

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF AMBOR PRIMM and : Case No. CU 16-03
JAMES MOY d/b/a A MUM'S TOUCH :
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A hearing in the above-entitled matter was held on November 16, 2015, commencing at 9:35 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Lynn A. Robeson
Hearing Examiner

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Mark North	4	--	--	--
Ambor Primm	15	--	--	--

1 MS. ROBESON: Okay. All right. Have you -- let
2 me do this. You get a chance to make an opening statement.
3 I don't know if you wish to do that or just proceed into
4 your testimony.
5 MR. NORTH: I think we'd proceed.
6 MS. ROBESON: Okay. Now, have you had a chance to
7 review the Staff Report?
8 MR. NORTH: Yes. Yes, we have.
9 MS. ROBESON: Why don't both of you raise your
10 right hands.
11 (Witnesses sworn.)
12 MS. ROBESON: Ms. Primm, do you want to state your
13 name and address for the record?
14 MS. PRIMM: My name is Ambor Primm. My address is
15 14227 Woodcrest Drive, Rockville, Maryland 20853.
16 MS. ROBESON: Okay. Now, have you had a chance to
17 look at the Staff Report?
18 MS. PRIMM: Briefly, yes.
19 MS. ROBESON: Well, I'm going to ask you, it
20 recommends approval with conditions. Do you wish to adopt
21 the findings set forth in the Staff Report?
22 MR. NORTH: Ms. Robeson, we understand there was a
23 late Friday communiqué.
24 MS. ROBESON: Did you get a chance to see that?
25 MR. NORTH: We didn't see if he attached an

1 P R O C E E D I N G S

2 MS. ROBESON: This is a public hearing in the
3 matter of OZAH No. 16-03, application of James Moy an Ambor
4 Primm for A Mum's Touch, requesting a conditional use for a
5 daycare facility for 12 children on approximately 9900
6 square feet of land in the R-90 zone, located at 14227
7 Woodcrest Drive, Rockville, Maryland.
8 My name is Lynn Robeson, I'm the hearing examiner
9 in this case, and I'm going to take all the evidence and
10 testimony today, and then I'm going to write a decision.
11 The decision can be -- if you disagree with my decision, you
12 have the right, within 10 days, to request oral argument
13 before the Board of Appeals. After the 10 days, my decision
14 becomes final. All right? And, just a note, the nature of
15 the proceedings, they're informal but they do have certain
16 formalities. We do swear in witnesses. I don't see anyone
17 here except the applicants, so there's no cross-examination.
18 The approval is based on the criteria in the code. Those
19 are set out in the Staff Report. Let me do this. If you
20 could identify yourselves for the record, please.
21 MS. PRIMM: I'm Ambor Primm, I'm the applicant.
22 MS. ROBESON: Okay.
23 MR. NORTH: My name is Mark North. I'm assisting
24 Ambor in this application. I'm a Montgomery County
25 architect.

1 exhibit to that or not.
2 MS. ROBESON: He did.
3 MR. NORTH: Okay.
4 MS. ROBESON: Let me do this, why don't you state
5 your name and address for the record as well, because there
6 is a transcript, and if for some reason you disagree with my
7 decision then, the Board of Appeals hears it just on the
8 transcript. So, keep that in mind.
9 MR. NORTH: My name is Mark North. I live at 7613
10 Dew Wood Drive in Rockville, Maryland 20855.
11 MS. ROBESON: Are you an architect licensed in
12 Maryland?
13 MR. NORTH: I'm a licensed architect in Maryland,
14 D.C. and Virginia, and I've been a long-time Montgomery
15 County resident since 1966.
16 MS. ROBESON: Okay. Do you wish to be qualified
17 as an expert in architecture?
18 MR. NORTH: Sure. I have not had that
19 opportunity, sure, yes.
20 MS. ROBESON: Have you ever testified an expert
21 before?
22 MR. NORTH: No, I have not. Not in this capacity,
23 no. I have gone before the Board of Appeals on several
24 cases of residential additions and the like.
25 MS. ROBESON: Okay. Well, I will qualify you.

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1 There you go.
2 MR. NORTH: Well, thank you. Thank you very much.
3 MS. ROBESON: The standard is, can you provide
4 more expertise than a, you know, a lay person. So being an
5 architect, I'm assuming that you can.
6 MR. NORTH: Yes, ma'am. I have quite a bit of
7 experience. Again, dealing in residential and commercial
8 architecture. My forte is in health care facilities
9 architecture and planning.
10 MS. ROBESON: Oh, okay.
11 MR. NORTH: But I also do some residential work as
12 well as additions and renovations in a small way.
13 MS. ROBESON: Okay. All right. Now, do you want
14 to make sure that we're all working on the same page here?
15 Do you want to double check -- I'm looking for what was
16 sent.
17 MR. NORTH: Right. We have two pieces. Once
18 apparently shows some screening, some additional screening,
19 and another that does not. And I know that late in the day
20 on Friday there was discussions back with your office from
21 Mr. Bello.
22 MS. ROBESON: Yes. Because we can't defer, you
23 know, we can't say work it out. What we have to know is
24 exactly what you're going to do. So, he did, and I'm
25 looking for it now, there was an attachment and I don't see

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1 it in the file. Can I recess for two seconds? I can't do it
2 off a cell phone. That's the problem.
3 MR. NORTH: Yes. Certainly that would help,
4 because we want to be obviously on the right exhibit.
5 MS. ROBESON: And the right page. We want to make
6 sure we're all talking the same thing. So if you don't
7 mind, I'm going to take a two minute break.
8 MR. NORTH: Okay.
9 MS. ROBESON: We're off the record.
10 (Whereupon, a brief recess was taken.)
11 MS. ROBESON: We're back on the record, and it's
12 Exhibit 34 which, let me get this -- okay, here we go. Do
13 you want to approach so you can take a look at what I have?
14 Because this is what we have in the record. I asked him for
15 the plant list, because we have to know -- here's the plant
16 list over here. All I have is the --
17 MR. NORTH: Got you, right. This is exactly as we
18 know it.
19 MS. ROBESON: Okay, so you recognize this?
20 MS. PRIMM: Yes.
21 MS. ROBESON: And you say this is what your
22 landscape plan is going to be?
23 MS. PRIMM: Yes.
24 MS. ROBESON: Okay. Now, so let's get back to the
25 Staff Report. Now, Staff -- I asked Staff, because

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1 according to this you're not providing what would be
2 required by the code. So, I guess, do you agree with Staff
3 -- Staff wrote on Friday why a waiver is justified. Have
4 you had the opportunity to review that?
5 MR. NORTH: Correct. Was that the alternative
6 compliance waiver discussion?
7 MS. ROBESON: Correct. Yes. In various
8 discussions with Mr. Bello we, working with him on the
9 screening requirements versus what to put in place versus
10 the ordinance requirements, and as early as the Board
11 meeting that we had for the approval, the Board recognized
12 that the ordinance had some gray areas relative to
13 residential detached family homes, and in this instance, a
14 daycare setting, we know that you have seen or the hearing
15 examiner has seen a similar case where that was brought to,
16 in which requirements were made, or that the Staff,
17 Montgomery County Planning decided against providing
18 additional screening. We asked for that to occur along our,
19 I guess that's the eastern border. Our southern border,
20 excuse me, of the site which is adjacent to Mr. Lass, who is
21 next door to her on the right side of the parcel just to our
22 right.
23 MS. ROBESON: Right side as you're looking at
24 Exhibit 35(a)?
25 MR. NORTH: Correct, correct. And, apparently,

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1 through the Board discussion, Mr. Lass and his wife
2 submitted a letter in opposition, but it really wasn't an
3 opposition. It was not an opposition to expand the daycare,
4 it was more of an issue about traffic and traffic control on
5 the street. And, the Staff recommended and agreed, and the
6 Board agreed, that that doesn't have impact on Ambor Primm's
7 daycare facility. That these are issues that have to get
8 worked out internally on the street, and that her business
9 doesn't impact that because we have the correct, by law,
10 spaces on the street available as well as the two off street
11 parking spaces available.
12 In further discussions, we asked to be relieved of
13 the screening in the yard facing Mr. Lass because it's a,
14 first of all, small yard. It's used infrequently in her
15 program, but an important piece, which is a gardening
16 program for the children. And heretofore, Mr. and Mrs. Lass
17 never in any way posed an objection to any of the screening
18 requirements that are there. It's contained with the fence
19 line that's five to six feet, and so it's --
20 MS. ROBESON: Is it a board-on-board fence?
21 MR. NORTH: It is. It's a full screen, full
22 privacy screen fencing.
23 MS. ROBESON: Oh, okay.
24 MR. NORTH: We have pictures of that too. They're
25 in the exhibits as well.

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1 MS. ROBESON: Okay. Let me see if I can get the
2 pictures. Because one thing I have to do is have Ms. -- who
3 took the pictures?
4 MR. NORTH: That was a combination of Ms. Primm
5 and myself, I believe.
6 MS. ROBESON: Okay. Well, why don't you both
7 approach. What I'm going to do is ask you to describe these
8 pictures and tell me whether they still fairly and
9 accurately depict the property at the time. Well, except
10 for seasonal changes. So, I'm looking at 17(a), can you
11 describe what these are?
12 MR. NORTH: The exterior (A) looks like play area
13 (a) in the exhibit which is just out -- that's their main
14 play area, which would be, I believe, to the north.
15 MS. ROBESON: Now, that's not the same type of
16 fence as the perimeter, correct?
17 MR. NORTH: That's correct. That is correct.
18 Exterior (U) picture shows the deck, which the children
19 aren't really permitted on. And the deck kind of subdivides
20 the play area (a) from the play area (b).
21 MS. ROBESON: Okay. Now, I'm showing you 17(b).
22 MR. NORTH: Exterior (G) is just the, from the
23 front yard. Exterior (D) is --
24 MS. ROBESON: And this is the privacy fence that
25 you have?

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1 MR. NORTH: That's correct.
2 MS. ROBESON: The wooden privacy fence.
3 MR. NORTH: That is correct. So we're trying to
4 get you to the yard, the exact yard we're in. And actually,
5 this does show it. It is board-on-board across, I'm sorry.
6 MS. ROBESON: Okay, this is exterior (D) on 17(b)?
7 MR. NORTH: Yes. Which does show the board-on-
8 board along the rear, and then a fence again along that side
9 that borders the residence.
10 MS. ROBESON: Which side?
11 MR. NORTH: This?
12 MS. ROBESON: The privacy fence borders what?
13 That's shown in exterior (D)?
14 MR. NORTH: It borders Mr. Lass' property to the
15 south, I believe, and then, residences also to the east of
16 them. They're only two residences that abut their property,
17 the Primm property.
18 MS. ROBESON: Okay.
19 MS. PRIMM: So you'd be standing, for this
20 picture, exterior (D), you're standing where the cars park
21 and looking in the house.
22 MS. ROBESON: Okay, so this separates the --
23 MR. NORTH: This would be play area (b).
24 MS. ROBESON: Oh, okay, I see.
25 MR. NORTH: Okay. And the gate is open from the

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1 car parking, the off-site car parking.
2 MS. ROBESON: I understand, all right.
3 MR. NORTH: Okay, and the purpose also of trying
4 to adopt the ordinance planting requirements within this
5 particular yard, play area (b), would have a dramatic effect
6 or reduce, because it was an 8 foot swath as recognized --
7 MS. ROBESON: Yes.
8 MR. NORTH: -- and 12 feet, I believe.
9 MS. ROBESON: Yes.
10 MS. PRIMM: And this is all of our gardening, our
11 edible gardening that we do with the kids.
12 MS. ROBESON: Okay, all right.
13 MR. NORTH: We were very concerned that the
14 plantings would obviate almost the need for the yard.
15 MS. ROBESON: Right.
16 MR. NORTH: And ask that we try to utilize the
17 plantings in other areas of the property to help other
18 screening requirements.
19 MS. ROBESON: Okay. Let me just finish going
20 through this.
21 MR. NORTH: Sure.
22 MS. ROBESON: This is 17(c). Can you briefly
23 identify or describe what these photos?
24 MR. NORTH: These are street shots, exterior (M),
25 (J), (I) and (K) and (G). These are all street shots in the

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1 vicinity of the home looking up and down Bauer (phonetic
2 sp.) and looking up and down Woodcrest from the property.
3 MS. ROBESON: Okay, now exterior (M) --
4 MR. NORTH: Yes.
5 MS. ROBESON: Can you tell me the prospective of
6 that one?
7 MR. NORTH: Yes. That's, we're more east of
8 Ambor's practice. You can see the two privacy fences at the
9 corner of Woodcrest.
10 MS. ROBESON: Okay.
11 MS. PRIMM: And that's the main play area.
12 MR. NORTH: That is right. On the other side of
13 that is the main play area.
14 MS. ROBESON: Okay.
15 MR. NORTH: In some of these other shots that
16 we're seeing on 17(d) --
17 MS. ROBESON: (d) yeah, okay.
18 MR. NORTH: Exterior (T), (P), (S), (O), (R), and
19 (N) are all, again, street shots looking towards the daycare
20 property and adjoining it. And exterior (O) points out,
21 again, that privacy fence that completely encompasses play
22 area (a). Unfortunately, we don't have a really good shot
23 shown of the back end of or more of the northeast end of the
24 site to show you where some of the planting, as proposed,
25 would go, along the back end of that fence.

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1 MS. ROBESON: Okay.
2 MR. NORTH: The rest of the pictures are interior
3 shots, I believe.
4 MS. ROBESON: Okay. Did you submit a floor plan?
5 MR. NORTH: Yes, we did.
6 MS. ROBESON: Okay.
7 MR. NORTH: Those were exhibits as well.
8 MS. ROBESON: Now, you can have a seat again.
9 MR. NORTH: I'd be happy to help you learn where
10 the floor plans are. Let's see, those would be found in
11 exhibits A through G of the original application.
12 MS. ROBESON: Okay.
13 MR. NORTH: We had site plan exhibits.
14 MS. ROBESON: Is there a number that precedes the
15 others?
16 MR. NORTH: The floor plans themselves are Exhibit
17 E, Exhibit D, G, and F.
18 MS. ROBESON: Ten?
19 MR. NORTH: Oh, I'm sorry. Were those?
20 MS. ROBESON: I think it's 10(d).
21 MR. NORTH: May I approach?
22 MS. ROBESON: Yes.
23 MR. NORTH: Thank you.
24 MS. ROBESON: Absolutely.
25 MR. NORTH: Yes. It would be your 10(b). This is

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1 a floor plan indicating the existing layout of the home on
2 the first floor level, indicating those areas in blue that
3 are part of the current daycare program, and the areas in
4 tan are limited areas.
5 MS. ROBESON: Ms. Primm, can you briefly describe
6 the areas in blue and what they're used for? Is this on the
7 first floor?
8 MS. PRIMM: It's a split-level home.
9 MS. ROBESON: Okay.
10 MS. PRIMM: So this is how you would enter the
11 main entrance to our personal space, basically. The child
12 care entrance is to, I think, I'm not sure what side of that
13 is of the house.
14 MS. ROBESON: Where's the north arrow?
15 MR. NORTH: I'm sorry. Let's see, that's going to
16 be, the living area is in the south end.
17 MS. PRIMM: So this is the south end?
18 MR. NORTH: Here's the south. This is north.
19 MS. ROBESON: Okay, you can't say south. So, why
20 don't you just mark --
21 MR. NORTH: I'd be happy to.
22 MS. ROBESON: Just write south on the south end.
23 For the record, he's marking south and north on this
24 description. Okay, Ms. Primm?
25 MS. PRIMM: So the main entrance to the child care

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1 is on the north side of the home.
2 MS. ROBESON: Is that a side entrance?
3 MS. PRIMM: Yes.
4 MS. ROBESON: Okay. And then, what is this large
5 daycare activity room?
6 MS. PRIMM: So this is the main room that we use.
7 The kids are in this space the majority of the day. And
8 then, these are the stairs to go up into our main living
9 room. We utilize the space for -- minimally -- but we have
10 it licensed, so we show that as our licensing space. And so
11 this is, if you were to walk into the home, this would be
12 the main floor, and then you'd walk down to go into the main
13 floor for the children's space.
14 MS. ROBESON: Okay. All right. And these just
15 show the different areas that you --
16 MR. NORTH: Yes. This exhibit, which would be our
17 Exhibit G, your 10(a), is a indication of where the photos
18 are taken on that floor plan. So, for instance --
19 MS. ROBESON: I see. When it says interior (e)
20 that's what it's showing. Oh, that's good. You're good.
21 That's actually one of the best, okay.
22 MS. PRIMM: We've been told.
23 MS. ROBESON: Enough of that. And that's your
24 deed. And, okay, you can be seated. So the landscape plan,
25 you do have some additional landscaping that you're going to

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1 propose?
2 MR. NORTH: That is correct. The Staff from
3 Montgomery County Planning has proposed a variety of plants.
4 Again, in the spirit of the ordinance, they tried to have
5 plantings that are a variety of sizes, I presume. And so, a
6 vast majority of these are smaller low shrubs in the liriope
7 range. We have some medium shrubs. We have an under story
8 tree, I believe, and then a canopy tree, which we wanted to
9 note for the record, too, and the position of the canopy
10 tree, which would be in the northeast corner, excuse me, in
11 the southeast corner of the property, is right adjacent to
12 another canopy tree that's on the neighbor's property, but
13 right at the edge. Unfortunately, Mr. Bello didn't have the
14 adjacent property landscaping to go by. But nonetheless, we
15 accept this. We just might shift it slightly, so it gets
16 off the root ball of a canopy tree. That's all.
17 MS. ROBESON: Oh, okay.
18 MR. NORTH: So there may be, and Mr. Bello did
19 tell us that there might be some --
20 MS. ROBESON: How much, when you say shift?
21 MR. NORTH: A foot to two feet at the most.
22 MS. ROBESON: Okay, all right.
23 MS. PRIMM: Closer to the fence, probably.
24 MR. NORTH: Right.
25 MS. ROBESON: Okay. Now, I'd like you to look at

1 the Staff Report, which is Exhibit 27. Do you wish to adopt
2 -- is there anything in the report you disagree with, and do
3 you wish to adopt the findings of the report? Except for
4 the conditions, we'll get to that in a moment. Do you wish
5 to adopt the findings of the Technical Staff Report as your
6 own testimony? She has to answer.

7 MS. PRIMM: Yes, we do.

8 MS. ROBESON: Okay. Now, I'd like to, Ms. Primm
9 to answer some questions, my questions about the operation.

10 MS. PRIMM: Okay.

11 MS. ROBESON: And, what Staff did to find that the
12 traffic was okay is, they require you to stagger drop-off
13 and pick up of no more than two vehicles every 15 minutes.
14 How are you going to ensure that that happens?

15 MS. PRIMM: Well, I think we showed the time frame
16 and how we would have people pick up, and we currently work
17 with our clients and, I mean, at this time, we have, you
18 know, three siblings for one family, which takes up a
19 significant part of the children.

20 MS. ROBESON: Drop-offs, yeah.

21 MS. PRIMM: And, my goal for my center is to allow
22 for siblings to be together. It's part of our practice.
23 So, a lot of the families are picking up two to three
24 children at a time. And, but it's very easy for me to start
25 the day off at 7:30 and have a couple children at a time,

1 and so that it's pretty easy to be staggered. It's rare
2 right now as parents pick up whenever they need to. It's
3 rare to have more than one to two parents ever.

4 MS. ROBESON: Okay. I think Staff said that you
5 were, the applicant must provide parental agreements to the
6 hearing examiner indicating that, to be no -- is that, are
7 you going to? We've had other daycares where they either in
8 their contract or in their parent policy handbook, they
9 require people to have assigned drop-off times or to ensure
10 that the traffic doesn't, you know, come in a balloon.

11 MS. PRIMM: Yes.

12 MS. ROBESON: I don't know if I need a parental
13 agreement, but there typically is some kind of thing saying,
14 in your parent policy manual, you have to come at an
15 assigned time. The other option is, you're on a corner,
16 right?

17 MS. PRIMM: Uh-huh, yes. We do have a parking
18 agreement for the parents. We basically, I took this and
19 told them where parking is allowed. And then, it's pretty
20 easy for me to find clients that fit our needs as far as the
21 timing goes. And that's with our staffing as well. So, we
22 have our policy book that has all of our parking
23 requirements. I'm probably going to implement a fine if
24 parents don't follow that parking requirement. And then, I
25 also, when the parents sign up and they do a contract with

1 me, it's with specific drop-off and pick ups, and they have
2 to, they must talk to me if they're going to come up
3 earlier, or if they're going to come later. And if the
4 parents wants to come earlier or later, those typically,
5 those parents are walking parents. They're all very local.
6 So, it would be easy for me to control and make sure that
7 we're finding clients that can fit that need.

8 MS. ROBESON: Okay. Would you have an issue with
9 a condition of requiring you to do what you just said?

10 MS. PRIMM: No. That's actually pretty much
11 already implemented.

12 MS. ROBESON: And so, you would have a condition
13 requiring the parents to come within specified times or
14 notify you first so that you can ensure that the two car
15 requirement is met?

16 MS. PRIMM: Yes.

17 MS. ROBESON: Okay, all right. So, with that, do
18 you have any problems with the -- now, the other thing is,
19 outdoor play times must be staggered. What's your position
20 on outdoor -- we have daycares where we actually say, no
21 more than -- well, he does have no more than some amount of
22 children, maybe, no more than eight. We do have daycares
23 where we say, okay, play times must be between X and X a.m.
24 and, you know, 9:00 and 10:30 and 2:00 and 4:00. Do you
25 have a hour, do you have a schedule like that or?

1 MS. PRIMM: We have a schedule, but I would, I
2 really, I caution us on forcing us to do a specific schedule
3 for that because it would not allow us to work with the
4 children if, you know, if it's been raining for three days
5 and the kids need to get out. We're not going to take all
6 12 children out into one space. Typically, we're going to
7 have infants, and those infants will be, you know, staggered
8 in and out depending. And we have, we go to parks, and we
9 also take, it'll be very rare to actually have all 12

10 children here because, we have four children that would go
11 to preschool, because we have them aged in a specific bunch.

12 MS. ROBESON: What are your ages?

13 MS. PRIMM: We do, we focus right now, currently,
14 on six months to school age, but a lot of our children are
15 about to go into kindergarten next year. So, we are looking
16 at doing a before and after school care possibly. Probably
17 more after school care, just for the children who have
18 siblings currently with us. If I can do that with our
19 staffing and requirements for the 12 children. But, for the
20 most part, the plan would be to do field trips and the
21 children that are currently with us that are in the older
22 group go to preschool half of the day.

23 So, we're really only looking at having all 12
24 children in our space from nap time to 5:30 pick up, 5:30,
25 6:00 pick up. And, typically, at the very end of the day

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1 when children are being picked up, we let them free-play
2 outside after nap. Though we could easily stagger that,
3 especially since we have infants that are often not walking.
4 I would just hate to adhere to a specific schedule because
5 the children's needs can change.

6 MR. NORTH: If I may add too, her program
7 predominantly uses the play area (a) for this segment, which
8 is, again, north of the home, and is somewhat isolated from
9 at least the south resident. It is close in proximity to
10 the east resident, but again, there have been no complaints
11 or issues in the current practice and in the current daycare
12 program. Nor have any of the neighbors, you know, had any
13 upset feelings about screening requirements or noise, or
14 times of day for noise. So, yeah, we would, it would suit
15 the applicant best if we didn't have necessarily a time
16 limit for those based upon history of the daycare program,
17 and also the ability of the neighbors to have voiced a gripe
18 at this point or at least approached Ambor on any complaints
19 or problems.

20 MS. ROBESON: Okay, well, let me ask you this, I
21 know you're saying we need flexibility, and I understand
22 that. Are you okay with an eight child limit?

23 MS. PRIMM: Of only allowing eight kids outside?

24 MS. ROBESON: Yes.

25 MS. PRIMM: Well, you could be separating infants

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1 from their siblings. So infants up to two are teetering and
2 tottering. They're not going to be outside for lengthy
3 periods of time. I guess, what I'm asking for is to have
4 permission to at least allow all of our children to play
5 freely together outside at pick up time, which is, Bauer is
6 a very busy road, it's very loud anyway. I don't see, I
7 just don't see it being a noise issue for an hour max during
8 the summer months when we're outside and doing free play
9 with the children. If we have to stagger the children to go
10 outside, I just, I feel like we're leaving some kids out at
11 that point, and the chances of us have 12 children out there
12 is small, but I don't want to -- I would hate to make that
13 requirement and adhere to that, and not give our children
14 time to be outside. A big part of our program is being
15 outside with the kids as much as we possibly can.

16 MR. NORTH: With due respect, was this on
17 recommendation from the Staff?

18 MS. ROBESON: Yeah.

19 MR. NORTH: From Planning Staff?

20 MS. ROBESON: Yeah.

21 MR. NORTH: Which was never --

22 MS. PRIMM: He would never discuss that.

23 MR. NORTH: Never discussed that with the
24 applicant.

25 MS. ROBESON: That's --

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1 MR. NORTH: It was never discussed.

2 MS. PRIMM: Yeah. I mean --

3 MS. ROBESON: Did you say anything to the Planning
4 Board?

5 MS. PRIMM: They never discussed it. Most of the
6 Planning Board was concerned about the planting. And I'm
7 okay with, I'm okay if we have to, I will do it.

8 MS. ROBESON: Twelve, I'll be honest with you.
9 Twelve is a lot for a daycare to have out. The most I've
10 seen is, without like some kind of -- they have these sound
11 mitigation fences, which you don't want to buy for 12, but
12 12 is a lot. How much of your program is, because believe
13 it or not, we've had sound engineers come in and the --
14 anyway, I won't bore you with the details.

15 MS. PRIMM: Okay. I mean, I can limit it to -- I
16 can certainly, I don't see my program having all 12 children
17 out extended periods of time. Typically, kids are being
18 picked up at 4:30, all the way from 4:30 to 6:30. So, we go
19 outside around pick up time, but kids are starting to be
20 picked up at that point. So technically, I mean, I guess we
21 could easily adhere to it, and I could just make sure that
22 we make the arrangements. I would just like to have the
23 flexibility of every once in a while if we have all the
24 children to be able to take them out for 15 to 20 minutes
25 and have them free play. But, if that's going to be an

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1 issue, I'm more than willing to --

2 MS. ROBESON: How much -- well, I just, my problem
3 is this, Staff put the condition in, and I need a, you know,
4 some kind of basis to disagree with Staff. Just let me
5 finish. How much of your program are infants?

6 MS. PRIMM: Four. There will always be four.

7 MS. ROBESON: But that's the way it is now. But
8 is that the way it's going to be in the future?

9 MS. PRIMM: Yes. In the future, because I do this
10 for my family, most of my own children are in this program,
11 my family is going to grow and the kids in the families that
12 we currently work with are going to go to preschool, and
13 they're going to go to school. At that point I'll probably
14 take a couple infants at a time, but I foresee my program
15 dwindling into more of a before and after school program for
16 families that want it. That might not be that much. And
17 possibly limiting, I mean, we might have 12 children for the
18 next five years, at the most, as my needs as a mom have. If
19 that makes any sense.

20 MS. ROBESON: Well, okay, let me ask you this,
21 would you be okay with a condition limiting the, or
22 requiring the program that four of the children be infants?
23 What's an infant?

24 MS. PRIMM: It is two and under. Or 18 months and
25 under, if you go to a large family child care.

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1 MR. NORTH: Requiring the program, that might be
2 rough.
3 MS. PRIMM: If it came down to that, then I can
4 agree to the terms of the Staff required. Like I said, I
5 would hate to limit my program to what the neighborhood
6 needs are, and if all of a sudden all of our infants are two
7 year olds, but we're taking all eight children to preschool,
8 or eight of our kids are in kindergarten, and we're still
9 required to have infants at that point, so I guess it would
10 be easier for me to agree with the Staffing and accept that
11 proposal.
12 MS. ROBESON: Okay, let me do this, hold on one
13 second. Did Staff include a reason in here why they limited
14 it to eight people?
15 MS. PRIMM: I don't recall this conversation.
16 MR. NORTH: We don't have any knowledge of that,
17 I'm sorry. And the other issue with the Staff Report --
18 MS. PRIMM: I mean, I recall talking about pick up
19 and drop-offs.
20 MR. NORTH: Yes, correct. Our only discussions
21 with them, and really, nothing with the Board at all about
22 noise or issues related to that.
23 MS. ROBESON: Well, let me just see if they put
24 anything in the Staff Report.
25 MR. NORTH: Thank you.

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1 MS. ROBESON: If you look at page 18 of the Staff
2 Report --
3 MR. NORTH: Sorry, yes, go ahead.
4 MS. ROBESON: If you look at little number 2, it's
5 the second item on page 18.
6 MR. NORTH: Okay, I'm sorry. We don't happen to
7 have the Staff Report with us. I'm so sorry.
8 MS. ROBESON: Oh, okay. Do you want to approach
9 and that may be the best way to do this.
10 MR. NORTH: Yes, thank you.
11 MS. ROBESON: It's right there. Now, one of the
12 things your special exception can't do is generate undue
13 noise.
14 MR. NORTH: Noise, odors, dust.
15 MS. ROBESON: Yeah. So, the question is, and to
16 meet that requirement, he said the staggered play times.
17 MR. NORTH: Right.
18 MS. ROBESON: So, why should I not agree with him?
19 MR. NORTH: It's the staggered drop-off and pick
20 up schedule.
21 MS. ROBESON: So, what I need to hear from you is
22 -- he said, he doesn't completely explain it. But he said,
23 you know, if you stagger them like this, there won't be
24 noise. So, what I need -- let me do this, you take a look
25 at -- let's go off the record. I'm going to recess, we'll

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1 get this over this over this morning, don't worry.
2 MR. NORTH: Okay, thank you.
3 MS. ROBESON: But, let me go off the record,
4 because what I have to do is make sure that I have evidence
5 that every single requirement is met. So, I'm going to go
6 off the record for 15 minutes and give you an opportunity to
7 discuss amongst yourselves how you would like to address it.
8 Okay, so with that, we're off the record. If you need more
9 time, go to Ellen Forbes of our office.
10 MR. NORTH: Okay.
11 (Whereupon, a brief recess was taken.)
12 MS. ROBESON: We're back on the record. All
13 right, have you had a chance to muddle through this?
14 MS. PRIMM: Yes. Thank you for providing that
15 time.
16 MR. NORTH: Yes. We focused straight away on the
17 Staff recommendation piece on that second page which
18 highlights --
19 MS. ROBESON: The conditions of approval?
20 MR. NORTH: Yes. And in their staff
21 recommendations, if we may go over these?
22 MS. ROBESON: Yes.
23 MR. NORTH: Number one indicates the daycare is
24 limited to all children up to five years of age --
25 MS. ROBESON: Yes.

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1 MR. NORTH: Five years old. And two, non-resident
2 full-time employees not including the owner/operator who is
3 a resident. There is in the application showed that we do
4 have a part-time employee as well that's part of this mix.
5 MS. ROBESON: Oh, in addition to?
6 MS. PRIMM: It would be -- I mean, it would be the
7 part-time employee or the part-time employee is just a
8 substitute for when I'm not there. So, but I guess at any
9 given time there would be two employees when I'm physically
10 there. So, but I do need the possibility of a substitute.
11 MS. ROBESON: I guess sometimes we have brand new
12 staff.
13 MS. PRIMM: Okay.
14 MS. ROBESON: See that affects the parking.
15 Although, now let me think it through, let's think it
16 through. It doesn't affect the parking because your part-
17 time person is there when you're not there. So it doesn't
18 affect the parking.
19 MR. NORTH: And we do, also, we do have available
20 parking on Bauer Drive that's open to the public, and it's
21 right a her curb. So whenever the part-time --
22 MS. ROBESON: What parking? On-street you mean?
23 MR. NORTH: On-street parking.
24 MS. ROBESON: Okay.
25 MR. NORTH: There is on-street parking.

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1 MS. ROBESON: So, let me ask you something.
2 MR. NORTH: Yes?
3 MS. ROBESON: Would you agree to a condition
4 saying the part-time person will be there only when you're
5 gone?
6 MS. PRIMM: Infrequently, yes. I can do that.
7 MS. ROBESON: Okay. So, hold on, let me write it
8 down.
9 MS. PRIMM: Like I said, the part-time employee
10 parks in my driveway, in that space where I park.
11 MS. ROBESON: Okay.
12 MR. NORTH: Right. There's oodles of opportunity
13 for them to park, right.
14 MS. ROBESON: Wait. What are you saying? What do
15 you want the condition to be?
16 MS. PRIMM: There would be a spot. The condition
17 would be that the part-time employee, a third employee, when
18 needed, would park in the owner's parking space.
19 MR. NORTH: Off-street.
20 MS. PRIMM: Off, yes.
21 MR. NORTH: Off-street and in the driveway.
22 MS. ROBESON: Wait. I'm sorry. I'm thinking
23 about Staff.
24 MR. NORTH: Today, the resident has two parking
25 spaces off-street in their driveway.

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1 MS. ROBESON: Right. And then, on-street parking.
2 MR. NORTH: And then we have on-street available
3 in front of her house on Woodcrest, as well as on-street
4 parking on Bauer, available. And there's three spots along
5 Bauer available, by measurement. And so --
6 MS. ROBESON: Yeah, but --
7 MR. NORTH: Now, the part-time employee typically
8 has parked out on Bauer but, when Ambor's not there, that
9 employee can take her spot in the driveway, off-street park
10 --
11 MS. ROBESON: Yeah, but what I've got from Staff
12 is --
13 MS. PRIMM: We did say a part-time employee was in
14 there.
15 MR. NORTH: We did. We did.
16 MS. ROBESON: In your statement of operations?
17 MR. NORTH: Uh-huh.
18 MS. PRIMM: And we also, yeah.
19 MR. NORTH: Yes. We do mention it in the
20 application.
21 MS. PRIMM: We have two adults are --
22 MR. NORTH: I'm sorry. Employees. One 40 hour,
23 one 15 to 30 hours --
24 MS. PRIMM: That's current.
25 MR. NORTH: -- not including the owner/operator.

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1 MS. ROBESON: Okay, are you talking two -- wait a
2 minute, we can do this. Are you talking one full-time non-
3 resident and one part-time?
4 MS. PRIMM: So, the licensing requirements for 12
5 children would be three people. If we have all 12 children
6 there.
7 MS. ROBESON: Right.
8 MS. PRIMM: So, and as the director, I would be
9 there part-time because I'm typically driving four kids
10 around. So, if we have more than eight children there and I
11 have three kids out on a field trip, then we would need a
12 substitute there to meet requirements for licensing. So, it
13 would be an infrequent part-timer. But I guess, and the
14 part-timer, I guess, it almost doesn't, maybe it doesn't
15 until five.
16 MS. ROBESON: Okay. Tell me how many non-
17 residents you're looking at?
18 MS. PRIMM: Consistently would be two full-time
19 non-residents and one part-time non-resident employee.
20 MS. ROBESON: And then part-time is to take your
21 place when you're not there?
22 MS. PRIMM: Yes.
23 MS. ROBESON: You know what, this is what I'm
24 going to do. I don't want to hamstring this application if
25 it doesn't need to be hamstrung, hamstrung. So, I have to

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1 leave the record open for 10 days anyway, so we can get the
2 transcript in.
3 MS. PRIMM: Okay.
4 MS. ROBESON: All right, what I'm going to do is
5 e-mail back to Staff and say that you clarified X, Y, and Z,
6 and comment, ask him to comment on having all the children
7 outside.
8 MS. PRIMM: Okay.
9 MS. ROBESON: I mean, I know that you're anxious
10 to get this done, but long term, I don't want you agreeing
11 to conditions that you don't need to agree to. Do you
12 follow what I'm saying?
13 MS. PRIMM: I understand, yes.
14 MS. ROBESON: If you want me to go with the eight
15 children, I'll go with the eight children, but if you, now
16 I'm on the playing outside at one time.
17 MS. PRIMM: I mean, we were saying, if there was a
18 way to limit maybe 20, maybe give us the flexibility of only
19 having 12 children out there for 20 minutes in any given
20 period of the day, so that it gives me the flexibility. So
21 if we do happen to have 12 children and we want to do an
22 outdoor activity, we can do that without having to be
23 worried about leaving somebody out.
24 MS. ROBESON: Right.
25 MR. NORTH: So, she's willing to concede that.

1 MS. PRIMM: I'm willing to work with that and just
2 limit the amount of time.
3 MS. ROBESON: Okay. Well, the full time though,
4 that's kind of a big deal because it affects a lot of
5 different things. I have to do this within -- I have to
6 leave the record for 10 days anyway.
7 MS. PRIMM: Okay.
8 MS. ROBESON: I will do my best to get your report
9 out not within -- we have 30 days to write the decision. I
10 will do my best to get the decision out in less time, so
11 that you don't have to suffer further delays.
12 MR. NORTH: Thank you.
13 MS. ROBESON: Even though you've conceded to the
14 20 minutes, you know, 12 children for 20 minutes, I'm going
15 to ask him anyway because it's worth a shot.
16 MR. NORTH: Sure.
17 MS. ROBESON: Since I have to do, I have to refer
18 back the additional half employee.
19 MS. PRIMM: Okay.
20 MS. ROBESON: So, I'm going to refer back, you
21 know, he doesn't say any reason why he limited the number of
22 children to eight. So I don't know if it's a big deal or
23 not, except that, you know, noise. But, if four of your
24 kids are babies. So, we will -- well, I can't tell you what
25 my decision is going to be, but this will end. I'm just

1 saying. And, so let me try and get back to Staff. Perhaps
2 you can get more flexibility, because he doesn't even say
3 why he limited it to eight children.
4 MR. NORTH: Right. We have some other commentary
5 that might help with this, too.
6 MS. ROBESON: Okay. Let me just ask you
7 something. What's your rationale for having all 12 out?
8 MS. PRIMM: If we have a project that we're doing,
9 specifically, in the Summer months, and we want to play with
10 all the children, it would be exclusive, or is that the
11 right word, exclusive?
12 MS. ROBESON: Limited.
13 MS. PRIMM: It would be limiting or excluding a
14 child in the activity and, I would prefer to have the
15 flexibility of including all the children if we have an
16 activity outside. But the activities outside are limited.
17 They're not, you know, it's not for an hour long free play.
18 It would be a 20 minute activity where we have all the
19 children involved.
20 MS. ROBESON: Now, can I go back to parking for a
21 moment?
22 MS. PRIMM: Yes.
23 MS. ROBESON: Okay. On the parking, are you
24 willing to have a condition saying that the part-time
25 person, is the part-time person generally there when you're

1 not there?
2 MS. PRIMM: Yes.
3 MS. ROBESON: Are you willing to have a condition
4 saying the part-time person is going to be limited, or do
5 you want to say that they'll park -- that somebody will park
6 on-street?
7 MR. NORTH: Well, yes. I'm sorry. And we told
8 Staff that, that the part-time --
9 MS. ROBESON: I know.
10 MR. NORTH: And the part-time person and even the
11 full-time employee can park off, park on the street.
12 There's plenty of public parking facility. And, they agreed
13 with us.
14 MS. ROBESON: Well --
15 MR. NORTH: That's what I don't get the report
16 doesn't indicate the part-time person.
17 MS. PRIMM: So you're asking if I'm okay to agree
18 with having them parking --
19 MS. ROBESON: Well, no, I'm not sure I need to if
20 you're saying there's enough parking.
21 MS. PRIMM: We do have an ample parking.
22 MS. ROBESON: So, I won't ask him about that
23 particular condition, I'm just going to say, do you have a
24 problem with this? Is there any reason you have a problem?
25 And then, everybody's covered, okay?

1 MR. NORTH: Cool. Very good.
2 MS. ROBESON: So, okay. Now, let's go back to the
3 conditions of -- they didn't give you a copy of this?
4 MS. PRIMM: No. Actually, this has been, we've in
5 the blind for quite, a huge chunk of this process.
6 MR. NORTH: The day of the Board of Appeals
7 hearing --
8 MS. ROBESON: The Planning Board hearing.
9 MR. NORTH: The Planning Board, excuse me. Is
10 when -- you're correct, I'm sorry -- the Planning Board when
11 we met before them we got his recommendations like 15
12 minutes before that. And even though we've had discussions
13 with Mr. Bello, he was doing his utmost to try to facilitate
14 us, but we didn't get the information until late in the
15 game. And yet, we didn't want to delay anything further.
16 We wanted to carry on, and you know, frankly, these
17 recommendations that you're seeing, we haven't seen these at
18 all, and they weren't presented to the Board. They may have
19 been presented by Staff Report, but they weren't articulated
20 during our hearing, which is surprising.
21 MS. PRIMM: There are a couple of typos in here
22 that are, that would cause a problem, because it says that
23 I'm, I can only have up to five years old, and licensing
24 would allow me up to 12, and I do want to be able to provide
25 my children to be with us after school, if we're able to

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1 provide that with space. And, so that would limit me to
2 five years old. And also, it also says --
3 MS. ROBESON: Where did the five years old come
4 from?
5 MS. PRIMM: I don't know.
6 MR. NORTH: That's in the first statement, and I
7 think he may have gleaned that from what the application, in
8 which we told him the current existing operation has -- we
9 call out the ages of the children, the current children,
10 which, yeah, here we are -- the planned proposed operational
11 change is to have four infants, three months to two years
12 old, four toddlers, two to three years old, and four
13 preschool age, four to five years old. He took the five
14 year off of that, I'm sure. And yet, that's what she
15 expects. But she's expects but, you know, she's allowed by
16 licensing to have up to 12 year olds.
17 MS. PRIMM: I guess if we had seen this, we would
18 have addressed it.
19 MR. NORTH: Yeah, we would have absolutely told
20 him, no, the five year old limit is not anything that we're
21 understanding, and the ordinance does not say anything about
22 ages of the children.
23 MS. ROBESON: You want up to 12 years old?
24 MS. PRIMM: Yes.
25 MR. NORTH: Yes, which is --

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1 MS. ROBESON: You want 12 children up to 12 years
2 old? They won't all be up to --
3 MS. PRIMM: We, no. I don't want my house to have
4 12 children, 12 years old.
5 MS. ROBESON: I was going to say, you're crazy.
6 MS. PRIMM: It would be a mix, yeah.
7 MS. ROBESON: It would be still be a mix, but you
8 want to be able to have your own children up to 12 years
9 old?
10 MS. PRIMM: Well, planning purposes, my own
11 children, we're going to have three, we have two currently,
12 but we're planning for a third, not pregnant yet. But so, I
13 mean, I would like to, my vision for the business is to
14 provide for my own children, you know, people to play with
15 after school, and so it would be a handful of children up to
16 12, probably. I don't want, that would be, I do not want 12
17 children, 12 years old. So, it would be a mix of kids from
18 ages, you know, six months up to 12, that we could
19 potentially in the next, you know, five to six years provide
20 for it.
21 MR. NORTH: But there's no desire to go to the
22 full end of that --
23 MS. PRIMM: Right. I don't want all two year
24 olds. I don't want 12 two year olds. I don't want 12 five
25 year olds. I don't want 12 12-year-olds. It would

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1 definitely be a mixed age group.
2 MS. ROBESON: You definitely don't want 12 19-
3 year-olds. I'm sorry, that's how old mine are right now.
4 Okay.
5 MR. NORTH: Excellent. If you're good so far with
6 that, then we move to the next piece which is the hours of
7 operation, limited from 7:30 until 5:30, which he gleaned
8 correctly from our application. However, he says with the
9 first non-resident employee arriving at 8:30 a.m., which is
10 not what we discussed in the report. We said that person
11 would arrive at 7:30, as early as 7:30, not 8:30. Is that
12 correct?
13 MS. PRIMM: That's correct.
14 MR. NORTH: And when you're ready --
15 MS. ROBESON: Is that in your statement, just out
16 of curiosity?
17 MS. PRIMM: That's in the proposed planning
18 operation changes.
19 MR. NORTH: It's in the proposed plan operation
20 changes within the application that we sent him, or that
21 they referenced. Sort of the irony of that, and a quick
22 statement is that, when we met with Staff on this, we gave
23 them our application.
24 MS. ROBESON: How many times did you meet with
25 him, just out of curiosity?

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1 MS. PRIMM: With Mike?
2 MR. NORTH: Three times.
3 MS. PRIMM: In person or?
4 MR. NORTH: Yeah, well, yeah, and then several
5 times on the phone but, I think two primarily in his office,
6 and one of those times was with Mike and the rest of the
7 staff. The first initial meeting.
8 MS. PRIMM: Yes.
9 MR. NORTH: And so, anyhow, we walked through --
10 MS. ROBESON: It's okay. I mean, it's okay, you
11 don't have to -- I don't want this on -- we're fine, we're
12 good.
13 MR. NORTH: We did walk through the whole
14 application piece with them, and then they asked for us to
15 give them an executive summary, so that could summarize sort
16 of thing. And which, this was a part of. The number of
17 employees, the parking, also.
18 MS. ROBESON: Okay, it's fine. It's fine. Okay,
19 go ahead.
20 MS. PRIMM: So then, sorry, going on.
21 MR. NORTH: Number three, the applicant must
22 schedule staggered drop-offs and pick ups and no more than
23 two vehicles every 15 minutes to distribute the vehicle
24 trips to and from the site for safe on-site and off-street
25 circulation. That's not an issue.

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1 MS. PRIMM: That's not an issue, we agree.
2 MS. ROBESON: Oh yeah, okay good.
3 MR. NORTH: Number four, the applicant must
4 provide parental agreements to the hearing examiner,
5 indicating that the drop-off and pick up times of all
6 children in the daycare will be limited to no more than two
7 vehicles at any one time.
8 MS. PRIMM: Which we can provide, if you need.
9 MS. ROBESON: Well, what I propose is requiring
10 you to put in your parent policy manual that they have to
11 arrive within the times you schedule. I need you to do a
12 parent policy manual.
13 MS. PRIMM: It's there. It's actually, it's
14 already in the parent policy.
15 MS. ROBESON: And, they have to arrive within
16 certain times or call you first.
17 MS. PRIMM: Or contact me, yes.
18 MS. ROBESON: So, that would be my condition. All
19 right.
20 MR. NORTH: And she currently has that.
21 MS. PRIMM: It's already --
22 MS. ROBESON: Okay, all right.
23 MR. NORTH: Good. Then, number five, employees
24 for the child daycare facility must park off-site on nearby
25 streets or where on-street parking is allowed. And on-

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1 street parking is allowed immediately adjacent to her
2 business at Woodcrest, and also on Bauer.
3 MS. ROBESON: Okay.
4 MR. NORTH: And there is an exhibit within the
5 application that indicates that.
6 MS. ROBESON: Okay.
7 MR. NORTH: And so, Staff, in their discussions
8 with us, said that was no issue, the employees will be out
9 there on the street, you have plenty of parking available.
10 MS. ROBESON: Oh, so you don't need the part-time
11 employee to park in the driveway?
12 MR. NORTH: We don't. We really don't need the
13 employee to park out there.
14 MS. ROBESON: Okay, all right.
15 MR. NORTH: But, they could. And then I also
16 wanted to point out that Ambor's husband is not a part of
17 this process, so he's up and gone out of the two parking
18 spaces in the driveway, he's up and gone, which enables some
19 of the drop-off to be even more easily done, because his car
20 is gone.
21 MS. PRIMM: Yes. I mean, currently he doesn't get
22 back until 6:00, he's actually not home during most of the
23 operational hours, and so most of the time the parents park
24 in his parking spot, anyway, for pick up and drop-off.
25 MR. NORTH: Which is safer, and better approach.

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1 MS. ROBESON: Okay.
2 MR. NORTH: Let's see, outdoor, number six,
3 outdoor play times must be staggered and may not start prior
4 to 9:00 a.m., and we don't know where that came from other
5 than to say the program begins as early as 7:30, 8:00,
6 and --
7 MS. PRIMM: I understand not having a bunch of
8 children at 7:30, but we would like to have kids be able to
9 play at 8:00 a.m. in the summer months.
10 MR. NORTH: Not at 9:00 start.
11 MS. PRIMM: So, I would hate to have my hands tied
12 with a 9:00 a.m.
13 MR. NORTH: Don't have any idea where that came
14 from.
15 MS. PRIMM: And again, we just, these are kids.
16 We would like to be able to have them outside when possible.
17 MR. NORTH: Also, want to point out the fact that
18 noise ordinances, as you're probably aware, in the county
19 permit increased noise at 8:00 on weekday mornings.
20 MS. ROBESON: Yeah, at 65 dba, the property line.
21 MR. NORTH: Yes.
22 MS. ROBESON: We've had this issue in childcare,
23 but I'm just writing down, okay.
24 MR. NORTH: Because currently in my neighborhood,
25 we have the, you know, the weed --

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1 MS. ROBESON: The weed whackers.
2 MR. NORTH: Yes, oh my goodness.
3 MS. ROBESON: Leaf blowers.
4 MR. NORTH: Yeah, incredible stuff. Number seven,
5 no more than eight children are permitted to play outdoors
6 at any one time. We'd like to try to augment that up to 12
7 children for 20 minute periods.
8 MS. PRIMM: And only in the late afternoon, if
9 that would help that process.
10 MS. ROBESON: Okay. Oh, you mean like after
11 school?
12 MS. PRIMM: Yeah. Well, after nap time.
13 MS. ROBESON: Or before pick up.
14 MS. PRIMM: It would be after nap time. So that
15 would be, sorry, nap time. So that would be in the late
16 afternoon, so 2 o'clock and up.
17 MS. ROBESON: Okay, keep going.
18 MR. NORTH: And then, on the final comment, the
19 applicant must provide --
20 MS. ROBESON: Well, that's resolved. You don't
21 have to address that, because that's what they resolved.
22 MR. NORTH: Yes, correct. By the exhibit, right?
23 MS. ROBESON: Exactly. If you're comfortable with
24 the 34(a) exhibit that I showed you earlier, as well as his
25 justification for the waiver, we don't have to discuss that

1 last condition. That's been superseded.
 2 MR. NORTH: We're good to go on that.
 3 MS. ROBESON: All right. Is there anything else
 4 you'd like to say about your operation? Not the process,
 5 just your operation now?
 6 MS. PRIMM: Well, I mean, the operation benefits,
 7 obviously, of providing, you know, child care for the
 8 immediate neighborhood, which is a huge need. And, I mean,
 9 I have a waitlist of 10 people, who really want to get in.
 10 MS. ROBESON: Why don't we do this. Why don't you
 11 tell me your overall philosophy as far as your childcare.
 12 Do you have a --
 13 MS. PRIMM: We are a Montessori inspired, we're
 14 not licensed to be a Montessori, but we, the approach is
 15 very organic. We like to be outside playing in the dirt
 16 digging. We do lots and lots of walks. We walk to the
 17 park. We do -- I also try to, once the kids are potty-
 18 trained and ready to get out of the house, which is
 19 something that, you know, I think is missing in childcare.
 20 We take them on field trips, and we get out of the house,
 21 where doing the Summer months, I think, I'm pretty much out
 22 with the children four days out of the week.
 23 And we do, we're basically, our philosophy is to
 24 be an extension to families, and do I have an opportunity to
 25 go into a center, yes, but I don't want to. I want to stay

1 with 12 children, because at 12 max, I still can have a
 2 family environment where the kids are getting dirty, going
 3 outside playing, doing things that, you know, children
 4 really should be doing with lots of free play and learning
 5 through play. But, we're an extension of those families,
 6 and keeping it 12 children, I can still be in constant
 7 communication with the families, and working together, more
 8 of a co-op situation where the families, you know, request,
 9 you know, what they want their children to be doing. And I
 10 work with them, and we work together as a parental unit.
 11 And, I think, I'm in high demand because of those things.
 12 Those are things that go above and beyond what most
 13 childcare centers are able to provide. And, we have a
 14 lengthy line out the door.
 15 We have a growing neighborhood with lots of
 16 children being, you know, a lot of the houses are flipping.
 17 We have older people that are retiring, and babies popping
 18 up everywhere.
 19 MS. ROBESON: That's fun.
 20 MR. NORTH: It is.
 21 MS. PRIMM: And it's a huge, it's a need. It's a
 22 huge need in the neighborhood, and for quality. And, we,
 23 our goal is to provide structure, to have them kindergarten
 24 ready, but also to provide as much outdoor activities as I
 25 can, because it's something I feel is missing in childcare.

1 Obviously, we do a lot of gardening, that's a huge part of
 2 the program, is learning where the food comes from. And
 3 you'd be surprised what those kids eat out of the garden,
 4 but they won't eat when you put it on the plate. So, it's
 5 just exposing them to everything that is not the common
 6 thing that most childcare providers provide. So we're
 7 definitely a niche. That's our program or philosophy, I
 8 suppose.
 9 MS. ROBESON: Okay, any other thoughts?
 10 MR. NORTH: The neat part about her program, if I
 11 may say, just from an observational standpoint is, she's
 12 embedded in this very large community and so, kind of the, a
 13 really neat thing is her program attracts folks that can
 14 walk to her daycare program, which is really unique.
 15 MS. PRIMM: All but one family walks, actually.
 16 MR. NORTH: And that's just a terrific, terrific
 17 complaint to this program in the community. It's one that's
 18 needed. Obviously, daycare is something that we're seeing
 19 exploding in the Washington suburbs. We need it.
 20 MS. ROBESON: How many walk right now?
 21 MS. PRIMM: All but one family can walk to our
 22 daycare. And the children that we would be accepting who
 23 are on our waitlist can all walk as well. And they do.
 24 MR. NORTH: And generally, do. They can and do.
 25 MS. PRIMM: We're definitely community.

1 MS. ROBESON: I'm sorry, all of the children on
 2 your waitlist walk?
 3 MS. PRIMM: Well, all the children that were on
 4 the waitlist are all directly within a walking distance of
 5 the facility. And want us because they have, you know,
 6 we're quality and it's easy for them to, it's close for them
 7 for their homes. And actually, I think, there's a lot of,
 8 we have a lot of support letters that were in the
 9 application as well, and the parents expressed the challenge
 10 of trying to find childcare near their home, is just huge.
 11 MS. ROBESON: Okay, all right. Anything else
 12 before we close?
 13 MR. NORTH: Just a real quick question.
 14 MS. ROBESON: Yes?
 15 MR. NORTH: Did you have access to our application
 16 booklet as well, or is that something that Staff retained?
 17 It was quite a verbose compilation of trying to address each
 18 of the points of the ordinance. And thought maybe that
 19 might be helpful to you.
 20 MS. ROBESON: I do not see it in our file.
 21 MR. NORTH: Okay.
 22 MS. ROBESON: I have -- hold on one second. I do
 23 have -- is it bound?
 24 MR. NORTH: It was bound, yes.
 25 MS. ROBESON: Well, I have something here that

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1 looks like OZAH amended checklist for conditional use?
2 MS. PRIMM: No, that's our summary.
3 MR. NORTH: That's perhaps our summary, our
4 executive summary.
5 MS. ROBESON: Oh, okay, no, I don't have that in
6 the record.
7 MR. NORTH: Okay. Would that be helpful for you
8 to have?
9 MS. ROBESON: Yes. In fact, that would be very
10 helpful. I would ask that you submit it within the 10 days,
11 preferably as soon as possible.
12 MR. NORTH: May we do so by e-mail to Ellen?
13 MS. ROBESON: You can submit it to Ellen Forbes of
14 our office. Well actually, you can submit it directly to
15 me.
16 MR. NORTH: Okay.
17 MS. ROBESON: My e-mail is, Lynn, L-Y-N-N, dot
18 Robeson, R-O-B-E-S-O-N, at montgomerycountymd.gov. Oh, it
19 says number of -- now see, on this summary, which is Exhibit
20 15, it says number of employees, two full-time, not
21 including the owner. But, the confusion is, I think the
22 confusion is that, well, I don't know what the confusion is,
23 but we'll work it out, okay?
24 MR. NORTH: Okay.
25 MS. PRIMM: I apologize for that.

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1 MS. ROBESON: So, let's do that. Let's see, today
2 is the 16th. The 26th is that, okay, the 26th is
3 Thanksgiving, so I'm going to hold the record open, it
4 shouldn't unduly delay your case, but I'm going to hold the
5 record open until 11/30 Monday, the Monday following
6 Thanksgiving. And then, we'll ask, I'm going to ask Staff
7 for its comments by the 25th, so that you'll have a chance
8 to respond to anything they write. All right?
9 MR. NORTH: Okay.
10 MS. ROBESON: If you want to do that. If you need
11 more time, tell me.
12 MR. NORTH: No, we're good, thank you. And
13 appreciate the diligence that you're presenting to this,
14 thank you. It's important.
15 MS. ROBESON: Well, you know, you want it to work
16 and you want the flexibility to achieve as much as possible,
17 what you want to achieve. And hopefully, you know, I'm sure
18 that we'll work something out. So, I will ask for comments
19 from Staff by -- well, why don't I do it by the 24th and let
20 them ask for more time, and that'll give you the day before
21 Thanks--, you know, that'll give you more business time to
22 look at it. And then, we will see if we can't, we'll see
23 what we can do. After the record closes, again, I have 30
24 days to write the report. If you disagree with my decision,
25 you have 10 days to appeal to the, or request oral argument

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1 to the Board of Appeals. Now, we will be in touch after
2 Staff -- you have the opportunity, really at any time, to
3 submit additional comments while the record's open. So the
4 sooner, you know, you can send comments to me or you can
5 speak with staff. You're not limited by those dates.
6 That's just the outside time frame.
7 MR. NORTH: Okay.
8 MS. ROBESON: All right?
9 MR. NORTH: Very good. We will endeavor to get
10 you the application copy.
11 MS. ROBESON: Yeah, the booklet. That would be
12 very helpful. And, why don't you as well get me your
13 parking policy, just so it's in the record.
14 MS. PRIMM: Okay.
15 MS. ROBESON: And we'll cover all of the bases.
16 MR. NORTH: Great.
17 MS. ROBESON: And, with that, I'm going to leave
18 the record open until 11/30. I'm going to request Staff to
19 get its revised comments to me by -- if you can just humor
20 me. I want to make sure I've got the checklist of all this
21 stuff.
22 MR. NORTH: Okay.
23 MS. ROBESON: Okay, let me go back to this. I
24 just want to make sure that we don't drop the ball as far as
25 missing something. Now, you will see an e-mail, my e-mail,

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1 you will get a copy of what I communicate to Staff, all
2 right?
3 MR. NORTH: Okay.
4 MS. ROBESON: So, if I say something wrong, get in
5 there and the record's open. But, what I have down as your
6 issues are, you need the extra part-time employee, non-
7 resident employee, correct?
8 MS. PRIMM: Yes.
9 MS. ROBESON: Okay. You're okay with the hours of
10 operation, correct?
11 MS. PRIMM: 7:30 to 5:30, yes.
12 MS. ROBESON: Okay, but you want the extra
13 employee coming at 7:30?
14 MS. PRIMM: The ability to come at 7:30, yes.
15 MS. ROBESON: Okay, that was the one on that. I
16 think we're okay on the condition three, correct?
17 MS. PRIMM: Yes.
18 MS. ROBESON: Okay. I think we're okay on
19 condition four if you provide the parking policy.
20 MR. NORTH: Yes.
21 MS. ROBESON: I have here, outdoor play times, you
22 want to be able to start at 8:00 a.m. in the Summer?
23 MS. PRIMM: Yes.
24 MR. NORTH: Correct.
25 MS. PRIMM: And, not with 12 children. There

1 won't be 12 children there at 8:00.
 2 MS. ROBESON: Okay.
 3 MS. PRIMM: It'd be a minimum amount of children,
 4 if that helps them.
 5 MS. ROBESON: Okay. And then you want 12 children
 6 total. No, 12 children after 2:00 p.m.?
 7 MS. PRIMM: Yes. The flexibility of being able to
 8 go outside with 12 children after 2:00 p.m.
 9 MS. ROBESON: Okay. And then the landscaping. Do
 10 you have any other, did I get it all?
 11 MR. NORTH: Yes.
 12 MS. ROBESON: Well, I tell you what, you'll get a
 13 copy of what I send to Staff. So, when you get that copy
 14 and I outline what I'm asking them to refer, if I say
 15 anything wrong, I'll ask you to comment, or if I leave
 16 anything out, I'll ask you to comment, okay?
 17 MS. PRIMM: Okay, thank you.
 18 MS. ROBESON: No, thank you. All right. So, with
 19 that, we are going to adjourn. I'm going to ask for
 20 comments on the revisions we've discussed at this hearing
 21 from Staff by 11/24, and the record, at this point, unless
 22 anyone wants more time to respond, will close on 11/30, all
 23 right? Thank you very much, have a nice Thanksgiving.
 24 (Whereupon, at 11:11 a.m., the hearing was
 25 concluded.)

1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that
 3 the attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Office of Zoning and Administrative Hearings for Montgomery
 6 County in the matter of:
 7
 8 Petition of Ambor Primm & James Moy d/b/a A Mum's Touch
 9
 10 CU 16-03
 11
 12 By:
 13
 14
 15
 16 Keena Lukacinsky, Transcriber
 17
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 19
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 21
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 25

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