it does have 12 certain formalities. Your testimony is going to be 13 under oath, and anyone may ask questions of -- 14 about your testimony. Once we finish this -- the 15 testimony is limited to whether there's enough 16 parking available to -- for the two spaces 17 attributable to the ADU, plus your -- the two 18 spaces for your home. We're going to take all the 19 evidence and testimony. Make sure you say 20 everything you want to say in this hearing, because 21 once I issue my decision, the appeal is to Circuit 22 Court on the record of what occurred here. 23 Okay. So with that, what I'd like to do 24 is have Ms. Carbonell testify, and then have 25 Mr. McNamara testify just as to what he's observed</p>	<p style="text-align: right;">7</p> <p>1 between the two -- between your driveway and which 2 driveway? 3 MS. CARBONELL: No, not my driveway; 4 between my neighbor's driveways. They both have 5 driveways. 6 HEARING EXAMINER: Okay. 7 MS. CARBONELL: And -- all right. So -- 8 and I -- so there's space in-between the two 9 driveways -- 10 HEARING EXAMINER: Okay. 11 MS. CARBONELL: -- on the street. 12 HEARING EXAMINER: And how many cars do 13 you estimate you can park in front of your house? 14 MS. CARBONELL: I can park four; I know 15 I can. 16 HEARING EXAMINER: Oh, okay. 17 MS. CARBONELL: (Inaudible) better, but 18 four I can. And there's a space right across the 19 street that can be used also. 20 HEARING EXAMINER: Okay. 21 MS. CARBONELL: Actually, there's a 22 couple, but -- at least one, so -- 23 HEARING EXAMINER: And parking on your 24 street isn't restricted? 25 MS. CARBONELL: No. No, not at all.</p>
<p style="text-align: right;">6</p> <p>1 as far as parking in front of the dwelling unit. 2 Whereupon, 3 EILEEN CARBONELL, 4 being first duly sworn or affirmed to testify to 5 the truth, the whole truth, and nothing but the 6 truth, was examined and testified as follows: 7 HEARING EXAMINER: Okay. Please state 8 your name and address for the record. 9 MS. CARBONELL: Eileen Carbonell, 23 10 East Moore Drive, Silver Spring, Maryland 20901. 11 HEARING EXAMINER: And what can you tell 12 us -- can you describe the house and the -- do you 13 have a driveway? 14 MS. CARBONELL: No. 15 HEARING EXAMINER: No. Can you describe 16 your block and whether parking is available on the 17 block? 18 MS. CARBONELL: Yeah. There's plenty of 19 parking available. I'm actually the only one that 20 doesn't have a driveway, so -- and so all the space 21 in front of -- front of my house is empty, and 22 there's -- I think I sent something in that showed 23 how much space is in-between the two driveways, 24 plus there's parking right across the street. So -- 25 HEARING EXAMINER: Wait. Between --</p>	<p style="text-align: right;">8</p> <p>1 HEARING EXAMINER: Okay. And have you 2 ever had trouble parking on the street? 3 MS. CARBONELL: Not at all, never. 4 HEARING EXAMINER: Okay. And so, you 5 have -- you say you have parking for four cars, and 6 then there's -- is that right on the front of your 7 lot? 8 MS. CARBONELL: Yes. 9 HEARING EXAMINER: Okay. That's -- 10 because the standard is whether people within 300 11 feet can park on the street, if they have to. 12 MS. CARBONELL: Yes. 13 HEARING EXAMINER: Okay. And -- now, let 14 me just -- is -- does anyone have any questions for 15 Ms. Carbonell? Okay. Hearing none, I'm going to 16 ask Mr. McNamara to testify briefly. 17 Whereupon, 18 AUSTIN MCNAMARA, 19 being first duly sworn or affirmed to testify to 20 the truth, the whole truth, and nothing but the 21 truth, was examined and testified as follows: 22 HEARING EXAMINER: Can you state your 23 name and business address for the record? 24 MR. MCNAMARA: Sure. I'm Austin 25 McNamara. I work at Montgomery County Department</p>

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<p style="text-align: right;">9</p> <p>1 of Housing and Community Affairs. That's located 2 at 1401 Rockville Pike, fourth floor, Rockville, 3 Maryland. 4 HEARING EXAMINER: And were you the 5 housing inspector assigned to inspect this 6 property? 7 MR. MCNAMARA: That's correct. 8 HEARING EXAMINER: Okay. And in the 9 course of your inspection, did you visit the 10 property? 11 MR. MCNAMARA: Yes, on two occasions. 12 HEARING EXAMINER: Okay. When you were 13 there, what did you observe about parking on the 14 street? 15 MR. MCNAMARA: As previously stated, 16 there is no on-site parking, as in there's no 17 driveway, but there is ample street parking. The 18 street parking is not restricted by permits or 19 anything of that type. I did not have any issue 20 parking directly in front of 23 East Moore, and I 21 did not notice a -- a congestion of parking in the 22 surrounding area. It seemed like there would've 23 been plenty of parking for quite a number of 24 vehicles. 25 HEARING EXAMINER: Okay. Thank you. Ms.</p>	<p style="text-align: right;">11</p> <p>1 MS. CARBONELL: Oh. Because I dropped 2 off a -- a -- a drawing of the parking. I don't 3 know what happened to it, though. I dropped it off 4 at the office. 5 HEARING EXAMINER: Okay. Well, let me 6 ask you something: Do you recall approximately how 7 much space was between the two driveways? 8 MS. CARBONELL: 80 feet? Does that -- I 9 -- I -- the -- I don't know. Well, I'm trying to 10 -- well, it's as wide as my house. My -- oh, let 11 me see. Hold on a second. I -- I've got this. 12 Okay. So my house is 40 feet wide, and there's 20 13 feet on each side, so it was 80 feet, if I recall 14 right. Yes. 15 HEARING EXAMINER: Well, that's -- 16 MS. CARBONELL: Does that sound right? 17 HEARING EXAMINER: Yes. 18 MS. CARBONELL: Okay. 19 HEARING EXAMINER: Okay. All right. Do 20 -- Mr. McNamara, do you have anything else? 21 MR. MCNAMARA: No. No, I don't. 22 HEARING EXAMINER: Okay. And she'll have 23 to meet all the requirements unrelated to parking 24 in the -- you're aware that you'll have to meet all 25 the to-do list in the inspection report, so to</p>
<p style="text-align: right;">10</p> <p>1 Carbonell, do you have any questions of Mr. 2 McNamara? 3 MS. CARBONELL: No. 4 HEARING EXAMINER: Okay. And do you have 5 any photos of the property? 6 MS. CARBONELL: No, but -- did I -- no, 7 I don't. I -- I sent in a -- I did send in a 8 diagram, and I put down the measurements between -- 9 you know, how far it was to the other side of the 10 street and how much space was in-between the two 11 driveways. Did you get that? 12 HEARING EXAMINER: I don't recall seeing 13 it. I see an outline -- a floor plan of your 14 house. 15 MS. CARBONELL: Oh. Well -- 16 HEARING EXAMINER: I -- I don't recall 17 seeing -- it's not in our record. 18 MS. CARBONELL: Oh, that -- 19 HEARING EXAMINER: Why don't we do this. 20 MS. CARBONELL: Well, I can go out 21 front, and you can look at it. 22 HEARING EXAMINER: No, I have to have 23 something that is in the record. Do you recall -- 24 thanks for changing that, Chad. Yeah, that's what 25 I have. That's the diagram.</p>	<p style="text-align: right;">12</p> <p>1 speak? 2 MS. CARBONELL: Yes. Every -- everything 3 has been done that he told me about before, so I 4 think everything is good to go; I'm not sure. He's 5 coming back, I think, the 7th. They're 6 reinspecting it. 7 HEARING EXAMINER: Okay. 8 MS. CARBONELL: Yeah. 9 HEARING EXAMINER: All right. Thank you. 10 I don't have any more questions. What we're going 11 to do is this: I have 30 days to -- to write a 12 report in this case. I doubt it's going to take 30 13 days, but I have to leave the record open for 10 14 calendar days to get the transcript to finish the 15 report. So 10 days would be January 14th. Let me 16 just double-check that that is -- that's a Sunday. 17 So the record will be open until January, actually, 18 15th -- 16th, because -- 19 MS. CARBONELL: Oh, because the 15 is a 20 holiday. Yeah. 21 HEARING EXAMINER: -- Martin Luther King 22 -- 23 MS. CARBONELL: Yes. 24 HEARING EXAMINER: So it'll be open until 25 January 16th solely to get the transcript in the</p>

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<p>13</p> <p>1 record. I have 30 days from that to write my 2 decision, but I doubt -- you know, never say never, 3 but I really doubt it's going to take the 30 days. 4 So when -- when I finish it, you will be notified 5 by email and First Class Mail, and then you have a 6 right to appeal. If you don't like what I've 7 decided, you have a right to appeal to the Circuit 8 Court, and those appeal rights will be spelled out 9 with decision. But hopefully I'll be able to get 10 you something well in advance of -- the report, 11 legally, would be due on the February 14th -- no, 12 February 15th, but I will try my best to get you 13 something much sooner than that. 14 MS. CARBONELL: I have a question. So I 15 can't advertise or rent this place until all this 16 is in? I have to wait that much longer? 17 HEARING EXAMINER: Yes. You can't 18 advertise until you have a license. 19 MS. CARBONELL: All right. 20 HEARING EXAMINER: As I said, I will do 21 my very best -- 22 MS. CARBONELL: I know you will. I know 23 you will. Thank you. 24 HEARING EXAMINER: We really do. So we 25 try not to -- we know you're under pressure, so we</p>	<p>15</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Julio Mendieta, the officer before whom 3 the foregoing proceedings were taken, do hereby 4 certify that any witness(es) in the foregoing 5 proceedings were fully sworn; that the proceedings 6 were recorded by me and thereafter reduced to 7 typewriting by a qualified transcriptionist; that 8 said digital audio recording of said proceedings 9 are a true and accurate record to the best of my 10 knowledge, skills, and ability; and that I am 11 neither counsel for, related to, nor employed by 12 any of the parties to this case and have no 13 interest, financial or otherwise, in its outcome. 14 15 Notary Registration No.: 7995350 16 My Commission Expires: 6/30/2026 17 18  19 _____ 20 JULIO MENDIETA, NOTARY PUBLIC 21 FOR THE COMMONWEALTH OF VIRGINIA 22 January 10, 2024 23 24 25</p>
<p>14</p> <p>1 will try to do our best to get it out. 2 MS. CARBONELL: Okay. 3 HEARING EXAMINER: Okay? All right. 4 With that, I'm going to adjourn the hearing, 5 subject to -- 6 MS. CARBONELL: Okay. Thank you. 7 HEARING EXAMINER: -- evidence coming in. 8 And thank you, everybody, for your time, and Chad, 9 thank you very much. 10 MR. MOORE: Thank you. Bye-bye. 11 HEARING EXAMINER: Bye. 12 (Off the record at 9:42 a.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>16</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Karen M. Galvez, 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 KAREN M. GALVEZ 16 PLANET DEPOS, LLC 17 January 10, 2024 18 19 20 21 22 23 24 25</p>

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