

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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:  
PETITION OF SORAIA P. LEVENTHAL : Case No. S.E. 14-01  
:  
:  
OZAH No. 12-03  
:  
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A hearing in the above-entitled matter was held on December 13, 2013, commencing at 9:30 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:

Soraia p. Leventhal  
(Pro se)

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Soraia P. Leventhal		Throughout		
George Leventhal		Throughout		

E X H I B I T S

Exhibit No.		Marked/Received
1-12	(Previously Marked)	--/27
13(a)(i)	Photograph, Front of House	22/27
13(a)(ii)	Photograph, Second Driveway	22/27
13(a)(iii)	Photograph, Garden	22/27
13(a)(iv)	Photograph, Playground	22/27
13(a)(v)	Photograph, Yard	23/27
13(a)(vi)	Photograph, Playground	22/27
13(a)(vii)	Photograph, Children Garden	24/27
13(a)(viii)	Photograph, Garden	24/27
13(a)(ix)	Photograph, Yard	24/27
13(b)(i)	Photograph, Classroom	25/27
13(b)(ii)	Photograph, Infant and Toddler Room	25/27
13(b)(iii)	Photograph, Infant and Toddler Room	25/27

E X H I B I T S (Continued)

Exhibit No.		Marked/Received
13(b)(iv)	Photograph, Infant and Toddler Room	25/27
13(b)(v)	Photograph, Preschool Room	25/27
13(b)(vi)	Photograph, Bathroom	26/27
13(b)(vii)	Photograph, Preschool	26/27
21	Conditions	21/27
22	Affidavit of Posting	22/27

P R O C E E D I N G S

1 MR. GROSSMAN: This is a public hearing in the  
2 matter of Soraia -- is that Soraia? Is that the way you  
3 pronounce it?  
4 MS. LEVENTHAL: Soraia.  
5 MR. GROSSMAN: Soraia Leventhal, OZAH No. S.E. 14-  
6 01, an application for a special exception pursuant to  
7 Zoning Ordinance Section 59-G-2.13.1 to allow an upgrade  
8 from an existing family daycare facility to a group daycare  
9 home for up to 12 children in her home at 7336 Piney Branch  
10 Road, City of Takoma Park, Maryland, which is Lot 1A and 2A,  
11 Block 82 in the Barclay Tract Subdivision. It is zoned R-  
12 60, single-family residence. My name is Martin Grossman.  
13 I'm the Hearing Examiner which means I will take evidence  
14 here and write an opinion and decision on this case. Will  
15 you identify yourself, please, for the record?  
16 MS. LEVENTHAL: I am Soraia Leventhal. I live in  
17 7336 Piney Branch Road, Takoma Park, and I have a daycare in  
18 my house with eight children.  
19 MR. GROSSMAN: All right. And I see that Mr.  
20 Leventhal is here. Are you going to be testifying today,  
21 Mr. Leventhal, at all?  
22 MR. LEVENTHAL: Thank you, Mr. Grossman. Mrs.  
23 Leventhal and I own the property jointly.  
24 MR. GROSSMAN: Okay.

1 MR. LEVENTHAL: And I'm here to support my wife.  
2 I fully support her application. The only thing I would say  
3 for the record is that I hope that the record will reflect  
4 that although the local --  
5 MR. GROSSMAN: Before you make a statement --  
6 MR. LEVENTHAL: Certainly.  
7 MR. GROSSMAN: -- I'm going to put anybody who  
8 wants to testify under oath so if you're going to say  
9 something --  
10 MR. LEVENTHAL: Oh, certainly. Sure.  
11 MR. GROSSMAN: Let me just note ordinarily, here I  
12 ask if anybody in the audience wishes to say anything. I  
13 see nobody in the audience today so there are no other  
14 parties appearing here. Let me explain a little bit about  
15 the nature of these proceedings. They're a combination of  
16 formality and informality. It's formal in the sense that  
17 all witnesses are sworn in subject to cross-examination,  
18 were there somebody here to cross-examine your. Everything  
19 is taken down by a court reporter and there will be a record  
20 of transcript of these proceedings. We're informal, a  
21 little more relaxed than a courtroom. We follow rules of  
22 evidence but they're a little bit more relaxed too. Some  
23 hearsay evidence is admissible if otherwise probative and  
24 reliable.  
25 This is an application for a special exception,

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1 and that's a little bit of a misnomer. It's really a  
2 conditional use. That is, it is a use that is permitted by  
3 statute, by the Zoning Ordinance, if certain conditions that  
4 are specified in the Zoning Ordinance are in fact proven.  
5 It is not a variance which would be something different from  
6 what is permitted in the Zoning Ordinance. It is something  
7 that is permitted if you address and prove those conditions.  
8 All right. Do you understand the nature of the  
9 proceedings, Mrs. Leventhal?  
10 MS. LEVENTHAL: Yes.  
11 MR. GROSSMAN: Okay. All right. Now, let me  
12 start out by swearing you two witnesses. Would you raise  
13 your right hands, please?  
14 (Witnesses sworn.)  
15 MR. GROSSMAN: Now, let me deal with a few  
16 preliminary matters. There is a technical staff report.  
17 You should have received a copy of that report from the  
18 technical staff of the Maryland-National Capital Park and  
19 Planning Commission. Did you receive that, Mrs. Leventhal?  
20 MS. LEVENTHAL: Uh-huh.  
21 MR. GROSSMAN: All right. And you should also  
22 have received a copy of the letter from the Planning Board.  
23 MS. LEVENTHAL: Yes.  
24 MR. GROSSMAN: You received that too?  
25 MS. LEVENTHAL: I did.

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1 MR. GROSSMAN: Okay. So the staff report is  
2 Exhibit 19 and the Planning Board letter is Exhibit 20 in  
3 our file.  
4 MS. LEVENTHAL: Uh-huh.  
5 MR. GROSSMAN: And you'll notice that they, the  
6 technical staff report runs through the conditions that are  
7 specified in the Zoning Ordinance so if you have any  
8 testimony, you should, you want to address anything relating  
9 to those conditions as set forth in the staff report. Okay.  
10 Also, they recommend, both staff and the Planning Board  
11 recommend approval of your conditions and they set out, the  
12 Planning Board modified, somewhat, the conditions  
13 recommended to those in the --  
14 MS. LEVENTHAL: Uh-huh.  
15 MR. GROSSMAN: -- technical staff report and made  
16 a correction regarding the garage description which I  
17 understand you do not have.  
18 MS. LEVENTHAL: Uh-huh.  
19 MR. GROSSMAN: So first of all, with regard to the  
20 findings that are made in the technical staff report, except  
21 as to the garage, which I understand is incorrect, do you  
22 accept those findings as part of your testimony or is there  
23 something incorrect in the findings by the technical staff  
24 report?  
25 MS. LEVENTHAL: No. They were correct.

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1 MR. GROSSMAN: Okay. And also, there were certain  
2 statements made in the Planning Board letter about being in  
3 historical, in the historical district. Do you accept those  
4 findings in the Planning Board letter?  
5 MS. LEVENTHAL: Yes. I, I understand.  
6 MR. GROSSMAN: Okay. You have to say if you agree  
7 to --  
8 MS. LEVENTHAL: I agree.  
9 MR. GROSSMAN: Okay.  
10 MS. LEVENTHAL: Uh-huh.  
11 MR. GROSSMAN: Just so the record -- since  
12 everything is taken down --  
13 MS. LEVENTHAL: Sure.  
14 MR. GROSSMAN: -- it doesn't record it if you  
15 shake your head or, you have to --  
16 MS. LEVENTHAL: Okay. No problem.  
17 MR. GROSSMAN: Okay. Now, also, as I mentioned,  
18 there were conditions specified. We usually add some  
19 additional conditions and I've combined those recommended in  
20 the Planning Board letter with ones that we would ordinarily  
21 recommend, and I ask that my staff hand you a copy of those.  
22 Have you had an opportunity to look over --  
23 MS. LEVENTHAL: I did. I did. They're here.  
24 Under eight. For example, you say how many children are  
25 allowed to be outside at any given time.

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1 MR. GROSSMAN: Yes.  
2 MS. LEVENTHAL: Here there are no more than eight  
3 but I was told by the, the other hearing, no more than six.  
4 MR. GROSSMAN: Yes. I think what probably  
5 happened is when I did my combination, I used something from  
6 another prior application and what's your, let me ask you a  
7 question about that, what's your feeling about the number of  
8 children you ordinarily have outside at any given time?  
9 MS. LEVENTHAL: You know, to be -- when I read  
10 this, I was happy because usually, I have eight children,  
11 the law allows me to have eight children above two years old  
12 and four infants. Most of the time, the infants nap  
13 throughout the day so it would be, if I could, would be  
14 great if I could take eight children outside when the  
15 weather permits and then the younger kids could nap.  
16 MR. GROSSMAN: Okay.  
17 MS. LEVENTHAL: And I think it would be difficult  
18 for, to tell a two-year-old it's not your time now, I'm  
19 taking six because I'm allowed to take six and leave two  
20 behind. I think I would prefer to be able to take eight  
21 children.  
22 MR. GROSSMAN: Okay. Have you had any complaints  
23 from the neighbors about noise?  
24 MS. LEVENTHAL: Never. Never.  
25 MR. GROSSMAN: Okay.

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1 MS. LEVENTHAL: I have been there for 15 years and  
 2 every single day, I even take the babies when they're awake  
 3 because they need to be out and every single day, morning  
 4 and afternoon, my children are outside. I have a big yard,  
 5 I have fenced. In the yard, I have plants. The children  
 6 learn because they take care of the garden. They learn from  
 7 different sites in the area. I plan my activity indoors and  
 8 outdoors, and I think I would have problem with parents  
 9 telling me why my son, my children not out as much as  
 10 before.

11 MR. GROSSMAN: Okay. All right. You notice that  
 12 there are other conditions there. One about not playing any  
 13 music, outside loud speakers. That kind of thing. I take  
 14 it --

15 MS. LEVENTHAL: We don't do that.

16 MR. GROSSMAN: Okay.

17 MS. LEVENTHAL: Outside we don't play. We just --  
 18 the children play. We don't play music outside.

19 MR. GROSSMAN: All right. So I take it that none  
 20 of the condition that I have set forth in what I handed you,  
 21 which I'm going to mark as an exhibit just so we have  
 22 that --

23 MS. LEVENTHAL: Uh-huh.

24 MR. GROSSMAN: -- in the record, is a problem.

25 All of those conditions are okay.

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1 MS. LEVENTHAL: I'm fine. I agree.

2 MR. GROSSMAN: Okay. So we'll call this Exhibit  
 3 21 just so the record is clear as to what I'm referencing.  
 4 (Exhibit No. 21 was marked for  
 5 identification.)

6 MR. GROSSMAN: Okay. All right. Now, also, you  
 7 need to have an Affidavit of Posting. Have you executed an  
 8 affidavit indicating that your property has been posted  
 9 with, with the appropriate sign?

10 MS. LEVENTHAL: Yes. I have.

11 MR. GROSSMAN: Okay. Would you mind bringing that  
 12 forward? Be careful of the wires there. All right. Thank  
 13 you. And we'll mark that Affidavit of Posting Exhibit 22.  
 14 (Exhibit No. 22 was marked for  
 15 identification.)

16 MR. GROSSMAN: Since there's no opposition, you  
 17 only need to keep that sign posted until you receive my  
 18 decision.

19 MS. LEVENTHAL: Okay.

20 MR. GROSSMAN: Okay. And then you can return it  
 21 for a partial refund. Okay. Now Mr. Leventhal, you had  
 22 something you wanted to say?

23 MR. LEVENTHAL: Thank you, Mr. Grossman. I just  
 24 wanted the record to reflect when we submitted the  
 25 application, the Planning Board asked for the contact

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1 information for the local civic association which it is my  
 2 understanding that that civic association is now defunct,  
 3 that there are not officers serving in the North Takoma  
 4 Citizens Association. I would like the record to reflect  
 5 that our local city councilman representing Ward 1 on the  
 6 Takoma Park City Council, Councilman Seth Grimes, has  
 7 written a letter of support for Mrs. Leventhal's application  
 8 and we will ensure that that letter is, it was provided.  
 9 The Planning Board will make sure it was, it is also  
 10 provided to the OZAH staff for inclusion in the record.

11 MR. GROSSMAN: It is actually in the record. It's  
 12 Exhibit 18.

13 MR. LEVENTHAL: Excellent.

14 MR. GROSSMAN: A letter of November 4, 2013.  
 15 Letter of support from Mr. Grimes.

16 MR. LEVENTHAL: Excellent. Thank you.

17 MR. GROSSMAN: Sure. Okay. Now, also, you've  
 18 submitted a number of photographs for the record.

19 MS. LEVENTHAL: Uh-huh.

20 MR. GROSSMAN: And a statement. It's helpful, but  
 21 not required, if you have a disc on which those photographs  
 22 are, rather than having me scan in photographs, if you could  
 23 supply that to us, that would be helpful.

24 MR. LEVENTHAL: On a CD?

25 MR. GROSSMAN: Yes. If you have that, that would

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1 be helpful just so in writing my report. I'm certainly not  
 2 going to reproduce all of them but --

3 MR. LEVENTHAL: The photographs of the daycare.

4 MR. GROSSMAN: Yes. You have --

5 MR. LEVENTHAL: We can provide those.

6 MR. GROSSMAN: It's not so much the ones inside.  
 7 We're going to include a couple of pictures inside. Our  
 8 concern here is the land use aspects. That is the outside,  
 9 what is, what is controlled by -- and the inside is  
 10 controlled by the state --

11 MR. LEVENTHAL: Right.

12 MR. GROSSMAN: -- and they determine that.

13 MS. LEVENTHAL: So --

14 MR. GROSSMAN: But if you have, if you have  
 15 anything that you submitted, if you have electronic copies  
 16 already as people ordinarily do these days with the digital  
 17 photography --

18 MS. LEVENTHAL: I have here some pictures.

19 MR. LEVENTHAL: He's asking for electronic.

20 MR. GROSSMAN: Yes. It's not for the hard copies.

21 MS. LEVENTHAL: Oh.

22 MR. GROSSMAN: I have the hard copies in the  
 23 record already.

24 MS. LEVENTHAL: Oh, I see.

25 MR. GROSSMAN: I'm just talking about the

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1 electronic copies. It's easier for me, rather than scanning  
2 things in, to have --  
3 MS. LEVENTHAL: Sure.  
4 MR. GROSSMAN: -- pictures supplied. I may or may  
5 not use one or the other of them but it's useful if you have  
6 it as well as if you have an electronic copy of your  
7 statement that you filed. I think it's Exhibit 9 in here.  
8 MS. LEVENTHAL: Okay.  
9 MR. GROSSMAN: That's useful too.  
10 MS. LEVENTHAL: Okay.  
11 MR. GROSSMAN: Once again, not required of those  
12 not represented by counsel or not a group or association.  
13 MS. LEVENTHAL: Okay.  
14 MR. GROSSMAN: So but if you have it, it's useful  
15 to me. Okay. Now, let's, let me ask you, sort of open it  
16 to you. Do you have anything that, statement you want to  
17 make about your daycare, about the special exception? Any  
18 evidence you want to present?  
19 MS. LEVENTHAL: Well, I have been in the business  
20 for 15 years and I have, I was licensed for eight children  
21 and I have had several parents who walk in all the time or  
22 call me and say do you have space for my child. They hear  
23 about my program, what we do there, and I say, no, I'm  
24 allowed only eight children. Because the reason I have a  
25 waiting list so long is because the children tend to arrive

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1 as an infant and they leave at five because I'm a teacher  
2 and I prepare the children for kindergarten and most of the  
3 parents, all the children who have been with me are very  
4 success in school now and the reputation, the parents talk  
5 to each other.  
6 And so I said well, I would like to have 12 if I  
7 can because then I could provide for siblings. I have some  
8 siblings that wanted to come but I can't take them right now  
9 because I don't have the space. I don't, I can't have more  
10 than eight. And I think it, it's good for the two years old  
11 to have at least eight children, eight in the same age group  
12 I think because I'm going to have four infants and four  
13 twos. The group is small and I think adding four more would  
14 benefit the children because of socialization and getting  
15 along with each other because when they go to kindergarten,  
16 they're going to a classroom of 17 or 22 children and they  
17 need to learn, my small group need to learn how to live with  
18 other kids and live in larger group.  
19 MR. GROSSMAN: Right.  
20 MS. LEVENTHAL: So I would be doing a service for  
21 the community of preparing them well to live in the society.  
22 MR. GROSSMAN: All right. I have some questions  
23 also about the parking area because that wasn't entirely  
24 clear to me. Ordinarily, we get a site plan which shows  
25 everything. You're supposed to, by the Zoning Ordinance,

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1 supposed to show exactly where the parking is, where the  
2 drop-off area is and so on.  
3 MS. LEVENTHAL: Uh-huh.  
4 MR. GROSSMAN: And you submitted something that's  
5 kind of an abbreviated map of that but it doesn't really  
6 show and specify exactly where the parking is and how you  
7 are going to do it. So I'm going to ask you, I'm going to  
8 show you what you have submitted in Exhibit 4. I'm going to  
9 ask you to tell me exactly on Exhibit 4 or even mark on the  
10 exhibit, and we'll note that it's being modified, to shows  
11 me exactly on your driveway where it is that the parking is  
12 and where the drop-off would be.  
13 MS. LEVENTHAL: Okay. Can I go and do it on --  
14 MR. GROSSMAN: You can, yes. Certainly. You can  
15 mark it there so that we'll have an exhibit that shows that.  
16 There was something attached to the Planning Board letter  
17 that shows, looks like an aerial photograph and it shows two  
18 parking two parking pads but.  
19 MR. LEVENTHAL: Could I verbally try to answer the  
20 question, Mr. Grossman?  
21 MR. GROSSMAN: Certainly.  
22 MR. LEVENTHAL: Right. So there are two parking  
23 pads. The major parking pad, which is the drop-off point --  
24 MR. GROSSMAN: Yes.  
25 MR. LEVENTHAL: -- can easily hold five cars and

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1 if necessary, the second driveway can hold another car. Her  
2 staff at present, as the record states, don't drive. They  
3 take public transportation.  
4 MR. GROSSMAN: Right.  
5 MR. LEVENTHAL: Many of her eight customers now,  
6 because she serves neighborhood, you know, neighbors, walk  
7 and I believe that the record stated that during an  
8 inspection, it was visible that strollers were left there  
9 because children were dropping off their children on the way  
10 to the Metro which is just a five minute walk from our  
11 house.  
12 MR. GROSSMAN: Right.  
13 MR. LEVENTHAL: But where this rough handwritten  
14 drawing, which an outstanding artist was brought in to, to  
15 facilitate --  
16 MR. GROSSMAN: Not a Picasso.  
17 MR. LEVENTHAL: -- where this handwritten drawing  
18 states the large driveway, okay, that's a large gravel area  
19 that can accommodate five cars.  
20 MR. GROSSMAN: Okay. And you also indicate in  
21 your statement, Mrs. Leventhal, that there was a second  
22 driveway. I don't see that depicted.  
23 MR. LEVENTHAL: So it is also marked. You can  
24 show Mr. Grossman. There's this one and that one.  
25 MR. GROSSMAN: Would you mind, Mrs. Leventhal,

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1 just marking on there? Show me exactly where the parking,  
2 so that Exhibit 4 shows exactly where the parking area is,  
3 and mark it parking area, and exactly where the drop-off  
4 area is, and mark it drop-off area so that this record will  
5 show that clearly.  
6 MR. LEVENTHAL: No, no. Drop-off here, honey.  
7 There's the fence. Right. Drop-off. That's it. Uh-huh.  
8 MR. GROSSMAN: Okay.  
9 MS. LEVENTHAL: In order to avoid 12 parents from  
10 arriving at the same time --  
11 MR. GROSSMAN: Yes.  
12 MS. LEVENTHAL: -- I am going to speak with my  
13 parents because some of the parents, they work at home so  
14 some come 4:30/5:30 or 5:00/5:30. They not always come at  
15 the same time.  
16 MR. GROSSMAN: Right.  
17 MS. LEVENTHAL: I could ask them to help me, to  
18 come at different times.  
19 MR. GROSSMAN: Well, actually, what we ordinarily  
20 do in these cases to avoid too many people arriving at the  
21 same time is actually require a written agreement between  
22 the person that runs the daycare and individual parents at  
23 which they have an assigned time --  
24 MS. LEVENTHAL: I will do that.  
25 MR. GROSSMAN: -- to drop off. I mean --

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1 MS. LEVENTHAL: If --  
2 MR. GROSSMAN: -- it's not that anybody is  
3 standing there and watching if somebody is a minute late but  
4 it is a good way of reinforcing in the parents the idea that  
5 they have specific times that they should be dropping off.  
6 MS. LEVENTHAL: I will work out with the parents a  
7 plan but right now, there is no problem because these, they  
8 don't come at the same time.  
9 MR. GROSSMAN: I understand, but you'll notice  
10 that one of the conditions that --  
11 MS. LEVENTHAL: Yes, I do.  
12 MR. GROSSMAN: -- calls for that sort of an  
13 agreement.  
14 MS. LEVENTHAL: Right.  
15 MR. GROSSMAN: So, you know, I would ask that  
16 you --  
17 MS. LEVENTHAL: I will draw the, I will write down  
18 an agreement and have a meeting with the parents and  
19 explain, and I'm sure they will cooperate with me because  
20 they are very pleased with the idea of more children.  
21 MR. GROSSMAN: Right. But make sure that they  
22 also, that you draw up a, a short signed agreement for them  
23 to sign off on.  
24 MS. LEVENTHAL: I will.  
25 MR. GROSSMAN: And then you would maintain that.

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1 MS. LEVENTHAL: Right.  
2 MR. GROSSMAN: Okay. That would be one of the, of  
3 the conditions.  
4 MS. LEVENTHAL: Sure.  
5 MR. GROSSMAN: Okay. I don't quite understand.  
6 You said the second driveway here. Mr. Leventhal, where --  
7 MR. LEVENTHAL: It's in the lower left-hand corner  
8 of the property.  
9 MR. GROSSMAN: Oh, I see. Okay. Driveway, okay.  
10 MR. LEVENTHAL: Right.  
11 MR. GROSSMAN: All right.  
12 MR. LEVENTHAL: We actually have two lots.  
13 MR. GROSSMAN: I see. Okay. All right. That  
14 explains that. Okay. Now, what exactly, how does your drop  
15 off procedure work in the morning, Mrs. Leventhal?  
16 MS. LEVENTHAL: The parents come around, again,  
17 two parents come 8:30. Most of the other parents come  
18 around 9:00. Three come around 9:00, one 9:30, another one  
19 10:30 because those are parents who work at home.  
20 MR. GROSSMAN: Right. But when they come, I take  
21 it they drive, most of them drive there.  
22 MS. LEVENTHAL: They walk.  
23 MR. GROSSMAN: They walk. Okay.  
24 MS. LEVENTHAL: Some of them walk and some take a  
25 bus. I have a family with two kids in my care. They always

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1 take a bus.  
2 MR. GROSSMAN: Okay. And then a parent walks the  
3 child to the door?  
4 MS. LEVENTHAL: Yes.  
5 MR. GROSSMAN: The child is always accompanied by  
6 a parent.  
7 MS. LEVENTHAL: Always. Always.  
8 MR. GROSSMAN: Okay. And when those are dropped  
9 off, you have some that are dropped off by car?  
10 MS. LEVENTHAL: No. The parents always walk --  
11 MR. GROSSMAN: Oh, always walk.  
12 MS. LEVENTHAL: -- to me.  
13 MR. GROSSMAN: Okay.  
14 MS. LEVENTHAL: They always bring their child to  
15 me.  
16 MR. GROSSMAN: All right. Okay. All right. You  
17 indicate you have had no complaints regarding not only noise  
18 but anything else regarding --  
19 MS. LEVENTHAL: None.  
20 MR. GROSSMAN: -- operation of the daycare.  
21 MS. LEVENTHAL: I never had anyone complain.  
22 MR. GROSSMAN: Okay. Do you plan any changes to  
23 the exterior of the premises, including lighting, outside?  
24 MS. LEVENTHAL: No. I don't plan because that was  
25 -- I already have the light outside because it's dark and

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1 some parents complain and I put a light, but none of my  
2 neighbors complain. I only turn the lights on at 5:30 and  
3 then at 6:00, I turn it off.  
4 MR. GROSSMAN: Okay, good. This is, as I  
5 explained, this is, this hearing is really to make sure that  
6 whatever happens, is operating in somebody's property is not  
7 disturbing the neighbors, so lighting is a significant  
8 factor.  
9 MS. LEVENTHAL: Uh-huh.  
10 MR. GROSSMAN: If nothing is being changed, then  
11 it's really not an issue for us.  
12 MS. LEVENTHAL: No. Nothing. Nothing.  
13 MR. GROSSMAN: Okay. All right. Now, I'd like to  
14 also identify some of the photographs that are in the file.  
15 And also, just to make sure now, the Exhibit 4, which is the  
16 site plan we'll call it, now accurately depicts the property  
17 and all of the buildings, the driveways, the drop-off area  
18 on the property?  
19 MS. LEVENTHAL: Yes.  
20 MR. GROSSMAN: Okay. All right. Now, let me hold  
21 up some of the photographs just so the record properly  
22 identifies the exhibits that have been filed. These are  
23 contained in Exhibits 13(a) and 13(b). And the ones  
24 following the first photograph haven't been numbered  
25 specifically and we're going to do that with little i and

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1 little ii. So the first one is labeled 13(a) and we're  
2 going to say this is 13(a)(i). What is this depicting?  
3 MS. LEVENTHAL: I need to go --  
4 MR. GROSSMAN: Okay.  
5 MS. LEVENTHAL: I'm sorry.  
6 MR. GROSSMAN: And if you want to, you can pull up  
7 a chair here closer. I'll have a number of them.  
8 MS. LEVENTHAL: Oh, this is the front of the  
9 house.  
10 MR. GROSSMAN: Okay.  
11 MS. LEVENTHAL: And this is coming into the house.  
12 MR. GROSSMAN: Did you take this photograph?  
13 MS. LEVENTHAL: No.  
14 MR. LEVENTHAL: I did.  
15 MR. GROSSMAN: Okay, Mr. Leventhal. And when were  
16 these taken?  
17 MR. LEVENTHAL: In the summer. I would say, in  
18 July of 2013.  
19 MR. GROSSMAN: Okay. And let me pull out the  
20 exhibit list here. So 13(a)(i), front of house.  
21 (Exhibit No. 13(a)(i) was  
22 marked for identification.)  
23 MR. GROSSMAN: Okay. This will be 13(a)(ii).  
24 What is this depicting?  
25 MS. LEVENTHAL: This is the other driveway, the

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1 second driveway.  
2 (Exhibit No. 13(a)(ii) was  
3 marked for identification.)  
4 MR. GROSSMAN: Okay. And 13(a) -- I think all of  
5 the (a)s are exterior shots, (a)(iii). What is this  
6 depicting?  
7 MS. LEVENTHAL: The garden.  
8 MR. GROSSMAN: The garden?  
9 MS. LEVENTHAL: Yeah.  
10 (Exhibit No. 13(a)(iii) was  
11 marked for identification.)  
12 MR. GROSSMAN: Okay. And 13(a)(iv).  
13 MS. LEVENTHAL: The playground.  
14 MR. GROSSMAN: A nice looking playground by the  
15 way. Very nice looking.  
16 MS. LEVENTHAL: Thank you.  
17 (Exhibit No. 13(a)(iv) was  
18 marked for identification.)  
19 MR. GROSSMAN: Okay. 13(a)(v).  
20 MS. LEVENTHAL: It's the playground that they play  
21 and the whole garden.  
22 MR. GROSSMAN: Okay.  
23 MR. LEVENTHAL: The yard.  
24 MS. LEVENTHAL: Yeah.  
25 MR. GROSSMAN: The yard. Okay.

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1 (Exhibit No. 13(a)(v) was  
2 marked for identification.)  
3 MR. GROSSMAN: Okay. 13(a)(vi).  
4 MS. LEVENTHAL: The playground.  
5 MR. GROSSMAN: And children playing.  
6 (Exhibit No. 13(a)(vi) was  
7 marked for identification.)  
8 MR. GROSSMAN: Okay. 13(a)(vii).  
9 MS. LEVENTHAL: The children at the garden  
10 planting.  
11 MR. GROSSMAN: They're at the garden planting?  
12 MS. LEVENTHAL: Yeah.  
13 (Exhibit No. 13(a)(vii) was  
14 marked for identification.)  
15  
16 MR. GROSSMAN: Okay. 13(a)(viii).  
17 MS. LEVENTHAL: My roses.  
18 MR. GROSSMAN: In your garden?  
19 MS. LEVENTHAL: Yeah.  
20 (Exhibit No. 13(a)(viii) was  
21 marked for identification.)  
22  
23 MR. GROSSMAN: Okay. 13(a)(ix).  
24 MS. LEVENTHAL: The outside in the yard.  
25 MR. GROSSMAN: In the yard?

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1 MS. LEVENTHAL: Uh-huh.  
2 (Exhibit No. 13(a)(ix) was  
3 marked for identification.)  
4  
5 MR. GROSSMAN: Okay. And I think that actually  
6 handles the (a)s. Now we'll turn to 13(b)(i).  
7 MS. LEVENTHAL: Indoors. The preschool.  
8 MR. GROSSMAN: Okay. So this is a little, like a  
9 class area you have inside?  
10 MS. LEVENTHAL: Yes. Classroom.  
11 (Exhibit No. 13(b)(i) was  
12 marked for identification.)  
13 MR. GROSSMAN: Okay. 13(b)(ii).  
14 MS. LEVENTHAL: We divide the room for  
15 preschoolers, and this is the infant and toddlers room.  
16 MR. GROSSMAN: Okay.  
17 (Exhibit No. 13(b)(ii) was  
18 marked for identification.)  
19  
20 MR. GROSSMAN: And then 13(b)(iii).  
21 MS. LEVENTHAL: The infant and toddlers room  
22 again.  
23 (Exhibit No. 13(b)(iii) was  
24 marked for identification.)  
25 MR. GROSSMAN: Okay. 13(b)(iv).

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1 MS. LEVENTHAL: The infant and toddlers room.  
2 MR. GROSSMAN: Again? The same room? Different  
3 angles?  
4 MS. LEVENTHAL: Different angles, yes.  
5 (Exhibit No. 13(b)(iv) was  
6 marked for identification.)  
7 MS. LEVENTHAL: Preschool room.  
8 MR. GROSSMAN: And that's, that's 13(b)(v).  
9 (Exhibit No. 13(b)(v) was  
10 marked for identification.)  
11 MR. GROSSMAN: 13(b)(vi).  
12 MS. LEVENTHAL: This is the bathroom for the  
13 children.  
14 (Exhibit No. 13(b)(vi) was  
15 marked for identification.)  
16 MR. GROSSMAN: Okay. 13(b)(vii).  
17 MS. LEVENTHAL: This is the preschool.  
18 (Exhibit No. 13(b)(vii) was  
19 marked for identification.)  
20 MR. GROSSMAN: Okay. And I think that is all the  
21 photographs, and I think you don't have any other plans that  
22 have been submitted so thank you very much. Now, the  
23 photographs, you've just identified in Exhibits 13(a) and  
24 (b), do they accurately represent the scene as it exists  
25 today?

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1 MS. LEVENTHAL: Yes.  
2 MR. GROSSMAN: Okay. All right. Let's see if  
3 there's anything else that we need to cover. Is there any  
4 other statement that you want to make about, or Mr.  
5 Leventhal, anything else you want to say about it?  
6 MS. LEVENTHAL: No. I still have to have too  
7 approval of my supervisor, the childcare administration and  
8 the marshal.  
9 MR. LEVENTHAL: Fire marshal.  
10 MS. LEVENTHAL: The fire marshal.  
11 MR. GROSSMAN: Yes. All of that, that's something  
12 that's not technically before me. This is just on the land  
13 use issue. But any other, as you can see from the  
14 conditions, any other regulations that apply, local, county,  
15 state, whatever they are, have to be followed, obviously.  
16 MS. LEVENTHAL: Sure.  
17 MR. LEVENTHAL: As you can see from her awareness  
18 of the issues, Mrs. Leventhal has always been fully licensed  
19 and in full compliance.  
20 MR. GROSSMAN: Right. And if there are any  
21 changes to the exterior, because of the historical nature of  
22 the, of the area, you have to get permission of the Historic  
23 Preservation Committee.  
24 MS. LEVENTHAL: Historic Society, yeah. Okay.  
25 MR. GROSSMAN: Okay. All right. I don't know

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1 that there's anything else that we need to cover here. I  
2 take it that you want all the exhibits to be in evidence?  
3 MS. LEVENTHAL: Uh-huh.  
4 MR. GROSSMAN: All right. Then all the exhibits,  
5 that is exhibits 1 through 22, are admitted.  
6 (Exhibits Nos. 1 through 22  
7 were received into evidence.)  
8 MR. GROSSMAN: The record, I often keep the record  
9 open usually until I get the transcript so that's a period  
10 of 10 days. And then I have 30 days in which to write my  
11 opinion and decision. That should not be an issue in this,  
12 in this case. So at that point, we will send you a full  
13 copy of it. In some cases in which the Board of Appeals  
14 makes the decision, we write a report and recommendation and  
15 then you don't get a copy of the whole thing. You get a  
16 notice that it's being issued and it's put online. Here, we  
17 put them online but we also, since it's the final decision  
18 in the case subject to appeal for the Board of Appeals, you  
19 actually get a full copy of the decision.  
20 MS. LEVENTHAL: Okay.  
21 MR. GROSSMAN: Okay. All right.  
22 MS. LEVENTHAL: Thank you.  
23 MR. GROSSMAN: All right. Is there anything else?  
24 MS. LEVENTHAL: No.  
25 MR. GROSSMAN: All right. Then I think that

1 everything's been admitted. The record will close -- today  
2 is the, Friday the 13th. Then December 23 the record will  
3 close. And if you have anything else, you should try to  
4 notify me before then if there's some other thing that comes  
5 up that you think needs to be in the record. If it has to  
6 be reopened, we can reopen it but it would be better if it's  
7 before it actually closes. I wouldn't anticipate any  
8 issues.

9 MS. LEVENTHAL: Thank you very much.

10 MR. GROSSMAN: Okay. Thank you very much, and we  
11 are adjourned.

12 MR. LEVENTHAL: Thank you, Mr. Grossman.

13 MR. GROSSMAN: Thank you.

14 (Whereupon, at 10:05 a.m., the hearing was  
15 concluded.)

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25

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 Soraia P. Leventhal  
OZAH S.E. No. 14-01

By:

Josephine Hayes, Transcriber

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<b>7336 (2)</b> 4:10,18				
<b>8</b>				
<b>8:30 (1)</b> 20:17 <b>82 (1)</b> 4:12				
<b>9</b>				
<b>9 (1)</b> 14:7 <b>9:00 (2)</b> 20:18,18 <b>9:30 (1)</b> 20:18				