

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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: PETITION OF LEAH HANLON : OZAH NO. CU 15-02
: aka LILY PADS CHILD CARE, LLC :
: :
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A hearing in the above-entitled matter was held on August 10, 2015, commencing at 9:33 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Martin L. Grossman
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Stanley D. Abrams, Esq.
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C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Leah Hanlon				
By Mr. Abrams:		16		--

E X H I B I T S

Exhibit No.		Marked/Received
1-39	Previously Identified	--/59
40	Affidavit of Posting	14/59
41	Larger Version of Site Plan	15/59
41(a)	Existing Conditions	16/59
42	Rendered Site Plan	16/59
43	Photograph of Signage	25/59

P R O C E E D I N G S

1 MR. GROSSMAN: This is a public hearing in the
2 matter of Leah Hanlon, OZAH No. CU 15-02, an application for
3 conditional use pursuant to Zoning Ordinance Section 59-
4 3.4.4.3 to allow a childcare daycare center for up to 20
5 children to be known as Lily Pads Child Care, LLC in her
6 home at 9913 Old Georgetown Road in Bethesda. The subject
7 site is lot 9, lot D of the Alta Vista subdivision and is
8 zoned R-60. A conditional use is required for a childcare
9 facility for nine or more children in the R-60 zone.
10 My name is Martin Grossman. I'm the Hearing
11 Examiner which means I will take evidence here and write a
12 report and decision in the case. Would you state your name,
13 please, for the record?
14 MR. ABRAMS: Stan Abrams with the firm of Abrams &
15 West in Bethesda, Maryland. I'm the attorney for the
16 petitioner who is seated to my right.
17 MR. GROSSMAN: All right. Ms. Hanlon?
18 MS. HANLON: My name is Leah Hanlon. I'm the
19 petitioner.
20 MR. GROSSMAN: Okay. And I take it from your
21 prehearing submission that the only witness is to be Ms.
22 Hanlon.
23 MR. ABRAMS: That's correct.
24 MR. GROSSMAN: Okay. All right. And I see, you

1 know, announce record, I see nobody in the audience so I
2 take it we'll have no additional witnesses from the
3 community here. I didn't see any submissions in the file in
4 that regard either.
5 Let me explain a little bit about the nature of
6 these proceedings. It's sort of a combination of formality
7 and informality. It's formal in the sense that we proceed
8 pretty much the way a courtroom proceeds. Everything is
9 taken down by a court reporter. Witnesses are sworn in and
10 are subject to cross-examination if there were anybody here
11 to cross-examine you. And the general procedures are like
12 you'd see in a courtroom where the, in this case, the
13 applicant would go first and then the opposition, if there
14 were any, would go after that. The rules of evidence are a
15 little bit more relaxed here than in the courtroom but
16 they're similar.
17 We're here today for a condition use which is not
18 a variance. It is a use that is permitted by the code if
19 you meet certain conditions that are specified in the code,
20 general ones that apply to all conditional uses and specific
21 ones that apply to this particular type of conditional use.
22 We used to call them special exceptions. That changed with
23 the new code. And conditional use is really a better name
24 because it's, people confused the words special exception
25 with variance and really, it is a use that is conditioned

1 under the code.
2 Okay. Let me mention a few preliminary matters.
3 I need electronic copies. I think my office sent you an
4 e-mail, Mr. Abrams, requesting some additional electronic
5 copies of photographs, of Exhibits 31, 33 and 34, those
6 being the text, and the photos of course, Exhibit 15, and I
7 think you had others as well. That would be in either PDF
8 or JPEG format. Ms. Hanlon had submitted a number of things
9 electronically but those particular exhibits which are text
10 were not submitted electronically and we need them
11 electronically. I usually work off the computer so when I
12 prepare it, I use the electronic copies. And make sure,
13 please, that those text ones are in Microsoft Word.
14 I have a question which I'd like you to have Ms.
15 Hanlon address about where the nonresident staff will park
16 since it appears that all the parking spaces are going to be
17 taken up by either residents or by the drop-offs. I'd like
18 to know if your client accepts the Planning Board and
19 technical staff's recommended conditions? You can answer
20 that.
21 MR. ABRAMS: Okay. First of all, I wasn't sent a
22 copy of the Planning Board recommendations.
23 MR. GR: Really? The Planning Board or the
24 technical staff or both?
25 MR. ABRAMS: No, the technical staff always sends

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1 us copies.
2 MR. GROSSMAN: Okay.
3 MR. ABRAMS: The Planning Board somehow forgets
4 about the attorneys in the case.
5 MR. GROSSMAN: All right.
6 MR. ABRAMS: So I'm assuming that they are the
7 same as the technical staff.
8 MR. GROSSMAN: They are.
9 MR. ABRAMS: And if they are, Ms. Hanlon does
10 accept those conditions.
11 MR. GROSSMAN: It was very short, and let me hand
12 you a copy of them and you can see, for your file.
13 MR. ABRAMS: Well, I don't want to take a file
14 copy. I mean, I can --
15 MR. GROSSMAN: No. I have an extra copy I'm sure.
16 MR. ABRAMS: Okay.
17 MR. GROSSMAN: In my papers, I'm sure I have a
18 copy of it. Here it is. I don't think they -- essentially,
19 they echoed the technical staff.
20 MR. ABRAMS: Right. As far as the staff parking
21 goes, and she would testify to this during the course of her
22 --
23 MR. GROSSMAN: Right. I'll let you present it
24 through the evidence --
25 MR. ABRAMS: Okay.

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1 MR. GROSSMAN: -- as far as the staff parking, but
2 I just wanted to mention things I wanted to make sure that
3 you cover. All right. So you accept the conditions that
4 are specified by the technical staff report and accepted by
5 the Planning Board.
6 Does your client accept the technical staff's
7 findings in Exhibit 35, that's the technical staff report,
8 as part of her own evidence? And I'll say two exceptions to
9 that. One is the description of the lot. They call the lot
10 lot 6 which it's actually lot 9 as I --
11 MR. AG: Correct.
12 MR. GROSSMAN: -- confirmed from looking deeper in
13 the file but on page 2, they make that mistake. Except for
14 that, do you accept the findings of the technical staff as
15 part of your evidence?
16 MR. ABRAMS: We accept the findings of the
17 technical staff. I think in our prehearing submission, we
18 indicated that the neighborhood is slightly different than
19 what is described in the staff report. Our neighborhood was
20 basically Old Georgetown Road back one lot or one block on
21 either side between the Capital Beltway to the south and
22 Democracy Boulevard to the north but I think under either
23 neighborhood definition, the result is the same so we have
24 really no quibble with the staff other than to suggest that
25 it's more confined than what they had indicated.

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1 MR. GROSSMAN: Okay. Now, I also, I sent you
2 copies of an exchange I had with technical staff last week.
3 MR. ABRAMS: I was out Thursday and Friday --
4 MR. GROSSMAN: Ah.
5 MR. ABRAMS: -- so I did not get an opportunity to
6 get to the office and check any e-mails. My secretary is
7 off today.
8 MR. GROSSMAN: Okay.
9 MR. ABRAMS: And she handles all my e-mails.
10 MR. GROSSMAN: All right. Well, let me tell you
11 what I -- when I went through in preparing for the case
12 today, when I went through, I realized that staff had not
13 addressed one section of the code that is incorporated by
14 reference into the general requirements, and that is the
15 screening requirements under 59-6.5.3. They addressed the
16 screening requirements for the parking lot which are a
17 separate set of screening requirements. I'm not sure why
18 the new code spreads it out into a new, another section for,
19 but there is a general screening requirement in 59-6.5.3.
20 So I e-mailed technical staff and asked saying I
21 didn't see anything in regard to that and I got a response
22 from Crystal Myers, the technical staff person, saying you
23 are correct and I apologize for not addressing 59-6.5.3 in
24 the staff report. Here is our interpretation of the
25 screening requirement's applicability to subject property.

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1 And what she says ultimately in going through, and she
2 recites -- maybe I should just make a copy of this for you
3 and let you go over this. Let's see if it's included in the
4 record here. Exhibit list. Exhibit 39. I see it listed in
5 the exhibit list but not, I'm not seeing a copy of it in
6 here. Here it is. Okay.
7 This is Exhibit 39, so you can take a look at it
8 while we discuss this, and also Exhibit 38 which is part of
9 that exchange. And essentially, she says, yes, it does
10 apply and some changes are going to be needed in the
11 landscape plan in order to comply with that.
12 MR. ABRAMS: Mr. Examiner, this could be off the
13 record.
14 MR. GROSSMAN: Well, let's keep it on the record.
15 MR. ABRAMS: Okay. Screening, and I'm talking
16 about no. 3 of this memo of August 7 from Crystal Myers
17 where she explains the current landscape plan shows a few
18 trees and other landscaping along the property lines but it
19 is not in full compliance with the zoning requirement.
20 Staff concludes that the applicant must submit a revised
21 landscape plan to demonstrate how it meets the screening
22 requirements of Section 6.5.3.c.7.
23 MR. GROSSMAN: Right.
24 MR. ABRAMS: The landscape plan must include the
25 type of trees and so forth. It was our understanding that

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1 screening requirements do not necessarily mean plantings,
2 you know, of a vegetative variety. Screening requirements
3 can be a fence, and this property is totally fenced except
4 in the front of the, of the yard in which one of the
5 conditions is to do that to screen off the front yard
6 parking area which the petitioner has agreed to do as part
7 of the conditions. So to require a full landscape plan for
8 something which is already screened is kind of ridiculous
9 frankly.

10 MR. GROSSMAN: And it may be that you can discuss
11 it with staff. What I would propose to do, Mr. Abrams is go
12 ahead with today's proceeding and then leave open the
13 question of the landscape plan, have you talk to technical
14 staff and see if you can reach some understanding with them.
15 If they're satisfied with the landscaping, I would be
16 satisfied with the landscaping. So really, I would leave
17 that open and leave the record open after today's hearing to
18 give you whatever time you need to work that out with
19 technical staff. If they then submit an e-mail to me or a
20 written memo to me saying they're satisfied now that that
21 section is complied with, then I'm sure I'll be satisfied
22 with it.

23 The current -- first of all, the new Zoning
24 Ordinance, we're all not very familiar with it. In fact,
25 this is the first hearing under the new Zoning Ordinance for

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1 a conditional use that I've conducted, so I'm not all that
2 familiar with it the way I was for 10 years with the old one
3 and I think everybody, including technical staff, the people
4 who are doing developmental reviews, are not as familiar
5 with this code as they were, obviously, for the old code.
6 So some things, this code is much more detailed in some of
7 these areas than the old code was for this type of review.
8 That issue is also being looked at. But in any event, to
9 satisfy the concern raised by staff about this, I think that
10 would be the way to proceed here as to the landscaping.

11 MR. ABRAMS: Okay. Obviously, we'll do that but
12 it's, it's my understanding whether it's under the old code
13 or the new code, screening does not necessarily mean bushes
14 and trees.

15 MR. GROSSMAN: If you look at 59.6.5.3, there are
16 specific diagrams of how they want the trees to look.

17 MR. ABRAMS: Well, those are illustrative and I
18 think --

19 MR. GROSSMAN: But take a look at it. I didn't
20 mean to ambush you here. That's why I sent the e-mails to
21 you last week.

22 MR. ABRAMS: Well --

23 MR. GROSSMAN: But circumstances being what they
24 are, take a look at it and, you know, talk to technical
25 staff.

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1 MR. ABRAMS: All right.

2 MR. GROSSMAN: It may be that it would resolve
3 that way, that it is sufficient to have the fence and so on,
4 and if she thinks otherwise and you disagree, then let her
5 submit, Crystal Myers that is, let her submit what she
6 submits. You're welcome to submit any rebuttal and I'll
7 consider it and decide it.

8 MR. ABRAMS: Okay.

9 MR. GROSSMAN: Okay? All right. And this, you
10 know, it doesn't have to be a lengthy process to resolve
11 this. I would think that 10 days would be sufficient, don't
12 you think, Mr. Abrams, or do you think more than that?

13 MR. ABRAMS: It depends upon Crystal Myers.

14 MR. GROSSMAN: Right.

15 MR. ABRAMS: I don't even knew whether she's on
16 vacation or what her personal --

17 MR. GROSSMAN: Well, she was here last Friday so I
18 --

19 MR. ABRAMS: Well, okay.

20 MR. GROSSMAN: There can be others I guess, her
21 supervisor and staff, if she's on vacation. Somebody can
22 respond to that.

23 MR. ABRAMS: Well, I --

24 MR. GROSSMAN: It's not that I want to hold you to
25 10 days. I'm just saying if that seems like a reasonable

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1 amount of time. Make it 20 days if you want.

2 MR. ABRAMS: I mean, no. I can do it in 10 days.

3 It's not going to necessarily be up to me.

4 MR. GROSSMAN: Right.

5 MR. ABRAMS: I think it's going to be up to her in
6 terms of her response or somebody from the staff in terms of
7 their response --

8 MR. GROSSMAN: Okay.

9 MR. ABRAMS: -- which I can't control.

10 MR. GROSSMAN: They got back to me very rapidly
11 because when I first saw this was Wednesday or Thursday and
12 I sent them the e-mail and they got back pretty much the
13 next day so.

14 MR. ABRAMS: Okay.

15 MR. GROSSMAN: All right. Any other preliminary
16 matters that you wish to discuss?

17 MR. ABRAMS: Just --

18 MR. GROSSMAN: And let me get back that Exhibit 39
19 and 38 there. We'll make copies for you before you leave.
20 Those are the file copies.

21 MR. ABRAMS: You also gave me Exhibit 37.

22 MR. GROSSMAN: Oh, that too. Thank you.

23 MR. ABRAMS: Mr. Examiner, just a couple of other
24 items. The Affidavit of Posting has already been submitted
25 to your office.

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1 MR. GROSSMAN: I see that, and that's marked
2 Exhibit 40.
3 MR. ABRAMS: And that's Exhibit 40.
4 MR. GROSSMAN: Right.
5 (Exhibit No. 40 was marked
6 for identification.)
7 MR. ABRAMS: What we also have put up on the board
8 is a paper rendering of a site plan which I had labeled as
9 existing conditions site plan because in my review of the
10 file, taking it over from my former partner, I didn't see
11 anything of that nature, and the petitioner will testify as
12 to that, so I'd like to put a number on here.
13 MR. GROSSMAN: Okay. So this is different from
14 the, what's in the file now. There are actually two things
15 in the file that look like, I mean, one was called a
16 landscape plan but I was just assuming --
17 MR. ABRAMS: It's --
18 MR. GROSSMAN: -- it was combination
19 site/landscape/et cetera but okay. So this is --
20 MR. ABRAMS: That's one of the things I was going
21 for. This is different in terms of what is depicted on here
22 from the site plan which I think is Exhibit 31(a) in the
23 record.
24 MR. GROSSMAN: Okay. Let's see.
25 MR. ABRAMS: So if I could get, just get a number

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1 here, 41?
2 MR. GROSSMAN: Sure. That will be 41.
3 (Exhibit No. 41 was marked
4 for identification.)
5 MR. ABRAMS: And as a second potential collection,
6 when this was originally submitted, Exhibit 31(b) I think is
7 the exhibit file number, it is, as you noted, it indicated
8 as a landscape plan but in essence, it's not a landscape
9 plan. It's a rendered site plan.
10 MR. GROSSMAN: Okay.
11 MR. ABRAMS: So I have put the words rendered site
12 plan over landscape plan on this exhibit. Now, the boards I
13 would submit to you, if you want those as separate exhibit
14 numbers or just indicated as duplicates.
15 MR. GROSSMAN: The boards themselves you mean?
16 MR. ABRAMS: Yes.
17 MR. GROSSMAN: Yes. No, I'd like those in the
18 record.
19 MR. ABRAMS: Okay.
20 MR. GROSSMAN: It's not --
21 MR. ABRAMS: So the board showing the current
22 proposed site plan would be --
23 MR. GROSSMAN: We'll make that, the board will be
24 Exhibit 41 and then the smaller version will be 41(a).
25 MR. ABRAMS: Okay.

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1 MR. GROSSMAN: And it's called revised site plan.
2 (Exhibit No. 41(a) was marked
3 for identification.)
4 MR. ABRAMS: And the rendered site plan, do you
5 want that as Exhibit --
6 MR. GROSSMAN: 42.
7 MR. ABRAMS: -- 41(a)?
8 MR. GROSSMAN: Well, the rendered site plan?
9 MR. ABRAMS: Yes.
10 MR. GROSSMAN: You can make that 42.
11 MR. ABRAMS: Okay.
12 (Exhibit No. 42 was marked
13 for identification.)
14 MR. GROSSMAN: Do you have an opening statement
15 you wish to make?
16 MR. ABRAMS: No. I'd just as soon go right into
17 the testimony.
18 MR. GROSSMAN: Okay. You may proceed.
19 MR. ABRAMS: Okay. Do you want to swear her in?
20 MR. GROSSMAN: I will. Would you raise your right
21 hand, please?
22 (Witness sworn.)
23 MR. GROSSMAN: All right. You may proceed.
24 DIRECT EXAMINATION
25 BY MR. ABRAMS:

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1 Q For the record, please state your name and your
2 address.
3 A My name is Leah Hanlon, and my address is 9913 Old
4 Georgetown Road, Bethesda, Maryland 20814.
5 Q And you're the petitioner in this case?
6 A Yes.
7 Q And do you presently operate a child daycare
8 facility for up to eight children from this residence?
9 A Yes.
10 Q And what is the name of the facility?
11 A Lily Pads Childcare, LLC.
12 Q And how long have you operated the facility from
13 the residence?
14 A Five years.
15 Q And is the facility in a detached single-family
16 residential structure?
17 A Yes.
18 Q And is it fully licensed by the State of Maryland?
19 A Yes.
20 Q Okay. And does the current operations require you
21 to have any special exception or conditional use approval?
22 A No.
23 Q Okay.
24 A Now, if you can go to the board, the existing
25 condition site plan, and describe for the Examiner the

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1 location in the home and the yard facilities.
2 Q So currently, it's a --
3 MR. GROSSMAN: I'm sorry. Let me interrupt for a
4 second. You said the existing conditions site plan. Are
5 you saying that there are going to be modifications for the
6 parking, et cetera, right?
7 MR. ABRAMS: Parking, yes.
8 MR. GROSSMAN: So what you just entered as the
9 revised site plan is actually the existing conditions? It's
10 not the current site plan?
11 MR. ABRAMS: No.
12 MR. GROSSMAN: I just want to understand what I've
13 got.
14 MR. ABRAMS: The one on the board, the site plan,
15 is what we are proposing.
16 MR. GROSSMAN: Okay.
17 MR. ABRAMS: And that deals basically with the
18 parking situation.
19 MR. GROSSMAN: Okay. That's the major --
20 MR. ABRAMS: The existing --
21 MR. GROSSMAN: That's the board part or the paper
22 part or both?
23 MR. ABRAMS: The paper part is what's there now.
24 MR. GROSSMAN: Okay.
25 MR. ABRAMS: Okay. The board part is what is

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1 being proposed.
2 MR. GROSSMAN: Okay.
3 MR. ABRAMS: Because frankly, as part of her
4 testimony, part of her existing parking is out in a right-
5 of-way area which the staff has recognized and we're going
6 to remove those.
7 MR. GROSSMAN: I saw that in the file.
8 MR. ABRAMS: Okay. So --
9 MR. GROSSMAN: So I misunderstood. So that paper
10 version, not the board but the paper version, is not the
11 current revised site plan. It's not a copy of the big
12 version.
13 MR. ABRAMS: No. No.
14 MR. GROSSMAN: It's the existing conditions.
15 MR. ABRAMS: It's what's out there now if you went
16 out on a site visit.
17 MR. GROSSMAN: Okay. So that's --
18 MR. ABRAMS: This is what is proposed in the
19 conditional use.
20 MR. GROSSMAN: I get you. And I thought there was
21 a plan very much like what's on the board there already in
22 the record so that's why --
23 MR. ABRAMS: There could be. I didn't see it.
24 MR. GROSSMAN: All right. Let me --
25 THE WITNESS: I think there might be, yeah.

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1 MR. GROSSMAN: Yes. So --
2 BY MR. ABRAMS:
3 Q Is there one like this in the record, Leah?
4 A I believe so.
5 MR. GROSSMAN: Do you mean the site plan or, the
6 existing one or the board version?
7 BY MR. ABRAMS:
8 Q This one or this.
9 MR. GROSSMAN: Okay. Yes. I think --
10 THE WITNESS: I believe both of them.
11 MR. ABRAMS: Both of them she says.
12 THE WITNESS: I believe. I'm not --
13 MR. ABRAMS: Okay. I've got to apologize --
14 THE WITNESS: Mine was the --
15 MR. ABRAMS: -- because I --
16 THE COURT REPORTER: I'm sorry. One at a time,
17 please.
18 MR. ABRAMS: Okay. I have got to apologize. I
19 was not the original attorney who put together the
20 application. I looked through it and I didn't see this in
21 our client file but if it's there, then it's there and I
22 will withdraw that as an exhibit.
23 MR. GROSSMAN: Here's what 31(a) looks like and --
24 THE WITNESS: So that's the large board right
25 there.

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1 MR. GROSSMAN: That's the board, right?
2 THE WITNESS: The large one, yes. That's the
3 proposed.
4 MR. ABRAMS: That's the proposed.
5 MR. GROSSMAN: Right.
6 MR. ABRAMS: That's this.
7 MR. GROSSMAN: That's what the site plan is.
8 MR. ABRAMS: Yes.
9 MR. GROSSMAN: Okay. And as far as the existing
10 conditions, I thought I saw something else in here that --
11 and that proposed site plan is 31(a).
12 MR. ABRAMS: Correct.
13 MR. GROSSMAN: Okay. So really, what we have is
14 not a revised site plan. It's just a larger version of the
15 site plan. Of this.
16 THE WITNESS: Yes.
17 MR. GROSSMAN: Of 31(a).
18 MR. ABRAMS: Yes. Correct.
19 MR. GROSSMAN: So Exhibit 41 is a larger version
20 of the site plan. Okay. And we'll just --
21 MR. ABRAMS: Okay. And --
22 MR. GROSSMAN: And 41(a) there is the existing
23 conditions plan. That's somewhere in the file.
24 MR. ABRAMS: Okay.
25 MR. GROSSMAN: But we'll just leave it as existing

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1 conditions. Okay.
2 MR. ABRAMS: Okay.
3 THE WITNESS: So that the current daycare is in
4 our walkout basement level on the lower level of the home.
5 MR. GROSSMAN: Yes.
6 THE WITNESS: With entrances in the front and the
7 rear. There's two employees currently, one full-time and
8 one part-time, and we're open Monday through Friday from
9 8:00 to 6:00.
10 MR. GROSSMAN: Yes.
11 THE WITNESS: The current parking, there's three
12 tandem spots along the south side of the fence.
13 MR. GROSSMAN: Yes.
14 THE WITNESS: The first two are residential and
15 the one behind it is used for pick-up and drop-off. To the
16 left of those spots in front of the house is another spot
17 which is used for pick-up and drop-off, and then there's two
18 spots parallel to the right-of-way which are also used for
19 pick-up and drop-off.
20 MR. GROSSMAN: Okay.
21 BY MR. ABRAMS:
22 Q Okay. Now is the property currently fenced?
23 A Yes. It's fenced on the south side and the north
24 side and then completely in the rear.
25 MR. GROSSMAN: Well, when you say it's fenced on

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1 the south side and the north side, around the parking area
2 you mean?
3 THE WITNESS: It's all the way fenced in the
4 beginning.
5 MR. GROSSMAN: Okay.
6 THE WITNESS: And it goes all the way back to the
7 end of the property line.
8 MR. GROSSMAN: Okay.
9 THE WITNESS: Around here in the back.
10 MR. GROSSMAN: Around here being the northeast
11 corner.
12 THE WITNESS: Yes. Sorry.
13 MR. GROSSMAN: Okay.
14 THE WITNESS: And then on the north side, it's all
15 along the property line going to the front.
16 MR. GROSSMAN: Okay.
17 BY MR. ABRAMS:
18 Q It's essentially fenced on three sides, the north
19 side, south side, east side. Yes, east side. And can you
20 describe the fence that's there?
21 A It's a six-foot tall fence, board on board.
22 MR. GROSSMAN: Okay. And I take it that it's
23 gated in a way that children can't, if they're playing in
24 the back, they can't walk away?
25 THE WITNESS: So the children only play in the

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1 backyard, and there's a gate on this side and this side as
2 well.
3 MR. GROSSMAN: This side being the north side and
4 the south side.
5 THE WITNESS: I'm sorry. The north side and the
6 south side.
7 MR. GROSSMAN: Okay.
8 THE WITNESS: So there's no way for them to get
9 out unless their parents are walking them out.
10 MR. GROSSMAN: Okay.
11 THE WITNESS: And there's an entrance in the back,
12 in the middle of the, in the middle of the property which
13 goes into the play yard.
14 MR. GROSSMAN: Okay.
15 THE WITNESS: Which is how we enter it with the
16 children.
17 MR. GROSSMAN: Right. Okay.
18 BY MR. ABRAMS:
19 Q Okay. Now, how is the property lighted?
20 A Currently, there's lighting at both the front
21 entrance and the back entrance of the daycare. There's also
22 a floodlight on the south side in the middle of the house
23 which is motion sensor, and there's also a light in the main
24 entrance to the home. It's all 60 watt bulbs.
25 MR. GROSSMAN: So residential style lighting?

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1 THE WITNESS: Yes.
2 MR. GROSSMAN: Is there going to be any change in
3 the lighting under the new plan?
4 THE WITNESS: No.
5 MR. GROSSMAN: Okay.
6 BY MR. ABRAMS:
7 Q And do you have a sign on the property?
8 A Yes. There's a small sign on the front of the
9 property.
10 Q Okay. Is this a copy of the sign which is located
11 on the property?
12 A Yes.
13 MR. ABRAMS: I'd like that marked as Exhibit 42
14 for identification.
15 MR. GROSSMAN: Okay. No, that would actually be
16 43 because 42 is the rendered site plan.
17 MR. ABRAMS: Okay, 42, rendered site plan.
18 MR. GROSSMAN: 43 is a diagram of the sign, is
19 that, or what is it?
20 MR. ABRAMS: A picture of the sign.
21 (Exhibit No. 43 was marked
22 for identification.)
23 MR. GROSSMAN: How big is the sign?
24 THE WITNESS: It's small. It's like a realtor
25 sign.

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1 MR. GROSSMAN: All right. So we're talking about,
2 because there's a limit in a residential area of two square
3 feet and it probably complies but I'm not sure. Do you have
4 any measurements of that?
5 BY MR. ABRAMS:
6 Q Do you have the sign size?
7 A I don't. It's less than two feet though.
8 MR. GROSSMAN: Yes. The question is two square
9 feet.
10 THE WITNESS: Oh, two square feet. I would --
11 MR. GROSSMAN: So if it's --
12 THE WITNESS: I'm assuming it's less than that.
13 It's very small but I can't, I haven't measured it, no.
14 MR. GROSSMAN: All right. Is that the current
15 sign that's been there?
16 THE WITNESS: It's been there for years, yes.
17 MR. GROSSMAN: And that wouldn't change.
18 THE WITNESS: Right.
19 MR. GROSSMAN: Okay.
20 BY MR. ABRAMS:
21 Q And how do you access from the outside of the
22 daycare facility?
23 A There's a walkout basement entrance in the front
24 of the house on the south side so you just go down the
25 stairs and there's a door going into the daycare. And as I

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1 mentioned, in the rear, that's another entrance which we use
2 just for going in and out for play time.
3 MR. GROSSMAN: All right.
4 BY MR. ABRAMS:
5 Q Okay. Now, is a portion of your front yard
6 adjacent to a right-of-way for Old Georgetown Road?
7 A Yes.
8 Q When I say a portion of your front yard, would you
9 consider your front yard actually is in the public right-of-
10 way. Can you point that out to where the, where it's
11 located on the existing conditions site plan?
12 A The fence ends on the south side right here and it
13 goes across.
14 MR. GROSSMAN: Right here being at the southwest
15 corner.
16 THE WITNESS: Southwest corner.
17 MR. GROSSMAN: Okay.
18 THE WITNESS: Going across, and so those two spots
19 are in the right-of-way.
20 MR. GROSSMAN: Yes. So in the Old Georgetown Road
21 state right-of-way, is that --
22 THE WITNESS: Yes.
23 BY MR. ABRAMS:
24 Q Now, are these, that particular type of feature of
25 parking spaces within the right-of-way, is that common

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1 anywhere near your property or on other properties?
2 A Yes. It actually looks exactly like the neighbors
3 to the south of ours.
4 MR. GROSSMAN: But I saw from the file, if I
5 understand correctly, this was going to be removed and
6 replaced with a different parking set up.
7 MR. ABRAMS: Subject to the approval of the State
8 Highway Administration.
9 MR. GROSSMAN: I thought there was something in
10 there in the file indicating the state was approving of
11 that.
12 THE WITNESS: Yes. He's talking about the, we
13 need to remove and put grass there.
14 MR. GROSSMAN: Right.
15 THE WITNESS: But it does match the neighbors. We
16 submitted a picture and the neighbors have a similar parking
17 situation in the right-of-way.
18 MR. GROSSMAN: Right. But as I understand it, the
19 state, the State Highway Administration was satisfied with
20 the idea of taking those spaces out and replacing them with
21 grass.
22 THE WITNESS: Yeah. There's an e-mail
23 correspondence between Crystal Myers and the State Highway
24 Administration and that --
25 MR. GROSSMAN: Right.

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1 THE WITNESS: -- that's fine.
2 MR. GROSSMAN: Right.
3 BY MR. ABRAMS:
4 Q And you will propose to do what within that area
5 after the paved surface is removed?
6 A Add grass.
7 Q Add grass to it. Now, did you take any photos of
8 your property and some of the other properties along Old
9 Georgetown Road?
10 A Yes.
11 Q And are those the photographs which were submitted
12 to the Examiner under letter, actually, it's a copy of the
13 letter from Crystal Myers dated May 7th, 2015.
14 A Yes.
15 Q And noted as Exhibits C and D on that exhibit.
16 A Yes.
17 MR. GROSSMAN: Are we talking about Exhibits 15(a)
18 1 through --
19 MR. ABRAMS: Let's see.
20 MR. GROSSMAN: There are a whole bunch of
21 photographs. There are also others in the file as well.
22 THE WITNESS: I believe the ones you have in your
23 hands are the ones originally submitted of the property.
24 MR. GROSSMAN: Right.
25 THE WITNESS: There's others submitted of the

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1 neighbors and some of the properties on Old Georgetown Road.
2 MR. GROSSMAN: Okay. This is the 31, part of
3 Exhibit 31?
4 MR. ABRAMS: 31(c) and (d).
5 MR. GROSSMAN: Okay. Yes.
6 BY MR. ABRAMS:
7 Q Yes. Exhibit 31(c) and (d). Exhibit 31(c), can
8 you tell the Examiner what those photographs portray?
9 A Those photographs show the neighbor's parking to
10 the south of my house.
11 MR. GROSSMAN: All right. Well, let's see which
12 ones we're talking about. This 31(c)(1), what is that? You
13 can come forward if you want just so you can see it better.
14 THE WITNESS: That's the neighbor's parking in
15 front --
16 MR. GROSSMAN: Don't trip on any wires if there
17 are wires up here. We don't want an casualties at the
18 hearing.
19 THE WITNESS: This is the neighbor's parking in
20 front of their home and partially the parking in front of
21 our home. As you can see, this is their right-of-way.
22 MR. GROSSMAN: I see.
23 THE WITNESS: It starts right where the fence
24 ends.
25 MR. GROSSMAN: All right.

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1 THE WITNESS: So it's the same thing there with a
2 little parking pad that matches ours.
3 MR. GROSSMAN: I see. So these are the people
4 immediately to the --
5 THE WITNESS: South.
6 MR. ABRAMS: South.
7 MR. GROSSMAN: -- south of you, okay.
8 THE WITNESS: Yes. And I also submitted a picture
9 of the neighbor to the north's parking as well.
10 MR. GROSSMAN: Okay. And let's see. 51, I mean
11 31(c)(2)?
12 THE WITNESS: Just another copy of the neighbor's
13 to the south parking.
14 MR. GROSSMAN: To the south, okay. And 31(c)(3)?
15 THE WITNESS: A different view of the neighbor to
16 the south's parking. That's the pad that matches ours.
17 MR. GROSSMAN: Okay. Did you take these
18 photographs?
19 THE WITNESS: Yes.
20 MR. GROSSMAN: Okay. And when did you take them?
21 THE WITNESS: April.
22 MR. GROSSMAN: Of this year?
23 THE WITNESS: Yes.
24 MR. GROSSMAN: 2015?
25 THE WITNESS: 2015.

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1 MR. GROSSMAN: And do they accurately portray the
2 area?
3 THE WITNESS: Yes.
4 MR. GROSSMAN: Okay. Is that true of all of the
5 photographs in Exhibit 31?
6 THE WITNESS: Yes.
7 MR. GROSSMAN: And is it true also of the
8 photographs in Exhibit 15?
9 THE WITNESS: Those were also taken by me but
10 probably in January of 2015.
11 MR. GROSSMAN: Okay. And do they also accurately
12 portray the area?
13 THE WITNESS: Yes.
14 MR. GROSSMAN: All right.
15 THE WITNESS: These are the neighbors to the
16 north.
17 MR. GROSSMAN: 31(d)(1), the top photograph are
18 the neighbors to the north?
19 THE WITNESS: Yes.
20 MR. GROSSMAN: Okay.
21 THE WITNESS: And the middle photograph as well.
22 MR. GROSSMAN: Okay. And the third photograph on
23 the page?
24 THE WITNESS: The front of my property.
25 MR. GROSSMAN: Okay. And on 31(d)(2), there are

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1 also three photographs. What are we seeing?
2 THE WITNESS: Those are the same ones we just
3 talked about for the neighbor to the south.
4 MR. GROSSMAN: Okay. All three of them?
5 THE WITNESS: Yes.
6 MR. GROSSMAN: Okay. And 31(d)(3)?
7 THE WITNESS: The rest of the photographs are
8 copies of pictures, pictures of houses along Old Georgetown
9 Road that also have a large portion of parking in front of
10 their homes.
11 MR. GROSSMAN: I see. Okay. This is an effort to
12 show that what you're proposing is not going to change the
13 style of the neighborhood?
14 THE WITNESS: Correct.
15 MR. GROSSMAN: Okay. And 51, I mean 31(d)(4),
16 same thing? Other --
17 THE WITNESS: The one on the bottom is our
18 driveway.
19 MR. GROSSMAN: Okay.
20 THE WITNESS: So that shows a better view of
21 what's in the right-of-way.
22 MR. GROSSMAN: Okay. And that's currently and
23 it's going to be changed.
24 THE WITNESS: Removed, and we're going to add
25 grass.

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1 MR. GROSSMAN: Right. Okay. That's the bottom
2 photo there. And 31(d)(5), what are we seeing?
3 THE WITNESS: Those are homes that have a lot of
4 parking in front on Old Georgetown Road.
5 MR. GROSSMAN: Okay. And 31(d)(6)?
6 THE WITNESS: Homes with a lot of parking in
7 front.
8 MR. GROSSMAN: All right.
9 THE WITNESS: There's a lot of homes that almost
10 the entire front yard is driveway --
11 MR. GROSSMAN: Right.
12 THE WITNESS: -- along Old Georgetown Road.
13 MR. GROSSMAN: Yes. It is a major road.
14 31(d)(7)?
15 THE WITNESS: Houses that have parking in front.
16 MR. GROSSMAN: Okay. 31(d)(8)?
17 THE WITNESS: Houses with parking in front.
18 MR. GROSSMAN: 31(d)(9)?
19 THE WITNESS: Houses with parking in front.
20 MR. GROSSMAN: 31(d)(10)?
21 THE WITNESS: Houses with parking in front.
22 MR. GROSSMAN: All right. 31(d)(11)?
23 THE WITNESS: Houses with parking in front.
24 MR. GROSSMAN: You have all houses with parking in
25 front, don't you?

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1 THE WITNESS: Yeah.
2 MR. GROSSMAN: All right. 31(d)(12)?
3 THE WITNESS: Houses with parking in front.
4 MR. GROSSMAN: 31(d)(13)?
5 THE WITNESS: Houses with parking in front.
6 MR. GROSSMAN: And 31(d)(14)?
7 THE WITNESS: Houses with parking in front.
8 MR. GROSSMAN: Okay. All right. So let's, while
9 you're up here, let's go through 15(a)(1) through (8).
10 THE WITNESS: That's pictures of the rear yard and
11 the types of toys out there.
12 MR. GROSSMAN: Okay. So the one that's marked
13 15(a) I guess we'd say these don't have separate markings on
14 them for some reason. Let's see. It's all marked (1)
15 through (8) so, although there appear to be more than eight
16 pictures on here. The first set of three pictures is all
17 your backyard with toys?
18 THE WITNESS: Yes.
19 MR. GROSSMAN: Okay. And then the next page is
20 what? What am I seeing?
21 THE WITNESS: Pictures of the front yard and view
22 of the street going north and south of Old Georgetown Road.
23 MR. GROSSMAN: All right. And on the rear of
24 that?
25 THE WITNESS: Views of the front yard, the house

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1 and then the parking in the front.
2 MR. GROSSMAN: Okay. And then the last clip of
3 photographs here in 15, this one is actually called 15(b)(1)
4 and (2).
5 THE WITNESS: Those are some views of the inside
6 of the daycare.
7 MR. GROSSMAN: Okay.
8 THE WITNESS: That's the, the top is the main room
9 when you first walk in.
10 MR. GROSSMAN: Okay.
11 THE WITNESS: And the bottom is the second room.
12 MR. GROSSMAN: Okay. And after that?
13 THE WITNESS: And that is the hallway. There's a
14 large hallway.
15 MR. GROSSMAN: Okay. And you have a little
16 sleeping area.
17 THE WITNESS: Yes. That's approved for napping,
18 yes.
19 MR. GROSSMAN: Okay. All right. I take it you're
20 approved by the state to have up to eight children now?
21 THE WITNESS: Yes.
22 MR. GROSSMAN: And you would be, if this is
23 successful, you would be applying to the state for up to 20
24 children?
25 THE WITNESS: Yes.

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1 MR. GROSSMAN: And you would have to -- you
2 understand that we don't review, this is a zoning review.
3 We don't review the qualifications for the licensing and so
4 on.
5 THE WITNESS: Yes. I understand.
6 MR. GROSSMAN: Also, the fire department may have
7 to review it as well for a certificate of occupancy.
8 THE WITNESS: Yes. They do.
9 MR. GROSSMAN: Okay. All right. Mr. Abrams?
10 MR. ABRAMS: Mr. Examiner, the first set of
11 photographs that you went over, there is a listing of the
12 addresses.
13 MR. GROSSMAN: I saw that.
14 MR. ABRAMS: Which is keyed into the photographs.
15 MR. GROSSMAN: Right. Right. Don't forget
16 though, I do want electronic copies. You probably have JPEG
17 copies of the photographs that --
18 THE WITNESS: Yes.
19 MR. GROSSMAN: -- you can submit on a CD of all
20 the photographs.
21 THE WITNESS: Yes.
22 MR. GROSSMAN: So please submit that. You don't
23 have to modify the format. JPEG is fine. Just put them on
24 a CD and submit those and also, any -- since you didn't
25 really revise the plan, I believe I have, well, I don't know

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1 if I have 31. Whatever I mentioned at the beginning, I
2 don't have.
3 MR. ABRAMS: Yes. You showed me 31 which is a
4 smaller --
5 MR. GROSSMAN: Right. I'm just talking about the
6 electronic copies of it.
7 MR. ABRAMS: Oh.
8 MR. GROSSMAN: But I believe I have that of the --
9 what I don't have, what I don't have is Exhibits 31, 33 and
10 34.
11 THE WITNESS: And the new pictures.
12 MR. GROSSMAN: Yes. Whatever you have in pictures
13 I don't have electronic copies of so if I want to include it
14 in the report, I need electronic copies.
15 THE WITNESS: You do have electronic copies of the
16 original pictures.
17 MR. GROSSMAN: I don't think I have the original
18 pictures. I have the original -- excuse me. I looked at
19 the, at that CD. I only had the plans. I had the original
20 plans copies of and --
21 THE WITNESS: They were on a separate CD.
22 MR. GROSSMAN: Oh, really? I didn't see that.
23 THE WITNESS: Okay. So you want resubmitted all
24 the pictures? That's fine.
25 MR. GROSSMAN: Yes. We can check in the file.

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1 Before you leave today, check the folder --
2 THE WITNESS: Okay.
3 MR. GROSSMAN: -- and make sure. If it's in
4 there, you don't have to submit it again. I -- let me see
5 what I've got here.
6 THE WITNESS: It's possible that the planning
7 staff has that and didn't send it over.
8 MR. GROSSMAN: Here's Exhibit 17. Oh, I see. You
9 may have submitted it to planning staff. They wouldn't have
10 sent it over if you submitted --
11 THE WITNESS: Maybe that might be what happened.
12 MR. GROSSMAN: I only saw one.
13 THE WITNESS: All right. I'll make a CD with all
14 the pictures on it.
15 MR. GROSSMAN: That would be great. Thank you.
16 MR. ABRAMS: Also 31, 33 and 34.
17 MR. GROSSMAN: Those have to be in -- the text
18 ones have to be in a Word format, okay, not a picture. I
19 have to be able to -- either a text searchable PDF or Word.
20 Preferably Word because I post stuff from the text and I
21 don't have to retype things. I'm not the swiftest typist.
22 Ms. Hanlon, while I'm thinking of it, where are we going to
23 have the staff? There are going to be up to five staff
24 members here if you expand it. Where are they going to
25 park?

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1 THE WITNESS: They're going to park on Kingswood
2 Road or Loan Oak Drive which is both right next to the
3 property on the north and south side. There's no limits to
4 parking on the side streets.
5 MR. GROSSMAN: Okay.
6 THE WITNESS: Usually with that number of staff,
7 only about two or three will be commuting by car. Many of
8 them take the bus and Metro, and there's a bus stop right in
9 front of my house.
10 MR. GROSSMAN: Okay. And they don't, there is no
11 neighborhood restriction on parking at all?
12 THE WITNESS: No.
13 MR. GROSSMAN: Okay. How about the availability
14 of parking?
15 THE WITNESS: There's plenty.
16 MR. GROSSMAN: There's plenty of parking?
17 THE WITNESS: Everyone has driveways on those
18 streets so there's not usually an issue with side street
19 parking.
20 MR. GROSSMAN: Okay. Because I saw that one of
21 the proposed conditions is that the staff not park on the
22 site between the hours, the drop-off hours and pick-up hours
23 so. Okay.
24 MR. ABRAMS: May I proceed?
25 MR. GROSSMAN: You may proceed.

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1 BY MR. ABRAMS:
2 Q Ms. Hanlon, can you describe for the Examiner the
3 type of land uses and the character of the neighborhood both
4 north and south of your property up to the Democracy
5 Boulevard and down through the Capital Beltway, a couple of
6 blocks either direction of Old Georgetown Road?
7 A There's a lot of new construction, and then
8 there's a mix of residential commercial properties and
9 churches with schools in them.
10 Q And did you take an opportunity to investigate the
11 records of the Board of Appeals to determine what other
12 special exceptions were in that particular area?
13 A Yes.
14 Q And what did you find?
15 A Case No. 1178 was for a nonresidential dental
16 practitioner. It's located at 10010 Old Georgetown Road.
17 MR. GROSSMAN: It's 10 --
18 THE WITNESS: 10010 Old Georgetown Road. Case --
19 BY MR. ABRAMS:
20 Q Go ahead.
21 A I'm sorry.
22 Q Go ahead.
23 A Case No. S-259 was for a daycare center for up to
24 30 children at 10200 Old Georgetown Road. That was
25 abandoned and revoked on June 30th, 2013.

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1 MR. GROSSMAN: Okay.
2 BY MR. ABRAMS:
3 Q Now --
4 MR. GROSSMAN: Is that it?
5 THE WITNESS: Yes.
6 MR. GROSSMAN: You've done your homework.
7 THE WITNESS: Yes.
8 BY MR. ABRAMS:
9 Q Now, I know it's not a required finding for this
10 specific use but as a matter of background and probably
11 public interest, have you considered whether there is a need
12 for expanded daycare facilities in this general location
13 that we've described?
14 A Yes. There's a lot of growth and development.
15 About a half mile behind my house near the Grosvenor Metro
16 is Fleming Avenue. There's a huge construction of a many
17 townhome property being built. There's also construction in
18 the Bethesda Business District, so people can drop off and
19 pick up on their way to work at my location. I also
20 constantly have a wait list. Currently, there's 15 people
21 on it, and I'm always at capacity with eight children so
22 rarely get the opportunity to take any of new children.
23 There's not a lot of children every leaving. And the North
24 Bethesda Master Plan recommends additional daycare centers
25 in the planning area.

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1 MR. GROSSMAN: There's also Bethesda Mews,
2 additional homes going up in that area too on Old
3 Georgetown.
4 THE WITNESS: Yes.
5 MR. ABRAMS: Right.
6 BY MR. ABRAMS:
7 Q Now, you've requested expansion of your facility
8 to accommodate up to 20 children. How are they going to be
9 accommodated on site in your existing facility?
10 A So we currently have two large rooms in a large
11 hallway. There's two storage spaces and there's two
12 bathrooms. Next to the hallway is a crawlspace that's about
13 450 square feet that we intend to excavate and remodel into
14 one large, an additional large room. Another --
15 MR. GROSSMAN: Let me ask you about it. I saw
16 that term you're going to excavate it. It needs to actually
17 be dug out in order to do it?
18 THE WITNESS: There's a lot of dirt in the
19 property so, yes. And I've had contractors come. So it
20 essentially needs to be excavated but then it will be turned
21 into a large room with an additional bathroom and an
22 additional storage space.
23 MR. GROSSMAN: Okay.
24 THE WITNESS: We're not adding to the footprint of
25 the home.

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1 MR. GROSSMAN: You are not adding --
2 THE WITNESS: We are not adding to the footprint.
3 MR. GROSSMAN: Okay.
4 BY MR. ABRAMS:
5 Q What activities are you going to provide in this
6 new space?
7 A So we currently offer infant and preschool
8 activities that encourage their growth and development.
9 With the new, with the additional expansion, there will be a
10 preschool room and an infant room so it will just allow for
11 more children to experience the same quality childcare that
12 they're currently getting.
13 Q Now, state regulations require a certain amount of
14 space to accommodate up to 20 children. Do you comply,
15 after your expansion, with those regulations?
16 A Yes. It's 35 square feet per child.
17 Q Okay. And what staffing are you requesting
18 pursuant to this conditional use?
19 A I'm requesting a maximum of five staff.
20 Q And what are the --
21 MR. GROSSMAN: Does that include you or not?
22 THE WITNESS: No.
23 MR. GROSSMAN: Okay.
24 BY MR. ABRAMS:
25 Q What work hours are they going to accommodate?

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1 A So it should be staggered arrivals between 7:30
2 and 10:00 and then it will be staggered departures between
3 4:00 and 6:30.
4 MR. GROSSMAN: You mean for the children, not for
5 the staff.
6 THE WITNESS: No. For the staff as well.
7 MR. GROSSMAN: Oh, for the staff as well. Okay.
8 THE WITNESS: The staff's dependent on the number
9 of children.
10 BY MR. ABRAMS:
11 Q And overall, what are your hours of operation?
12 A Currently, we're operating from 8:00 to 6:00
13 Monday through Friday.
14 Q What are you requesting?
15 A 7:30 to 6:30 Monday through Friday.
16 Q Okay.
17 MR. GROSSMAN: And is that, I saw your description
18 of operations in the file. Does that indicate 7:30 to 6:30?
19 Does that indicate what you're looking for?
20 THE WITNESS: Yes.
21 MR. GROSSMAN: Okay.
22 BY MR. ABRAMS:
23 Q Now, will the shell of your house above ground be
24 expanded in any way either by height or outward dimensions?
25 A No.

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1 Q Okay. Will the outdoor play area be expanded?
2 A No.
3 Q Is the play area sufficient, in your opinion, to
4 accommodate up to 20 children?
5 A Yes.
6 Q And what outdoor equipment will be proposed in
7 addition to what's there now?
8 A We are going to add one swing set which will be
9 nonpermanent.
10 Q And so you're going to add a swing set?
11 A Yes.
12 Q Okay. And do you have any specific outdoor
13 playtimes which are being proposed as part of this use?
14 A We are requesting that not more than 10 children
15 can go outside any time after 9:00 a.m. which is in the
16 conditions listed as well.
17 Q And you intend to comply with those.
18 A And I intend to comply, yes.
19 Q And the property is currently fenced. How will
20 the property, will the fencing be expanded if the
21 conditional use is approved?
22 A Yes. We will be adding fencing in the front of
23 the property, on the property line that runs parallel to Old
24 Georgetown Road.
25 Q And will this fencing be similar to what currently

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1 exists on the property to your south?
2 A Yes.
3 Q Okay. And --
4 MR. GROSSMAN: Is that, under the new code, is
5 that fencing right on the road permitted under the new code,
6 Mr. Abrams?
7 MR. ABRAMS: I think it's probably on the property
8 line because as per the photographs, and if you were out
9 there, you would see the parking space is I think beyond the
10 fencing area.
11 BY MR. ABRAMS:
12 Q Is that correct?
13 A Yes.
14 MR. ABRAMS: So the parking areas that they have
15 next door are the same parking areas that the petitioner has
16 and if the petitioner's are in the right-of-way, I assume
17 that their parking area in front is also in the right-of-
18 way. Behind that parking area is a fence so again --
19 MR. GROSSMAN: I just don't know under the new
20 code whether or not a fence in that area is permitted and it
21 would be governed by whatever it is. I think that whatever
22 you've shown, I presume that proposed new fence is shown --
23 MR. ABRAMS: Yes.
24 MR. GROSSMAN: -- on the site plan, is that
25 correct?

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1 MR. ABRAMS: I think it is.
2 THE WITNESS: Yes. And I believe it's permitted.
3 The neighbor's is also along their property line with a
4 fence in the front.
5 MR. GROSSMAN: Okay. Well, whatever the neighbors
6 are doing is something else.
7 THE WITNESS: True.
8 MR. ABRAMS: Yes.
9 THE WITNESS: Yes.
10 MR. GROSSMAN: I'm just saying if technical staff
11 has reviewed it and said it's permitted here, that's fine
12 with me.
13 MR. ABRAMS: Okay.
14 BY MR. ABRAMS:
15 Q Now, I want you to go up to the board. You can
16 flip that over if you want to. That's the large version of
17 the site plan which is Exhibit 41 in the record. Can you
18 show the Examiner what the parking layout is going to be and
19 which spaces are reserved or the residents and which for the
20 operational facility?
21 A The two spaces on the south side that are tandem
22 are for residential, and behind it is a spot for pick-up and
23 drop-off. To the left of those spaces is another spot for
24 pick-up and drop-off. And then in front of the home, we're
25 adding an additional spot for handicap parking. We'll be

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1 adding another spot parallel to the right-of-way on the
2 property for parking for pick-up and drop-off as well.
3 MR. GROSSMAN: Just inside the fence?
4 THE WITNESS: Inside the fence. This, the parking
5 that runs parallel to Old Georgetown Road currently in the
6 right-of-way will be removed and that's where we will be
7 adding grass, and the fence will be along the front.
8 BY MR. ABRAMS:
9 Q So how many spaces total are devoted to this use?
10 A Six.
11 Q Okay. And is that in conformance with the
12 requirements of the county parking code?
13 A Yes.
14 Q So there will be two spaces for residents and four
15 spaces for the facility, is that correct?
16 A Correct.
17 Q Okay. Now, the county parking requirements
18 require a perimeter planning on the south side next to the
19 driveway parking facility as well as a setback to that area
20 of I think 16 feet and a setback in the front area as well.
21 Now, are you requesting the Examiner to give you an
22 alternative form of relief from these parking requirements?
23 A Yes.
24 Q And can you explain to the Examiner your
25 justification for this request?

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1 A So the house was constructed 62 years ago in 1953
2 so the requirements of the setbacks and landscaping were not
3 required at that time. The existing driveway can't be moved
4 without causing another cut out on the curb. The driveway,
5 a shared driveway with the neighbors and the same situation
6 occurs with them, with the house on the south. The new
7 parking areas will be in the middle of the property and the
8 new fencing is going to adequately screen them.
9 Q Okay. Will the new parking layout that you
10 proposed allow for adequate maneuverability in terms of the
11 drop-off and pick-up of the children?
12 A Yes.
13 Q Can you explain that?
14 A We currently operate without any issues with
15 staggered drop-offs and pick-ups. I'm proposing staggered
16 drop-offs and pick-ups for the new daycare which will allow
17 for not more than three people coming in and out at once.
18 MR. GROSSMAN: I think, if I recall, the
19 transportation people said no more than 1 every 15 minutes I
20 think is what they said. Is that, am I recalling correctly?
21 THE WITNESS: I submitted a traffic statement
22 showing that that was what would happen.
23 MR. ABRAMS: So it's her submission, their review
24 of their submission.
25 MR. GROSSMAN: Right.

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1 MR. ABRAMS: Okay.
2 BY MR. ABRAMS:
3 Q In terms of the parking for the staff, you've
4 indicated that they would be parking on the side street,
5 which has no parking restrictions, and that they would use
6 bus transportation. Now, with reference to bus
7 transportation, where is the closest bus stop?
8 A Right in front of my house on the south side.
9 Q And you have filed, as required, a traffic
10 statement with the Park and Planning Commission?
11 A Yes.
12 Q Okay. And it shows the arrivals and anticipated
13 departures during the peak hours, is that correct?
14 A Correct.
15 Q And these arrivals and departures, as reflected on
16 that parking statement, are they staggered?
17 A Yes.
18 Q Between what hours?
19 A The drop-offs are between 7:30 and 10:00 a.m., and
20 the pick-ups are between 4:00 and 6:30 p.m.
21 Q Now, has the Planning Commission transportation
22 staff reviewed this application and concurred in your
23 traffic statement and plan for parking and traffic
24 movements?
25 A Yes.

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1 Q Does all of Georgetown Road have a median divider
2 separating northbound and southbound lanes?
3 A Yes.
4 Q And how, explain to the Examiner how people would
5 proceed in a southbound fashion when they drop off children
6 and when they pick up children as far as the median divider.
7 How do they work that?
8 A They can make a U-turn at Kingswood Road and then
9 enter the property on the right. In leaving the property,
10 they can take a right and there's, at the next light,
11 there's a place to make a U-turn as well on Loan Oak Drive.
12 Q Now, there are certain questions that I've got to
13 ask you with respect to the criteria for this specific
14 conditional use and so the first question I have is to your
15 knowledge, have there been any prior special exceptions or
16 conditional uses which have been applied for and/or approved
17 for this property?
18 A No.
19 Q And to your knowledge, do you satisfy the
20 development standards of the R-60 Zone in terms of the
21 building height, lot coverage, lot size and so forth?
22 A Yes.
23 Q And that's with the exception of a parking
24 facilities requirement setback planning, perimeter
25 plannings. Does your proposed use conform to the North

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1 Bethesda Master Plan?
2 A Yes.
3 Q Can you explain your response?
4 A The master plan recommends R-60 zoning, and I'm
5 not changing the zoning. It recommends predominantly
6 residential use of the property and I plan to reside, I
7 currently reside and continue to reside on the property.
8 The structure will remain residential in appearance, and the
9 master plan encourages certain conditional uses such as
10 these.
11 Q And will the daycare use be harmonious with the
12 character of the surrounding neighborhood?
13 A Yes. The primary appearance and character of the
14 property and building will stay residential. The use has
15 been in existence currently and hasn't had, for a number of
16 years and there haven't been any issues or concerns from
17 neighbors in this new residential construction going on
18 while the existing daycare is operating.
19 MR. GROSSMAN: Speaking of the neighbors, do you
20 play any music outdoors for the children?
21 THE WITNESS: No.
22 MR. GROSSMAN: Okay. Because sometimes that
23 becomes an issue with childcare facilities. And you don't
24 have any plans to do that I take it.
25 THE WITNESS: No.

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1 MR. GROSSMAN: Okay. I sometimes include a
2 condition about that in the no, no amplified sounds
3 outdoors.
4 THE WITNESS: That would be fine.
5 BY MR. ABRAMS:
6 Q And to your knowledge, I think you indicated that
7 there's only one live special exception within this area on
8 Old Georgetown Road and that was for a nonresidential dental
9 office, is that correct?
10 A Yes.
11 Q So there isn't an overabundance, to your
12 knowledge, of special exception or conditional uses within
13 this area which we've described previously.
14 A Correct.
15 Q Is the proposed use served by public water and
16 sewer?
17 A Yes.
18 Q And will these facilities be adequate to serve the
19 increased staffing and children that are proposed to be
20 enrolled in your facility?
21 A Yes.
22 Q And in terms of conditional uses, what was the
23 prior special exceptions, there are certain what they call
24 inherent adverse effects or impacts related to a child
25 daycare use. Do you recognize what those adverse effects

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1 are?
2 A Yes.
3 Q What are they?
4 A Traffic, outdoor noise, additional parking and the
5 physical activity when the children are outside.
6 Q Now, are any of these inherent adverse effects
7 greater or more severe at this location than if they were
8 located elsewhere on other R-60 zoned property within this
9 neighborhood?
10 A No.
11 Q Are there any adverse effects to your proposed use
12 which are not inherent in this use being located at this
13 site?
14 A No.
15 Q Will the proposed use, in any material way, cause
16 harm, undue harm to the neighborhood or cause any detriment
17 to the health, safety and welfare of other properties or
18 residents in the area?
19 A No.
20 Q And have you discussed this application with any
21 of your neighbors?
22 A Yes. The neighbor on the south side that shares
23 the driveway. We discussed it. They were supportive and
24 wrote a letter of support which we submitted.
25 MR. GROSSMAN: Yes. What exhibit was that?

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1 THE WITNESS: 27. Tom and Phyllis Winterburn.
2 MR. GROSSMAN: And I saw you had other people who
3 participated in your program who wrote in support also.
4 THE WITNESS: Yeah. I have letters of support
5 from people currently in the program and also, neighbors
6 that were in the program that live nearby that are no longer
7 there because their children are older.
8 MR. GROSSMAN: Okay.
9 BY MR. ABRAMS:
10 Q In terms of the neighbor on the other side, is
11 there anybody living there currently?
12 A No.
13 Q Has anybody been living there for any length of
14 time?
15 A No.
16 Q How long has it been vacant to your knowledge?
17 A The entire time we've lived in the property.
18 MR. GROSSMAN: That's on the north side?
19 THE WITNESS: Correct. And it is listed for sale
20 currently.
21 BY MR. ABRAMS:
22 Q And --
23 MR. GROSSMAN: We still have to consider it.
24 Whether or not it's occupied, it's a property that has the
25 rights of quiet enjoyment also so we --

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1 THE WITNESS: Yes.
2 MR. GROSSMAN: -- still have to consider it.
3 THE WITNESS: But I couldn't talk to them --
4 MR. GROSSMAN: Right.
5 THE WITNESS: -- because there's no one there.
6 MR. GROSSMAN: Okay.
7 BY MR. ABRAMS:
8 Q Now, I think you've indicated that you're familiar
9 with the conditions of the planning staff and Planning Board
10 and that you're agreeable to comply with those conditions,
11 is that correct?
12 A Yes.
13 MR. ABRAMS: That's all the questions I have, Mr.
14 Examiner.
15 MR. GROSSMAN: And I think I have pretty much
16 covered the questions I had. One thing, if you don't come
17 to an agreement with staff about the landscaping, would you
18 also be requesting alternative compliance because this
19 section is part of the code that also allows alternative
20 compliance.
21 MR. ABRAMS: Yes. Yes, we certainly would because
22 I think --
23 MR. GROSSMAN: Yes. I suspected that.
24 MR. ABRAMS: And I'm not a planner and don't
25 profess to be, but you can't get any better screening than a

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1 site tight fence six feet high which I think is the
2 screening purpose of the provisions in the Zoning Order.
3 MR. GROSSMAN: So all I'm saying, I'm suggesting
4 that if in fact you don't have an agreement with staff --
5 MR. ABRAMS: I will submit an additional request
6 to do that, yes.
7 MR. GROSSMAN: Okay. All right.
8 MR. ABRAMS: Any further questions for the
9 applicant?
10 MR. GROSSMAN: Let me see. I don't think I have
11 anything else.
12 MR. ABRAMS: Okay.
13 MR. GROSSMAN: Do you have a closing statement you
14 wish to make?
15 MR. ABRAMS: I will submit, as well as the
16 petitioner will submit, the exhibits that you requested to
17 be electronically filed and work on a response to Crystal
18 Myers for this screening requirement.
19 MR. GROSSMAN: All right. I presume you want the
20 exhibits 1 through 43 admitted?
21 MR. ABRAMS: Yes.
22 MR. GROSSMAN: Okay. And so Exhibits 1 through 43
23 and their subparts will be admitted and also, any additional
24 exhibits necessary to carry out this consultation with
25 technical staff to resolve the landscaping issue will be

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1 admitted.
2 MR. ABRAMS: Thank you.
3 (Exhibit Nos. 1 through 43
4 were received into evidence.)
5 MR. GROSSMAN: All right. Is there anything
6 further?
7 MR. ABRAMS: That's it.
8 MR. GROSSMAN: All right. Then we'll keep the
9 record open. Do you think 10 days will suffice?
10 MR. ABRAMS: It will but if it can be extended
11 beyond that without a formal request, I would appreciate it.
12 MR. GROSSMAN: I think I may have to issue
13 something formal if I do extend it because I'm announcing
14 the record close at her, at the hearing.
15 MR. ABRAMS: Okay.
16 MR. GROSSMAN: So just submit, you know, a letter
17 requesting that it be extended further and I will certainly
18 grant that. So let's see. Today is the 10th so that would
19 be the 20th which -- that's not a weekend, is it? It
20 shouldn't be.
21 THE WITNESS: No.
22 MR. GROSSMAN: No, okay. Okay. So the record
23 will close on August 20, close of business, 2015. All
24 right. Is there anything further?
25 MR. ABRAMS: That's it.

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1 MR. GROSSMAN: All right. Thank you very much.
2 MR. ABRAMS: Thank you.
3 MR. GROSSMAN: Thank you, Ms. Hanlon.
4 THE WITNESS: Thank you.
5 (Whereupon, at 10:38 a.m., the hearing was
6 concluded.)
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:

Petition of Leah Hanlon aka Lily Pads Child Care, LLC
OZAH NO. CU 15-02

By:

Josephine Hayes, Transcriber

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