

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF : Case No. S-2842
SOMESWARA RAO BEKKAM : OZAH No. 12-34
:
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A hearing in the above-entitled matter was held on April 23, 2013, commencing at 10:38 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Lynn Robeson, Hearing Examiner

A P P E A R A N C E S

ON BEHALF OF THE APPLICANT:

Someswara Rao Bekkam
(Pro se)
12508 Ofallon Street
Silver Spring, Maryland 20904

WITNESSES:

Someswara Rao Bekkam, Applicant
12508 Ofallon Street
Silver Spring, Maryland 20904

Harvey Kabran, in Opposition
12512 Ofallon Street
Silver Spring, Maryland 20904

Bernice Saunders, in Opposition
12505 Ofallon Street
Silver Spring, Maryland 20904

Cynthia Lundy
Department Housing and Community Affairs
100 Maryland Avenue
Rockville, Maryland 20850

ALSO PRESENT:

Marco Guillen - DHCA

E X H I B I T S

Marked Received

Exhibit Nos. 1-24	Previously Identified	--	33
Exhibit No. 25A	Photo of Van	19	33
Exhibit No. 25B	Photo View of Parking	20	33
Exhibit No. 25C	Photo View of Parking	20	33
Exhibit No. 25D	2/13 Photo View of Parking	21	33
Exhibit No. 25E	4/13 Photo of Car and Van in Driveway	21	33
Exhibit No. 25F	4/13 Photo of Carport	22	33
Exhibit No. 25G	4/21 Photo of Street Parking	23	33
Exhibit No. 25H	4/19 or 20 Photo of Street Parking	24	33
Exhibit No. 25I	Photo of Truck in Driveway	25	33

1 there at his place, so you can take a moment to review that
2 as well when we go off the record, all right? If it's not
3 there, ask Ellen Forbes of our office and she will get it
4 for you, all right? Okay. With that, we're going to go off
5 the record and reconvene at 11:15. Any questions?
6 MS. SAUNDERS: Yes.
7 MS. ROBESON: Yes.
8 MS. SAUNDERS: I've been here since 9:00 this
9 morning and I was on time, and if he had left early, he
10 should have been here. I left at 7:30 to make sure I got
11 here in time for the meeting, and I've been sitting here for
12 almost two hours.
13 MS. ROBESON: I understand, but we do give the
14 applicants the chance to, if there is a delay, we give the
15 applicants a chance.
16 MS. SAUNDERS: Well, his car was in the driveway
17 when I left and he was outside doing his yard.
18 MS. ROBESON: Okay. Well, when 11:15 comes, we'll
19 reconsider, okay?
20 MS. SAUNDERS: All right.
21 MS. ROBESON: All right. With that, we're going
22 to go off the record.
23 MS. SAUNDERS: Okay.
24 (Whereupon, at 10:41 a.m., a brief recess was
25 taken.)

P R O C E E D I N G S

1
2 MS. ROBESON: This is a public hearing in the
3 matter of the petition of Someswara Rao Bekkam, BOA Case No.
4 S-2842 on remand, OZAH No. 12-34, an application for a
5 special exception to allow an accessory apartment located at
6 12508 Ofallon Street, Silver Spring, Maryland in the R-90
7 Zone, also described as Lot 34, Block 3, Calverton
8 Subdivision. This hearing was advertised, a hearing notice
9 went out as being for 9:30. The applicant has called to say
10 that he is stuck in traffic so we are going to continue this
11 hearing today at 10:15 and hopefully, that will give him
12 sufficient time to be here.
13 MS. SAUNDERS: 10:15? It's 10:40 now.
14 MS. ROBESON: You have to identify yourself.
15 MS. SAUNDERS: I'm sorry. I'm Bernice Saunders.
16 It's 10:40. You said we're going to continue at 10:15.
17 MS. ROBESON: Yes. Oh, 11:15. 11:15. What would
18 I do without you? You're right. 11:15 to give him time to
19 be there. I will tell you, I don't know if you received a
20 copy of this but a, I did request technical staff of Park
21 and Planning Commission to see whether they would accept
22 shrubbery, specific kinds of shrubbery as a barrier in lieu
23 of a fence, and they e-mailed back recommending specific
24 types of shrubbery that have, they have used in lieu of
25 fences. And that e-mail is, it may be sitting right up

1 MS. ROBESON: This is a public hearing in the
2 matter of the petition of Someswara Rao Bekkam, BOA Case No.
3 S-2842 on remand, OZAH Case No. 12-34, an application for a
4 special exception to allow an accessory apartment located at
5 12508 Ofallon Street, Silver Spring, Maryland in the R-90
6 Zone. The property is also described as Lot 34, Block 3,
7 Calverton Subdivision. As you know, my name is Lynn
8 Robeson. I'm the Hearing Examiner and I'm going to take
9 evidence today on the matter remanded by the Board of
10 Appeals. It was remanded on February 6th because the Board
11 had concerns regarding activity on the side of the property
12 from tenants not using the walkway, designated walkway, and
13 they wanted to know whether a WSSC easement did exist which
14 would prevent construction of a barrier on the subject
15 property and whether the barrier could be constructed. So
16 our hearing today is going to focus only on those issues,
17 all right?
18 Will the parties, would you like to come forward,
19 Ms. Saunders, and Mr. Harvey, or is it --
20 MR. KABRAN: Kabran.
21 MS. ROBESON: Kabran. Would you like to come
22 forward and sit at the table?
23 MR. KABRAN: Sure.
24 MS. ROBESON: I assume you're going to have
25 something to say on this?

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1 MR. KABRAN: Possibly.
2 MS. ROBESON: Okay. If you could just come
3 forward and identify yourselves for the record, and does
4 DHCA wish to testify or are you just monitoring at this
5 point?
6 MS. LUNDY: I'm just monitoring. Thank you
7 MS. ROBESON: Okay. That was Ms. Cynthia Lundy
8 from the Department of Housing and Community Affairs. All
9 right. So why don't you state, everyone state your name and
10 address for the record beginning with Mr. Bekkam.
11 MR. BEKKAM: My name is Someswara Rao Bekkam. My
12 address is 12508 Ofallon Street, Silver Spring, MD 20904.
13 MS. ROBESON: And you're the applicant.
14 MR. BEKKAM: Yes. I'm the applicant.
15 MS. SAUNDERS: Bernice Saunders, 12505 Ofallon
16 Street, Silver Spring, Maryland
17 MS. ROBESON: Okay.
18 MR. KABRAN: Harvey Kabran, 12512 Ofallon Street,
19 Silver Spring.
20 MS. ROBESON: Okay. Now, what I'd like to do, if
21 you want to testify, I would like to swear you all in at
22 once so we can get through this more quickly since it was
23 delayed. Would you all please raise your right hand.
24 (Witnesses sworn.)
25 MS. ROBESON: Okay. And let the record reflect

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1 that the hearing started at 10:20 and Mr. Bekkam is present.
2 MR. KABRAN: 11:20.
3 MS. ROBESON: Eleven. You're right. 11:20. I
4 don't know. He called at 10:25 to let us know that he would
5 be a half hour late. We continued the case to 10:15 and
6 arrived at 11:20 so he is here.
7 DIRECT EXAMINATION
8 MS. ROBESON: Now, Mr. Bekkam, have you had a
9 chance, I believe you had a communication from staff
10 regarding whether a fence can be constructed in the rear
11 yard to block tenants from using that area next to Mr.
12 Kabran --
13 MR. KABRAN: Kabran.
14 MS. ROBESON: -- Kabran's property. Have you had
15 a chance to review that?
16 MR. BEKKAM: Yes, miss. So I'm going to put a
17 walkway in that place.
18 MS. ROBESON: Well, that isn't what, that isn't
19 what the Board wanted to know, and I don't think the problem
20 was the erosion of the grass. The problem was all the
21 tenant activity going on next to Mr. Kabran's property.
22 MR. BEKKAM: Before they used to go but now they
23 stopped. They don't go that side. The use the other, other
24 way. Now they use the driveway and the back steps.
25 MS. ROBESON: Okay. Well, so are you saying you

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1 do not wish to construct a fence because at one point, you
2 had told the housing inspector you were willing to construct
3 a fence.
4 MR. BEKKAM: Yeah. I'm willing to construct but
5 they said that down some pipes, water pipes are running they
6 said so due to that, I thought maybe --
7 MS. ROBESON: Who said that?
8 MR. BEKKAM: Last time Mr. Kabran only said don't
9 put down the pipes already, I'm not allowed to put a fence.
10 MS. ROBESON: Well, what, what technically, what
11 Park and Planning staff did was investigate.
12 MR. BEKKAM: Yeah. I received but that was --
13 MS. ROBESON: Assume for a moment that you could,
14 that there were no pipes there and it was just ground. Is
15 there -- because if you read the staff's report, there are
16 some alignments of the fence that you don't need to go into
17 the easement. So any, if it was the, if it was the easement
18 area you were talking about, you don't need to go into that
19 easement. Did you understand that?
20 MR. BEKKAM: Yes. Some.
21 MS. ROBESON: And are you still unwilling to
22 construct a fence?
23 MR. BEKKAM: Yeah. I'm unwilling to construct a
24 fence to the summer, during the summer.
25 MS. ROBESON: Well, you can't -- if I make it a

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1 condition, you can't rent the apartment until you have the
2 fence installed.
3 MR. BEKKAM: But instead of fence, can I make a
4 walkway, miss, or -- but now, they're not using at all that
5 side, on the, not his side.
6 MS. ROBESON: Okay. What I need -- okay. What
7 I --
8 MR. BEKKAM: When they contact construction
9 people, they said like instead of fence, you can put a
10 walkway. That's what this had just told me.
11 MS. ROBESON: Oh, well, that -- okay. You
12 possibly could for their purposes but for the Board's
13 purposes, the Board of Appeals' concern was stopping all the
14 activity adjacent to Mr. Kabran's property so you, so a,
15 they wanted information on what barrier you could construct
16 that would keep people, physically keep people from going
17 along that side of your house and going in the back to the
18 accessory apartment. So DPS may have told you you could
19 construct a walkway but that's, they weren't familiar with
20 the Board of Appeals' concern on the remand, okay? So the
21 Board wants to, wants something there that will physically
22 create a, or they wanted information on whether something
23 could be put there that physically blocks people from
24 entering the apartment by that side of the house, so the
25 Board wants to know, wanted information on what physical

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1 barriers you can erect to physically stop that from
2 happening.
3 Now, one thing I did this morning, and I think you
4 had a chance to review it. Have you had a chance to review
5 all the information sent to you by technical staff?
6 MR. BEKKAM: Yes.
7 MS. ROBESON: And in addition, I contacted, this
8 morning, technical staff to see whether you could put
9 shrubbery in place in lieu of a fence, and they suggested
10 some shrub types that have thorns and things like that to
11 deter people from, from crossing that hedge barrier. Have
12 you had the chance to read that e-mail?
13 MR. BEKKAM: Yes, miss.
14 MS. ROBESON: Okay. So even though DPS told you
15 to construct a walkway, you could construct a walkway,
16 that's not the issue. The issue is keeping people away from
17 Mr. Kabran's side of the fence and getting them to, side of
18 the property and getting them to use the designated walkway
19 which you had in your special exception, okay? So given
20 that, do you have anything to say about what you would or
21 would not like to do?
22 MR. BEKKAM: Yeah. I would like to do this. If
23 you are insisting me to put a fence, I can go ahead and put
24 a fence.
25 MS. ROBESON: Okay. And there's three alignments

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1 of the fence. Do you have any --
2 MR. BEKKAM: Yeah.
3 MS. ROBESON: -- opinion on which alignment you
4 prefer or, and I'm going to get to the neighbors in a minute
5 so. There is an alignment called fence alternative 1 which
6 would require you to get permission from the county to put
7 the fence in the easement. There is fence alternative 2
8 which blocks the rear access but does not require you to
9 build in the easement. And condition number, and
10 alternative 3, which is a fence, a straight line going from
11 the edge of your house to the rear property line which, you
12 know, curtails your backyard somewhat but also is outside
13 the easement area. So have you had a chance to look at
14 those three alternatives?
15 MR. BEKKAM: Correct. Yes. Yes, miss.
16 MS. ROBESON: Do you have a preference or --
17 MR. BEKKAM: I can go for third one.
18 MS. ROBESON: Third one? Okay. All right. Is
19 there anything else you'd like to say?
20 MR. BEKKAM: That's all, miss.
21 MS. ROBESON: That's all? Okay. Ms. Saunders or
22 Mr. Kabran, do you have anything you wish to say?
23 MR. KABRAN: So he has indicated that fence
24 alternative 3 would be his choice.
25 MS. ROBESON: Yes.

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1 MR. KABRAN: Does that curtail people from walking
2 between the houses and putting it, is there a possibility
3 for a gate in that fence so that they would walk, still walk
4 between the houses and enter through there?
5 MS. ROBESON: Well, staff has recommended not to
6 have, if you read the staff report --
7 MR. KABRAN: Yes.
8 MS. ROBESON: -- they have recommended that it
9 does not have a gate. Otherwise, you could just, you know,
10 use it to, keep using it to access. So they're recommending
11 that none of the alignments have a gate.
12 MR. KABRAN: Okay. Is he, is he agreeing to a
13 fence or a, or a border of plants, of trees, whatever?
14 MS. ROBESON: A hedge row?
15 MR. KABRAN: A hedge.
16 MS. ROBESON: Why don't you ask him. You have the
17 ability to ask him now. So let's, why don't you ask him.
18 CROSS-EXAMINATION BY MR. KABRAN
19 MR. KABRAN: Are you planning on putting a fence
20 up or a border of plants?
21 MR. BEKKAM: Maybe I put fence up.
22 MR. KABRAN: Fence.
23 MR. BEKKAM: Because sometimes trees, it will grow
24 tall and it might go to your yard and it might, leaves might
25 fall in future so in order to prevent that.

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1 MR. KABRAN: The reason I ask is because the
2 current renters in his proposed accessory apartment are
3 still using the side of the house between his house, the
4 northeast side of his house as access to their living space.
5 MS. ROBESON: Okay. So you're saying, Mr. Bekkam
6 is saying it's not a problem but you are saying you've
7 observed tenants entering by the side yard?
8 MR. KABRAN: That's correct.
9 MS. ROBESON: Okay.
10 MR. KABRAN: It's very, and it's very obvious. If
11 they see me, if they're starting to walk that way, they will
12 then turn around and walk the way they've been instructed
13 but if they don't see me, they will continue to bring in
14 groceries, whatever, into their residence which I'm not sure
15 that he's still supposed to be renting since it's not
16 approved yet but that, that they are using that path between
17 our houses.
18 MS. ROBESON: Okay. You have the -- do you have
19 any questions of Mr. Bekkam? Before we get into your direct
20 testimony, do you have any questions of Mr. Bekkam based on
21 what he said?
22 MR. KABRAN: Have you instructed your tenants to
23 not walk in that way?
24 MR. BEKKAM: In the beginning, before they install
25 walk, my friends but now I told them that after that, I

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1 never see them walking but I don't know when you have seen
2 them.
3 MR. KABRAN: Okay.
4 MR. BEKKAM: Whenever I see, they still take my
5 driveway and then go from the back steps.
6 MR. KABRAN: As of yesterday, they were still
7 using that entrance. Somebody was carrying in bottles of
8 water in a case, groceries, things like that. When the
9 children come home from school, they use that entrance.
10 They come in from that side also.
11 MR. BEKKAM: But now they stopped using so.
12 Before they used to use, the boys' bus stop is close by so
13 like after two houses, we're the third house on the corner,
14 the bus comes, so this boy has to go from -- but they never
15 used to walk in their yard. They used to go in my yard and
16 they used to go on the walkway.
17 MS. ROBESON: Right, but --
18 MR. BEKKAM: They never touch, until today, they
19 never touch their yard even one step out so.
20 MS. ROBESON: Okay, but it's not a matter of being
21 on your yard. It's a matter of the additional noise and
22 activity next to Mr. Kabran's yard because this is a special
23 exception.
24 MR. BEKKAM: Right.
25 MS. ROBESON: And one thing you have to prove in

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1 very colloquial terms is that you're not going to have any
2 more effect on the neighborhood --
3 MR. BEKKAM: Sure.
4 MS. ROBESON: -- and another residential, just a
5 minor effect on the neighborhood. You have some adverse
6 impacts but not a lot, okay?
7 MR. BEKKAM: Yeah.
8 MS. ROBESON: So that's what you have to show. So
9 it's not that they're on your property. The issue is that
10 they're creating noise and activity close to Mr. Kabran's
11 house.
12 MR. BEKKAM: Before, the boy used to walk that way
13 but after I told him, I never see him walk on that side.
14 MS. ROBESON: Well, is your carport cleared?
15 MR. BEKKAM: Yes.
16 MS. ROBESON: It's cleared.
17 MR. BEKKAM: Yes.
18 MS. ROBESON: And the stair is there.
19 MR. BEKKAM: Yes.
20 MS. ROBESON: And --
21 MR. BEKKAM: From back inside. Stairs are down.
22 MS. ROBESON: Okay.
23 MR. BEKKAM: It goes down.
24 MS. ROBESON: Do you have any other questions
25 right now of Mr. Kabran? I mean of Mr. --

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1 MR. KABRAN: Bekkam.
2 MS. ROBESON: -- Bekkam?
3 MR. KABRAN: I don't have any other questions, no,
4 at this time.
5 MS. ROBESON: And I'm going to get to your
6 testimony next.
7 MR. KABRAN: That's fine.
8 MS. ROBESON: Do you have any questions of Mr.
9 Bekkam?
10 MS. SAUNDERS: I would like to know when did he
11 observe them because I saw him looking down at them coming
12 in several times.
13 MS. ROBESON: Wait. When did he observe who?
14 MS. SAUNDERS: Observe his neighbors not using
15 that side because I have pictures of him looking at them and
16 of him parking his van down, his medical van, which is not
17 supposed to be parked down there, in front of their cars.
18 They park down by Harvey's.
19 MS. ROBESON: Okay. That's your, your testimony.
20 MS. SAUNDERS: Uh-huh.
21 MS. ROBESON: Do you have any questions based on
22 what he said?
23 CROSS-EXAMINATION BY MS. SAUNDERS
24 MS. SAUNDERS: Why would you say that they weren't
25 using that? You were well aware of it because you were

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1 getting out of your van and they were going up, back up
2 Harvey's side last week.
3 MR. BEKKAM: I don't know. I never seen that.
4 MS. SAUNDERS: You were getting out of your
5 medical van.
6 MS. ROBESON: Okay. He says he doesn't know.
7 MS. SAUNDERS: Okay.
8 MS. ROBESON: And so we have to --
9 MR. BEKKAM: But I already told them after that.
10 They're not using as far as I know.
11 MS. SAUNDERS: But you saw them.
12 MR. BEKKAM: As far as --
13 MS. ROBESON: Okay. Okay. You can't argue with
14 him.
15 MS. SAUNDERS: Okay.
16 MS. ROBESON: Okay? We'll get to your testimony.
17 Any other questions for Mr. Bekkam?
18 MS. SAUNDERS: No.
19 MS. ROBESON: Okay. Mr. Kabran, why don't you go
20 through your direct testimony about what you want to say
21 about this building the fence.
22 DIRECT EXAMINATION
23 MS. ROBESON: Is there any alignment you prefer?
24 MR. KABRAN: No. The three alignments that they
25 are, that are shown, I believe all meet the requirements of

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1 the covenants of the property.
2 MS. ROBESON: Which is the four feet high.
3 MR. KABRAN: And not to, not to extend beyond the
4 front of the residence.
5 MS. ROBESON: Okay. All right.
6 MR. KABRAN: Am I correct? I believe that's --
7 MS. ROBESON: Yes.
8 MR. KABRAN: -- how the covenant reads.
9 MS. ROBESON: Yes.
10 MR. KABRAN: Okay. So --
11 MS. ROBESON: In the backyard.
12 MR. KABRAN: Right. And it's in the backyard.
13 That's correct.
14 MS. ROBESON: And again, if the Board -- the staff
15 has recommended that there be no gate.
16 MR. KABRAN: There be no?
17 MS. ROBESON: Gate.
18 MR. KABRAN: Dates?
19 MS. ROBESON: Gate.
20 MR. KABRAN: Gates. Gates. Okay. No gates.
21 Okay.
22 MS. ROBESON: All right. Ms. Saunders, what would
23 you like to say? I see you have some photographs. Do you
24 want to put those in the record?
25 MS. SAUNDERS: Yes.

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1 MS. ROBESON: Okay. Why don't you bring them
2 forward and I will mark them.
3 MS. SAUNDERS: This one was just the other day.
4 MS. ROBESON: Okay. Just a second. Let me mark
5 them. This is going to be 25A. How, what are you -- is
6 this a picture of the van?
7 MS. SAUNDERS: The medical van that you told him
8 not park on the street. He parked it back here, and their
9 two cars are back here by Harvey's house.
10 MS. ROBESON: Okay.
11 MS. SAUNDERS: And Harvey can't even see to get
12 out of his driveway because they're parked back there. And
13 they got out of the -- he was sitting in the van, they got
14 out of the car and walked up the back.
15 MS. ROBESON: Okay. So this is 25A.
16 (Exhibit No. 25A was marked
17 for identification.)
18 MS. ROBESON: Well, wait. You're going to -- all
19 I'm doing now is marking them and I just need a description
20 of what they show. This, this is 25B.
21 MS. SAUNDERS: If they're walking up his driveway,
22 they would not be parked back here by Harvey's.
23 MS. ROBESON: Okay.
24 MR. BEKKAM: Usually, that is the place they park.
25 MS. ROBESON: Just a second, Mr. Bekkam.

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1 MR. BEKKAM: Yes, miss.
2 MS. ROBESON: I'll be right there. Now, I'm going
3 to have you show these, after I mark them. Okay. So that
4 will be view of front parking.
5 (Exhibit No. 25B was marked
6 for identification.)
7 MS. ROBESON: 25C is?
8 MS. SAUNDERS: He had -- this is before he decided
9 to --
10 MS. ROBESON: No, no. Just tell me what, just
11 describe what this is a view of.
12 MS. SAUNDERS: Okay. Of them parking back here by
13 Harvey's, and he moved the medical van up here. That's
14 where it originally was, and then he decided to move --
15 MS. ROBESON: Just, just don't, don't go anywhere
16 yet.
17 MS. SAUNDERS: Uh-huh.
18 (Exhibit No. 25C was marked
19 for identification.)
20 MS. ROBESON: Okay. Now, let me see the next one.
21 MS. SAUNDERS: Then he decided to move.
22 MS. ROBESON: No.
23 MS. SAUNDERS: Okay.
24 MS. ROBESON: Don't say he decided. Just tell
25 me --

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1 MS. SAUNDERS: This is an older one, where he used
2 to park. He might not want that.
3 MS. ROBESON: And when was this taken?
4 MS. SAUNDERS: This was taken, it was right after
5 the hearing. January, February. It was February I believe.
6 I wrote it down in my book here somewhere. And this is Mr.
7 Bekkam coming down the driveway. He was coming down the
8 driveway.
9 MS. ROBESON: Just, just a second. So 25D is the
10 February 2013 view of the front parking.
11 (Exhibit No. 25D was marked
12 for identification.)
13 MS. ROBESON: Now, let's see what this is. This
14 is, 25E will be --
15 MS. SAUNDERS: His wife's car and the white van
16 that he has, the medical van was back here.
17 MS. ROBESON: Okay.
18 MS. SAUNDERS: I couldn't get it all.
19 MS. ROBESON: So this is, when was this taken?
20 MS. SAUNDERS: This was two weeks ago.
21 MS. ROBESON: Okay. April 2013 photo of cars in
22 the, van and car in the driveway.
23 (Exhibit No. 25E was marked
24 for identification.)
25 MS. SAUNDERS: Now, see, he owns a van.

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1 MS. ROBESON: I know. I know.
2 MS. SAUNDERS: Okay.
3 MS. ROBESON: All I have to do, this is a kind of
4 a technicality. I have to mark these exhibits and give them
5 a description, and the description is just what you're
6 looking at.
7 MS. SAUNDERS: Okay. Now, this was --
8 MS. ROBESON: When was this taken?
9 MS. SAUNDERS: The same day as this one, the last
10 one.
11 MS. ROBESON: So April 2013 --
12 MS. SAUNDERS: Uh-huh.
13 MS. ROBESON: -- photo of --
14 MS. SAUNDERS: This is -- none of the debris is
15 cleaned out of there. That's why he can't move this truck
16 up here.
17 MS. ROBESON: Okay. Just a second. Of carport.
18 MS. SAUNDERS: That they said that --
19 MS. ROBESON: Just a second. Just do not get into
20 the testimony yet, please.
21 MS. SAUNDERS: Okay.
22 (Exhibit No. 25F was marked
23 for identification.)
24 MS. ROBESON: Okay. When was this taken?
25 MS. SAUNDERS: The day before yesterday. This was

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1 Sunday. Sunday.
2 MS. ROBESON: Sunday the 21st?
3 MS. SAUNDERS: 21st.
4 MS. ROBESON: So this is 25F.
5 MS. SAUNDERS: Uh-huh.
6 MS. ROBESON: 4/21/13 photo of carport. Or no.
7 Photo of street parking.
8 MS. SAUNDERS: Yes. He parked, he parked his
9 medical van here.
10 MS. ROBESON: Okay. Okay. And this is --
11 MS. SAUNDERS: This is them parking back here, but
12 the little girl --
13 MS. ROBESON: No, no, no. This is 25G.
14 MS. SAUNDERS: Uh-huh.
15 (Exhibit No. 25G was marked
16 for identification.)
17 MS. ROBESON: Can you describe, where was this
18 taken from? When was --
19 MS. SAUNDERS: From my window.
20 MS. ROBESON: First of all, when was this taken?
21 MS. SAUNDERS: I think it's Thursday or Friday.
22 MS. ROBESON: Of last week?
23 MS. SAUNDERS: Yes.
24 MS. ROBESON: So the 19th or 20th?
25 MS. SAUNDERS: Uh-huh.

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1 MS. ROBESON: 4/19 or 20 photo of street parking.
2 Okay. And the last one is H. Oh, wait. I don't know what
3 is wrong with me today. So this is F. So this is --
4 MS. SAUNDERS: G.
5 MS. ROBESON: And this is, when was this taken?
6 MS. SAUNDERS: This was taken, I can tell by the
7 car that's out here. It was taken last week.
8 MS. ROBESON: Okay. So this is --
9 MS. SAUNDERS: And he --
10 MS. ROBESON: -- 4/19 or 20/2013 photo of --
11 MS. SAUNDERS: They parked back by Harvey's again
12 and walked up the --
13 MS. ROBESON: Okay. Just, just --
14 MS. SAUNDERS: Okay.
15 MS. ROBESON: Of street parking near Mr. Kabran's
16 house. So this is 25H.
17 (Exhibit No. 25H was marked
18 for identification.)
19 MS. SAUNDERS: This one was taken after we had the
20 last hearing, the first hearing, and this is the work truck
21 that he had which he never --
22 MS. ROBESON: Okay. Photo taken shortly after
23 last hearing showing work truck.
24 MS. SAUNDERS: Uh-huh. In the driveway.
25 MS. ROBESON: Not -- okay. Showing work truck in

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1 the driveway.
2 MS. SAUNDERS: Well, right here. He's blocking
3 the driveway.
4 (Exhibit No. 25I was marked
5 for identification.)
6 MS. ROBESON: Okay. Now let me ask you something.
7 MS. SAUNDERS: Uh-huh.
8 MS. ROBESON: And this is, again, another thing, a
9 technicality but I need to ask it. Do these photos fairly
10 and accurately depict the conditions that were occurring on
11 the date on which you took them?
12 MS. SAUNDERS: Uh-huh. Yes.
13 MS. ROBESON: Now, what I would like you to do is
14 show these photos, Mr. Bekkam has the opportunity to object
15 to these coming into the record.
16 MS. SAUNDERS: Okay.
17 MS. ROBESON: So what I would like you to do, let
18 me get them in order, what I would like you to do is show
19 them to Mr. Bekkam. Okay. Show them to Mr. Bekkam so he
20 could take a look at them, okay?
21 MS. SAUNDERS: I have about 50 more at home of the
22 children.
23 MS. ROBESON: Okay. This is --
24 MS. SAUNDERS: Okay.
25 MS. ROBESON: We're not testifying yet. I'm just

1 trying to follow the legal formalities we have to file to,
 2 follow to get these in the record.
 3 MS. SAUNDERS: Okay.
 4 MS. ROBESON: While he's doing that, Ms. Lundy, do
 5 you mind coming up for a moment?
 6 MR. BEKKAM: When I cut the grass, I park my white
 7 van and car on the curb.
 8 MS. ROBESON: Okay. You can explain that but I
 9 just want -- what we're doing now is, is there anything you
 10 think is altered or inaccurate in those photos? Can you
 11 raise your right hand, please?

12 (Witness sworn.)

13 DIRECT EXAMINATION

14 MS. ROBESON: And can you just provide your name
 15 and business address for the record?
 16 MS. LUNDY: Cynthia Lundy, DHCA, Code Enforcement,
 17 100 Maryland Avenue, Room 260, Rockville, Maryland.
 18 MS. ROBESON: Okay. I just had a question. Is
 19 DHCA waiting to -- technically, he's got people in there
 20 that shouldn't be in there right now. Are you waiting to
 21 see if the special exception is approved before enforcing
 22 against Mr. Bekkam?
 23 MS. LUNDY: Yes. When you say that technically,
 24 they shouldn't be there, generally, the practice is when
 25 there's a legal accessory apartment discovered, that we go

1 through the process of having the owner legalize it. If
 2 there aren't any safety issues --
 3 MS. ROBESON: Yes.
 4 MS. LUNDY: -- life safety issues concerned, then
 5 the occupants are allowed to remain until the hearing and
 6 the disposition is satisfied.
 7 MS. ROBESON: Okay. And I'm just saying, does
 8 anyone have any questions for Ms. Lundy based on that?
 9 CROSS-EXAMINATION BY MR. KABRAN
 10 MR. KABRAN: Why -- let's see. I have a question.
 11 Let me think of how I want to state it. He's had, Mr.
 12 Bekkam has had various tenants in that space for
 13 approximately seven years, different ones coming and going.
 14 The current ones have been there for a little while now.
 15 But he didn't apply for a permit to have an auxiliary
 16 apartment until about a year-and-a-half ago. I forgot, I
 17 don't know the exact date that he applied, so prior to that,
 18 he just had people living there and I'm assuming that he was
 19 collecting some kind of a, of form of a payment for that.
 20 When, when you went in there and did the initial evaluation
 21 of the property, there were some things, there were a number
 22 of things there that had to be done in order to make the
 23 property accessible, acceptable to be an accessory
 24 apartment. There were probably a list of about 20 or so
 25 items that needed to be done. Obviously, you have not been

1 called to re-inspect the property since then but I believe
 2 some of those items may have been a safety issue,
 3 specifically blocking off the furnace area from the
 4 apartment.
 5 MS. LUNDY: No, sir.
 6 MR. KABRAN: That's not a safety issue?
 7 MS. LUNDY: No, sir.
 8 MR. KABRAN: Okay.
 9 MS. LUNDY: We're talking life safety issues.
 10 And, you know, the code specifically details and states what
 11 those items are. What you want to be mindful of is that the
 12 county is not in the habit of displacing persons because
 13 everyone has to have a place to live. What we really want
 14 is compliance of the law and that's why they are allowed to
 15 remain, you know, sans the life threatening issues until the
 16 disposition of the hearing is satisfied.
 17 MR. KABRAN: Okay.
 18 MS. LUNDY: If at some point something changes,
 19 then absolutely, the county will come in and do what the law
 20 legally allows for us to do.
 21 MR. KABRAN: And the, one of the other items that
 22 was on the condition was the number of people residing in
 23 that.
 24 MS. LUNDY: Right.
 25 MR. KABRAN: Okay. And does that need to be

1 followed or is that, is that allowed to continue?
 2 MS. LUNDY: All of the items addressed at the
 3 hearing will be identified. He has to abide by what the
 4 Hearing Examiner and the Board decides in order to get the
 5 area legalized, and so all of those things are on the
 6 itemized list that you spoke about.
 7 MR. KABRAN: Correct.
 8 MS. LUNDY: And so once again, we want to make
 9 certain that the Hearing Examiner's decision is satisfied
 10 before action is taken. We maintain the safety of the
 11 place.
 12 MR. KABRAN: Correct.
 13 MS. LUNDY: But once again, we don't want to
 14 displace persons. People have to have a place to live. And
 15 we're talking about a civil issue and that's why it's life
 16 safety.
 17 MS. ROBESON: Does that answer your question?
 18 MR. KABRAN: I, I assume so.
 19 MS. ROBESON: I just, sorry to put you on the
 20 spot.
 21 MS. LUNDY: That's okay.
 22 MS. ROBESON: I just wanted everyone to
 23 understand, you know, why what's happening there is
 24 happening, so I do appreciate your coming up to testify. If
 25 you, do you have any other questions, anyone, of Ms. Lundy?

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1 MS. SAUNDERS: I do.
2 MS. ROBESON: Yes.
3 MS. SAUNDERS: She still hasn't addressed the
4 issue of more than two, four people living there.
5 MS. ROBESON: Well --
6 CROSS-EXAMINATION BY MS. SAUNDERS
7 MS. SAUNDERS: If it's a safety issue, then, and
8 if you're saying that they shouldn't displace, a problem
9 placing them somewhere else, Social Service will place them
10 somewhere else. If they are a large family, they will place
11 them somewhere else. I've called Social Service about that.
12 MS. LUNDY: Absolutely.
13 MS. SAUNDERS: So I know. And so --
14 MS. LUNDY: You're absolutely correct, ma'am.
15 MS. SAUNDERS: It's not --
16 MS. LUNDY: Let me interject for a second, please.
17 And let me state for the record there is no overcrowding
18 within this unit, and that's what Housing and Code
19 Enforcement and the county would address. Now, you keep
20 deferring to what we addressed at the initial hearing
21 reference the amount of persons --
22 MS. SAUNDERS: Because it wasn't followed.
23 MS. LUNDY: Give me one second, ma'am.
24 MS. ROBESON: Yes. I really don't want an
25 argument.

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1 MS. SAUNDERS: Okay.
2 MS. ROBESON: You're clearly upset but the purpose
3 of this is not to beat up on each other when we disagree,
4 all right? She's giving you an answer.
5 MS. LUNDY: Right. And what the, what the county
6 would attend to is an overcrowding issue based on life
7 safety. There is no overcrowding in terms of the amount of
8 square footage for the entire area. When you defer to the
9 amount of people, you're strictly addressing what was noted
10 in the hearing the initial time based on us blocking off
11 certain areas which decreased the amount of persons that can
12 reside there. Once again, the county will address life
13 safety. There's no lack of egress in the unit, it's been
14 checked. There is no overcrowding based on the square
15 footage of what's allotted there now. Yes. There is an
16 issue or concern as the county sees it once this disposition
17 has been satisfied, the numbers decrease because we had to
18 block off certain areas.
19 MS. ROBESON: Okay. So I think what she's saying
20 is you've got a practical situation on the ground right now
21 that technically, aside from the special exception process,
22 meets the Housing Code standards. But what's going to
23 happen once this is, if this is approved, if the Board
24 decides to approve it, is that all these conditions that you
25 saw in my report or whatever conditions the Board decides

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1 to, decides to impose will come into play. So do you
2 understand that?
3 MS. SAUNDERS: No, because there's still four
4 adults living there and three children.
5 MS. ROBESON: Yes. Okay. Well, that --
6 MS. SAUNDERS: And I --
7 MS. ROBESON: I think she's explained to the
8 extent of her ability to explain.
9 MS. SAUNDERS: Okay. That's fine.
10 MS. ROBESON: So, Mr. Bekkam, do you have any
11 questions of Ms. Lundy?
12 MR. BEKKAM: Yeah. Before, all who stayed is my
13 friends and my family, not from the other --
14 MS. ROBESON: Well, you can't have friends. Are
15 you accepting rent from these people?
16 MR. BEKKAM: No, miss. No rent. So they don't
17 have a place to stay. They lost their job and they --
18 MS. ROBESON: Well, you know what, you can't have
19 that so you can't have friends staying there. You just
20 can't. And if you have family, you have to register family
21 so --
22 MR. BEKKAM: Family only there.
23 MS. ROBESON: Huh?
24 MR. BEKKAM: They're family.
25 MS. ROBESON: All right. I'm not getting into

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1 that right now because that's beyond the scope of this
2 hearing, all right? This hearing is on, all I wanted Ms.
3 Lundy to do on the record, and thank you, is to explain that
4 we're sort of, that the conditions that I recommended in my
5 report are not yet binding on the petitioner. They will be
6 if the Board adopts those conditions and approves the
7 special exception. So whether you agree or disagree, Ms.
8 Saunders, that, I'm trying to give you an explanation and
9 so, okay?
10 MS. SAUNDERS: Uh-huh.
11 MS. LUNDY: And just, just, Ms. Robeson, a second.
12 And if for some reason this disposition isn't favorable for
13 Mr. Bekkam and he's not granted the special exception, it
14 doesn't matter. You all can call Code Enforcement because
15 conditions do change. You all live there. You see what's
16 going on at the property. We have no problem in responding
17 and enforcing to the limit that the law allows. No problem.
18 So let's say that he gets granted it today and you notice
19 something changed, we will be there. That's not an issue or
20 concern. I'm certain I will hear from you all again and I
21 don't mind. As much as you want to call, call and we'll
22 handle it.
23 MS. ROBESON: Okay. Thank you.
24 MS. LUNDY: You're welcome.
25 MS. ROBESON: Okay. Mr. Bekkam, let's get back to

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1 the photographs that Ms. Saunders submitted.
2 MR. BEKKAM: Yeah, because see. This a place only
3 for me out of whole county.
4 MS. ROBESON: Okay. What I want you to do is tell
5 me at this stage, you're going to get a chance to talk about
6 whether Ms. Saunders is right or wrong, at this stage --
7 MR. BEKKAM: Because I --
8 MS. ROBESON: No. I just want you to tell me if
9 there's anything in there that you think is inaccurate or
10 altered? Don't, don't explain what she's trying to say
11 because you'll get a chance. To your knowledge, are those
12 pretty accurate photos?
13 MR. BEKKAM: Yeah. This is right in front of my
14 house.
15 MS. ROBESON: Okay.
16 MR. BEKKAM: I'm not blocking anybody.
17 MS. ROBESON: Okay. So I'm going to admit these.
18 And in fact, I don't know if I did the last time, but all
19 the exhibits in the record are admitted. I'm going to admit
20 these into the record.
21 (Exhibit Nos. 1 through 15I
22 were received into the
23 record.)
24 MS. ROBESON: Now, I'd like you to hand them back
25 to Ms. Saunders.

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1 DIRECT EXAMINATION
2 MS. ROBESON: Ms. Saunders, I want you to tell me
3 what you think the significance of each photo is.
4 MS. SAUNDERS: Okay. This --
5 MS. ROBESON: And then, Mr. Bekkam, you're going
6 to get a chance to respond, okay? Go ahead.
7 MS. SAUNDERS: This photo I took when he --
8 MS. ROBESON: What --
9 MS. SAUNDERS: Okay.
10 MS. ROBESON: You have to tell me the number --
11 MS. SAUNDERS: All right.
12 MS. ROBESON: -- on the back. 25A?
13 MS. SAUNDERS: It looks like an A. I think it is
14 an A.
15 MS. ROBESON: Did it get smudged?
16 MS. SAUNDERS: It's okay. It's an A. His medical
17 van is here. He had just came --
18 MS. ROBESON: No. I don't know what here is.
19 MS. SAUNDERS: Oh. He had just came in from --
20 MS. ROBESON: No. Describe it so the Board
21 knows -- the Board of Appeals reads the transcript so when
22 you say here, they don't know what you're talking about. So
23 where is it on the picture?
24 MS. SAUNDERS: Okay.
25 MS. ROBESON: If you could describe it.

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1 MS. SAUNDERS: There's a billboard that says
2 accessible apartment and there's, in front of 12508 Ofallon
3 Street which is Bekkam's residence. His medical van had
4 just pulled up in front of the sign. He was sitting in the
5 van.
6 MS. ROBESON: So that's the special exception
7 sign?
8 MS. SAUNDERS: Yes.
9 MS. ROBESON: Okay.
10 MS. SAUNDERS: Yes.
11 MR. BEKKAM: Because they are cleaning the
12 street --
13 MS. ROBESON: Just --
14 MR. BEKKAM: -- right in front of my house.
15 MS. ROBESON: Do not talk. Please. We're going
16 to get through this. I understand there's conflict.
17 MR. BEKKAM: Right.
18 MS. ROBESON: And I am going to give you a chance
19 to talk. Okay. So where is the medical van in relation to
20 his house? Is it in the street?
21 MS. SAUNDERS: It's in the street. It's by the
22 sign. The RAV4 Toyota, he backed up on that. Then the --
23 MS. ROBESON: What do you mean he backed up on it?
24 MS. SAUNDERS: Well, he's parked in front of that.
25 MS. ROBESON: Okay.

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1 MS. SAUNDERS: Behind the RAV4 is a BMW with
2 Virginia tags WVD779. It's white. That's parked behind
3 here almost in Harvey's driveway.
4 MS. ROBESON: Uh-huh.
5 MS. SAUNDERS: So Harvey has difficulty seeing how
6 to get out of his driveway with all of these cars parked
7 here.
8 MS. ROBESON: Okay.
9 MS. SAUNDERS: These individuals got out of their
10 cars and carried grocery up the grass which is right here.
11 MS. ROBESON: Now, which cars are the
12 individuals'?
13 MS. SAUNDERS: The R-A-V 4.
14 MS. ROBESON: The RAV4?
15 MS. SAUNDERS: And the BMW. He got out and took
16 something out of the BMW.
17 MS. ROBESON: Who did, the tenant?
18 MS. SAUNDERS: The tenant --
19 MS. ROBESON: Yes.
20 MS. SAUNDERS: -- took her out of the car and the
21 little girl that's about three or four.
22 MS. ROBESON: Yes.
23 MS. SAUNDERS: He got some bags out, they walked
24 right up that grass right there by Harvey's house.
25 MS. ROBESON: Uh-huh.

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1 MS. SAUNDERS: Mr. Bekkam was in his truck, in his
2 medical van so he can't say he did not see it. He saw it.
3 MS. ROBESON: Okay. Don't -- you'll get a chance.
4 Okay. How about 25B?
5 MS. SAUNDERS: 25B is, well, this is showing just
6 an overview of what I can see. I can see people when they
7 come down here and get in their cars. The tenants come down
8 the grass by Harvey's house and get in their cars.
9 MS. ROBESON: Are you saying they park on that
10 side of the house, in front of the house closest to the
11 path?
12 MS. SAUNDERS: Right. Right. They never park up
13 here. They never enter in this driveway. On school days,
14 the little boy comes out here, cuts across Harvey's
15 driveway, cuts across the grass, Harvey's grass, and runs
16 down to the bus stop which is at the opposite end of the
17 corner on Shanandale.
18 MS. ROBESON: Okay.
19 MS. SAUNDERS: He does this every morning. He
20 comes straight out of this back. I watch him. In fact, I
21 have some photos at home of that. He comes out of this
22 back, runs straight across Harvey's --
23 MS. ROBESON: So you're saying there's a need for
24 the fence.
25 MS. SAUNDERS: I don't know.

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1 MS. ROBESON: And that Mr. --
2 MS. SAUNDERS: It's what Harvey wants. It's his,
3 his house. If it was me --
4 MS. ROBESON: You're saying -- okay. You're
5 saying that there's a school-aged child that comes and
6 crosses Mr. Kabran's property --
7 MS. SAUNDERS: Uh-huh.
8 MS. ROBESON: -- to get to the bus stop.
9 MS. SAUNDERS: Yes. A little boy, looks like he
10 could be junior high.
11 MS. ROBESON: Okay. All right. So keep going.
12 MS. SAUNDERS: He does this every single day. And
13 this is, well, this is just a view that I had. And this is
14 Bekkam's truck, medical van. This is the wife's car and the
15 other van up in the driveway.
16 MS. ROBESON: Okay.
17 MS. SAUNDERS: Yesterday, this is C, Bekkam
18 decided to move his medical van up here. Right here --
19 MS. ROBESON: Wait. What was the one you just put
20 down?
21 MS. SAUNDERS: This is B.
22 MS. ROBESON: Okay. Go ahead.
23 MS. SAUNDERS: This is C. This is the tan color,
24 the gold car.
25 MS. ROBESON: And whose car is that?

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1 MS. SAUNDERS: One of the Hispanic men that live
2 in the basement. This is a tannish-gold car.
3 MS. ROBESON: Yes.
4 MS. SAUNDERS: With the tag number -- well, I have
5 the tag number. I just don't have --
6 MS. ROBESON: Well, that's okay.
7 MS. SAUNDERS: But this, this is --
8 MS. ROBESON: All I need is the tannish car.
9 MS. SAUNDERS: Okay. The tannish-gold car that
10 has a dent of the gas can on the left.
11 MS. ROBESON: Yes. I got you.
12 MS. SAUNDERS: And the red Ford is behind that.
13 MS. ROBESON: And these are, and you're, are you
14 saying you've observed these cars being used by the tenants?
15 MS. SAUNDERS: By the tenants.
16 MS. ROBESON: Okay.
17 MS. SAUNDERS: So it was different tenants.
18 MS. ROBESON: And what are you showing in that
19 picture?
20 MS. SAUNDERS: That they're parked down by
21 Harvey's again and they get out there and go up the back.
22 They never come up the driveway. Never, ever, ever.
23 MS. ROBESON: Okay.
24 MS. SAUNDERS: This one right here was taken when
25 it snowed and --

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1 MS. ROBESON: And you've got to tell me.
2 MS. SAUNDERS: Okay. That --
3 MS. ROBESON: Is that 25D?
4 MS. SAUNDERS: D.
5 MS. ROBESON: Okay.
6 MS. SAUNDERS: This was when it snowed. This was
7 some time past. I don't, I don't know why I took it --
8 MS. ROBESON: You said it was like February.
9 MS. SAUNDERS: -- but I took it for a reason.
10 Yeah.
11 MS. ROBESON: Okay. Just tell me what that --
12 MS. SAUNDERS: I took it for a reason but I don't
13 know what it was now.
14 MS. ROBESON: Okay.
15 MS. SAUNDERS: But Bekkam was coming down -- oh, I
16 know what it was. You had said that he, well, in the order,
17 he's not supposed to park his medical van on the street. He
18 parked it there and he's coming down his driveway to enter
19 his medical van.
20 MS. ROBESON: Now, you know that those conditions
21 aren't binding yet.
22 MS. SAUNDERS: Yeah. Uh-huh.
23 MS. ROBESON: Okay. Keep going.
24 MS. SAUNDERS: But I'm just saying that he's not
25 going through --

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1 MS. ROBESON: I understand.
2 MS. SAUNDERS: -- any lengths to do it.
3 MS. ROBESON: I understand.
4 MS. SAUNDERS: This is E. This is just showing
5 the white family van and his wife's car in the driveway.
6 MS. ROBESON: Okay.
7 MS. SAUNDERS: This one is showing the medical van
8 parked further up the street because over here --
9 MS. ROBESON: Now, this one is 25F?
10 MS. SAUNDERS: Yes. Because over here, they had
11 came, they came out of the driveway. They were going to
12 church or something. He put his medical van here, the white
13 van here, the family van here, and put the wife's car over
14 here with the two cars, the two roomers' cars over there.
15 So there's no one in the driveway. They just wanted to
16 switch cars around. This is the movement of the car.
17 MS. ROBESON: I understand.
18 MS. SAUNDERS: This one is G. I should have gone
19 outside and got a better picture but I was on the side of
20 the house showing everything that's underneath of the
21 carport, and that's why I gather they don't park under the
22 carport because there's so much junk under there. In fact,
23 he doesn't even pay the trash people to empty his trash. He
24 puts his trash in his trunk and empties, dumps it somewhere,
25 and I have a picture of that at home too.

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1 MS. ROBESON: Okay.
2 MS. SAUNDERS: This right here is a picture of the
3 other car.
4 MS. ROBESON: Which car? Just, you don't have to
5 give me a --
6 MS. SAUNDERS: This is the one with the New York
7 tags that's back here.
8 MS. ROBESON: Is that, have you --
9 MS. SAUNDERS: And the red Ford.
10 MS. ROBESON: In your observations, have you
11 observed the tenants using that car?
12 MS. SAUNDERS: Anything back here they use it.
13 MS. ROBESON: And this is 25H?
14 MS. SAUNDERS: Yes.
15 MS. ROBESON: Okay. When you say back here,
16 anything that's on the street?
17 MS. SAUNDERS: Yeah. They're on the street.
18 MS. ROBESON: In that photograph, is it just the
19 tenants' cars?
20 MS. SAUNDERS: Yes.
21 MS. ROBESON: Okay.
22 MS. SAUNDERS: Anything that's back here are their
23 cars. They park --
24 MS. ROBESON: Back here in --
25 MS. SAUNDERS: -- by Harvey's house.

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1 MS. ROBESON: -- front of the path.
2 MS. SAUNDERS: Yes.
3 MS. ROBESON: Okay.
4 MS. SAUNDERS: And this one is just a work truck.
5 He came in to drop off something and he parked right there.
6 MS. ROBESON: Okay. Who owns the work truck?
7 MS. SAUNDERS: One of the men that lives there. I
8 can, I can point them out.
9 MS. ROBESON: Is this 25I?
10 MS. SAUNDERS: Yes.
11 MS. ROBESON: Okay.
12 MS. SAUNDERS: I can point them out. I know the
13 difference. One is a little heavier with more hair --
14 MS. ROBESON: Okay.
15 MS. SAUNDERS: -- and the other one doesn't have
16 any hair and shorter.
17 MS. ROBESON: Okay. So --
18 MS. SAUNDERS: The one that's shorter drove this
19 and parked it there.
20 MS. ROBESON: So that shows a tenant parking his
21 work truck.
22 MS. SAUNDERS: Yes. And he removed some wood and
23 something else out of the truck, and he stayed in the house
24 for about an hour and then he came out and moved.
25 MS. ROBESON: Okay.

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1 MS. SAUNDERS: I know what they look like but I
2 don't know who they are.
3 MS. ROBESON: No, that --
4 MS. SAUNDERS: There's this one lady that's heavy.
5 MS. ROBESON: No -- okay.
6 MS. SAUNDERS: Okay.
7 MS. ROBESON: You don't have to describe them.
8 MS. SAUNDERS: All right.
9 MS. ROBESON: So I guess the point of this is that
10 they're still using the pathway.
11 MS. SAUNDERS: Yes. Yes. They use it every day.
12 The kid uses it. The, the bigger girl uses it. She gets a
13 ride with the Bekkams to Galway Elementary School. She's
14 the only one I see come down that but when she comes home in
15 the evening, she goes up the back.
16 MS. ROBESON: Okay. So you're saying there's
17 still a need for a barrier of some sort.
18 MS. SAUNDERS: Yes.
19 MS. ROBESON: Okay. Is there anything else you'd
20 like to say?
21 MS. SAUNDERS: No.
22 MS. ROBESON: Okay. Mr. Kabran, anything you'd
23 like to say?
24 MR. KABRAN: No. I'd just like to verify that
25 both the adults and the children are still using the area

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1 between Mr. Bekkam's house and my house and --
2 MS. ROBESON: Do they use your property?
3 MR. KABRAN: Sometimes when the children come home
4 from school, they cross over part of my property to get to
5 that path.
6 MS. ROBESON: Okay.
7 MR. KABRAN: Yes.
8 MS. ROBESON: Mr. Bekkam, do you have any -- okay.
9 This is a legal thing so it's your turn now to question Ms.
10 Saunders. You're still going to get a chance to say what
11 you want to say about those pictures but right now, it's
12 only your time to ask her questions, okay? Do you have any
13 questions for her?
14 CROSS-EXAMINATION BY MR. BEKKAM
15 MR. BEKKAM: Do the other cars every day they stay
16 there or just they come like for weekend and they go?
17 MS. SAUNDERS: No. They stay there all the time.
18 They switch up cars. He has switched up -- I can sit at my
19 window at 5:00 in the morning and see him come out of the
20 back and he'll have --
21 MS. ROBESON: Who is he?
22 MS. SAUNDERS: The man that, the shorter one that
23 lives there. He comes out that back at 5:00 in the morning.
24 Sometimes he'll have the white van.
25 MS. ROBESON: On a weekday? On a weekday?

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1 MS. SAUNDERS: Through the week. All the time
2 through the week. He come -- he has a white van sometimes.
3 Sometimes a heavier man comes out and he has the gold car.
4 MS. ROBESON: Okay. Okay. I think that answers.
5 MR. BEKKAM: Yeah. So they're brothers. They
6 live in Virginia and New York. Sometimes brothers, sisters,
7 family --
8 MS. ROBESON: Well, okay. Any --
9 MR. BEKKAM: -- that they do come and they do go.
10 MS. ROBESON: Okay. Just a second, Mr. --
11 MR. BEKKAM: So when --
12 MS. ROBESON: Just any other questions, and then
13 you get to say what you want to say about the photos and
14 what she's saying. So any other questions of her? Is there
15 something about the photos that strikes you as misleading?
16 If not, it's okay. You still get a chance to make your own
17 statement.
18 MR. BEKKAM: Yeah. I can tell in conclusion.
19 MS. ROBESON: Okay. Now, I'd like to hear what
20 you would like to say.
21 REBUTTAL EXAMINATION
22 MR. BEKKAM: Yeah. So for those which she has
23 taken, some of, sometimes relatives comes, friends comes, so
24 they're my friend and family, relatives in New York or
25 Virginia and when they come for like weekend or sometimes,

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1 once in a blue moon they come. Maybe that is the time she
2 must have taken those photos and she wanted just to say
3 every day it was there. It is not true. It's not there
4 every day. Only they come for like -- even I go to, for
5 vacation to my relative's house. I have to park my car in
6 front of their house, so I cannot say that.
7 And then so this a place only for me. I cannot
8 put my car in front of my property, like every place to the
9 whole county because there are so many people like my truck.
10 I have a truck, E-250 series. So like the trucks, many
11 people are having them and they live in that same area but
12 they do park in front of their house. That's not a big
13 truck. I use for my personal, for my work.
14 MS. ROBESON: Well, let me just --
15 MR. BEKKAM: But --
16 MS. ROBESON: Let me just say that you don't have
17 to refute because you've said what you had to say. One of
18 the things I do, based on my hearing the evidence of this
19 case, is decide what testimony is credible, I believe them,
20 and what testimony is not credible. In other words, I think
21 it may be a, you know, a elaboration on what's really going
22 on. I find Ms. Saunders' testimony that these cars are
23 there every day, I find that believable and -- no. It's not
24 your time. If this special exception is granted, I hope
25 that Ms. Lundy is not going to hear the same excuses. If

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1 this special exception is granted and there's a condition
2 that you not park that van or you not park that truck
3 somewhere, you have to follow it no matter what other people
4 do.
5 MR. BEKKAM: Yeah.
6 MS. ROBESON: Because you're asking for a special
7 approval that everybody else doesn't have, all right? So
8 when they say there's a limit to, I can't remember how many
9 people are allowed here, four, if they say there's four
10 people in that apartment, there needs to be only four people
11 in that apartment.
12 MR. BEKKAM: Right, right. Yes.
13 MS. ROBESON: Okay?
14 MR. BEKKAM: I do agree.
15 MS. ROBESON: So I'm not going to argue the point
16 about whose cousin is coming and visiting because at this
17 point, I think I've had enough testimony to form a judgment.
18 Unless there's anything else you want to say. I mean, if
19 there's something else that you think I'm missing, tell me.
20 Really. Tell me. Are you saying that these cars that are
21 showing up in Ms. Saunders' photos are relatives that are
22 visiting?
23 MR. BEKKAM: Yeah. They're visiting.
24 MS. ROBESON: How frequently do they visit?
25 MR. BEKKAM: They come once in a blue moon. Once

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1 in maybe two months, three months or so.
2 MS. ROBESON: Okay.
3 MR. BEKKAM: They never -- nobody got time to
4 visit all the time anybody.
5 MS. ROBESON: Okay.
6 MR. BEKKAM: So maybe they must be having a lot of
7 time but nobody got time. Everybody are busy. They have to
8 work and make money to make the ends meet.
9 MS. ROBESON: What about the work truck that she
10 had that showed up in the middle of the week?
11 MR. BEKKAM: Work truck?
12 MS. ROBESON: That one where you said the tenant
13 or whoever's living there or visiting -- who is living there
14 now? Who's, what is the roster of people that are living
15 there?
16 MR. BEKKAM: They're my friends are living, miss,
17 my friends.
18 MS. ROBESON: What are their names?
19 MR. BEKKAM: There are three children.
20 MS. ROBESON: Three children.
21 MR. BEKKAM: Yeah.
22 MS. ROBESON: Okay. And what are their names?
23 MR. BEKKAM: His name is Walter.
24 MS. ROBESON: What's the last name?
25 MR. BEKKAM: Moscoqqu, M-O-S-C-O-Q-Q-U.

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1 MS. ROBESON: Okay. And what's the next name?
2 MR. BEKKAM: His wife is Maria.
3 MS. ROBESON: No. Who's the other children?
4 MR. BEKKAM: Children is three children.
5 MS. ROBESON: Yes. And who are they?
6 MR. BEKKAM: Jonathan.
7 MS. ROBESON: Jonathan who? What's his last name?
8 MR. BEKKAM: Moscoqqu.
9 MS. ROBESON: And who --
10 MR. BEKKAM: Wendy.
11 MS. ROBESON: Wendy?
12 MR. BEKKAM: Uh-huh. Moscoqqu.
13 MS. ROBESON: Okay. And the third child?
14 MR. BEKKAM: Little one is -- I don't know the
15 name. They call her by nickname.
16 MS. ROBESON: And what's her nickname?
17 MR. BEKKAM: They call her Gabby.
18 MS. ROBESON: And is she also Moscoqqu?
19 MR. BEKKAM: Yeah. Right.
20 MS. ROBESON: Okay. Now, who are the adults?
21 MR. BEKKAM: Adult is only he and his wife. His
22 name is Walter.
23 MS. ROBESON: Moscoqqu.
24 MR. BEKKAM: Yeah, Moscoqqu. And his wife is
25 Maria. Joanne Maria Moscoqqu.

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1 MS. ROBESON: Okay. And what car does Walter
2 drive?
3 MR. BEKKAM: He drives a Camry.
4 MS. ROBESON: What color?
5 MR. BEKKAM: Silver. Silver color.
6 MS. ROBESON: And how about Maria?
7 MR. BEKKAM: She drives a RAV4.
8 MS. ROBESON: And who --
9 MR. BEKKAM: Blue color.
10 MS. ROBESON: Okay. And then who has the work
11 truck that was in Ms. Saunders' photo?
12 MR. BEKKAM: Work truck is -- which one is it, the
13 white one?
14 MS. ROBESON: No. The --
15 MS. SAUNDERS: Oh, that's right. The white --
16 MS. ROBESON: Is it the white one?
17 MS. SAUNDERS: They have a white work one too.
18 MS. ROBESON: Why don't you show him.
19 MS. SAUNDERS: This one here. The fat, short one
20 has that one.
21 MS. ROBESON: Ms. Saunders.
22 MS. SAUNDERS: Okay.
23 MR. BEKKAM: Oh, this one. They got the wood that
24 day.
25 MS. ROBESON: What?

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1 MR. BEKKAM: They got some firewood, and he
2 doesn't keep his vehicle here. He left it in his workplace.
3 MS. ROBESON: So he's, so you're saying Walter
4 Moscoqqu --
5 MR. BEKKAM: Walter got the wood, wood for
6 firewood so he doesn't bring this truck here.
7 MS. ROBESON: Now, who is it that you say visits?
8 What are the cars that are visiting according to you?
9 MR. BEKKAM: It's a brother. He comes from New
10 York.
11 MS. ROBESON: And what's his name?
12 MR. BEKKAM: I don't know.
13 MS. ROBESON: Your brother or their brother?
14 MR. BEKKAM: Their brother. They just come like
15 once in a blue moon they come.
16 MS. ROBESON: And what car does he drive?
17 MR. BEKKAM: Something that is Lincoln or
18 something.
19 MS. SAUNDERS: There's a Nissan. Gray Nissan.
20 MS. ROBESON: Nissan.
21 MS. SAUNDERS: Gray Nissan.
22 MS. ROBESON: Now, they weren't in your --
23 MS. SAUNDERS: No. That's not in that group.
24 MS. ROBESON: That's not in your photos. Okay.
25 MS. SAUNDERS: They just came in and left.

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1 MS. ROBESON: Who's the other visitors?
2 MR. BEKKAM: Another brother from Virginia who
3 comes once in a while.
4 MS. ROBESON: Do you know, and you don't know his
5 name?
6 MR. BEKKAM: I don't.
7 MS. ROBESON: And what car does he drive?
8 MR. BEKKAM: It's a BMW.
9 MS. ROBESON: So these are the two you're saying
10 visit as opposed to live there.
11 MR. BEKKAM: Yeah.
12 MS. ROBESON: But the RAV4 and the Silver Camry
13 live there.
14 MR. BEKKAM: Yes.
15 MS. ROBESON: Yes, ma'am.
16 MS. SAUNDERS: I have a, a roster at home.
17 MS. ROBESON: A log.
18 MS. SAUNDERS: A log.
19 MS. ROBESON: Well, I don't need that because
20 we're --
21 MS. SAUNDERS: Okay.
22 MS. ROBESON: I think all we're here is to focus
23 on this barrier and what the recommendation I should make to
24 the Board of Appeals regarding whether he can build a
25 barrier and, you know, that a barrier is still necessary.

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1 So I think, is there anything you would like to say as far
2 as the barrier, Mr. Bekkam, as far as a fence or an
3 alignment or whether you think it's necessary or anything?
4 MR. BEKKAM: Nothing else. I can build.
5 MS. ROBESON: You can build it?
6 MR. BEKKAM: Right.
7 MS. ROBESON: Okay. And you prefer alternative 3.
8 MR. BEKKAM: Right.
9 MS. ROBESON: Okay. Anything else? Mr. Bekkam?
10 MR. BEKKAM: Nothing else.
11 MS. ROBESON: Okay. With that, I am going to -- I
12 think the Board, you should check with the Board because
13 this is a, you should check with the Board as to -- well,
14 I'm going to try and issue my report and recommendation in a
15 short time frame because this is a limited remand. So I'm
16 going to try to get it out, and it will be posted on our
17 website by May 4th.
18 If -- you have 10 days to request oral argument.
19 If you don't like what I'm recommending, you have 10 days to
20 request oral argument, and the Board will schedule that oral
21 argument. If you disagree with -- if you agree or don't
22 have a problem with what I'm recommending, then the Board
23 will schedule their work session to decide the issue within
24 10 days but once I issue my report -- my point is I'm going
25 to try to issue the report quickly. Once I issue my report,

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1 we will notify you but also check our website because it
2 will be on our website, and then you have the ability to
3 take it further to the Board of Appeals or let the Board of
4 Appeals make its decision depending on, you know, how you
5 feel, all right? Yes, ma'am.
6 MS. SAUNDERS: So we look at the website under
7 your name at Montgomery Planning --
8 MS. SAUNDERS: Under OZAH, Office of, Office of
9 Zoning and Administrative Hearings. You will receive a
10 notification that I've, in the mail, that I've issued the
11 report, okay? Some people -- I'm going to try to get this
12 done very quickly. Some people don't want to wait for the
13 notification to come through the mail so they just check our
14 website to see if the recommendation is posted there. But
15 there's a website and if you want the address, you can ask
16 our, Ellen Forbes.
17 MS. SAUNDERS: Okay.
18 MS. ROBESON: But you will receive it in the mail,
19 a one-sheet piece of paper notifying the parties that the
20 report is out. After that, you need to check with the Board
21 of Appeals as to their rules. You have the right to request
22 oral argument before the Board within 10 days of my report
23 going out if you disagree with my finding, my
24 recommendation, all right?
25 MS. SAUNDERS: Uh-huh.

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1 MS. ROBESON: Yes, Mr. Kabran.
2 MR. KABRAN: Can I still make one comment under
3 the record?
4 MS. ROBESON: Yes.
5 MR. KABRAN: I'd like to confirm the comments that
6 were made concerning the vehicles that are on the street and
7 how long they've been there.
8 MS. ROBESON: Are you saying that the gray Nissan
9 with the New York plates and the BMW with the --
10 MR. KABRAN: The BMW has been there now for --
11 MS. SAUNDERS: Like three days.
12 MR. KABRAN: Almost a week.
13 MS. SAUNDERS: Yeah. Almost a week.
14 MR. KABRAN: Almost a week.
15 MS. SAUNDERS: Uh-huh.
16 MR. KABRAN: They, the vehicles that the people,
17 he indicated the vehicles of the people that reside there,
18 the Toyota Camry and the RAV4, they are there full-time.
19 MS. ROBESON: Okay. Mr. Bekkam, you have the
20 right to cross -- are you finished, Mr. --
21 MR. KABRAN: Yes.
22 MS. ROBESON: Okay. Mr. Bekkam, you have the
23 right to cross-examine Mr. Kabran.
24 MR. BEKKAM: No. No.
25 MS. ROBESON: Do you have --

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1 MR. BEKKAM: Because they are relatives so they
2 just come and they go but they won't stay. Whenever they
3 have vacation or something like that. So because we cannot
4 object to them like --
5 MS. ROBESON: Yes, you may.
6 MR. BEKKAM: -- if more family members.
7 MS. ROBESON: If there's a condition in your
8 report limiting this residence --
9 MR. BEKKAM: Okay.
10 MS. ROBESON: -- to two vehicles, then that has to
11 be two vehicles, okay? Your tenants need to understand.
12 MR. BEKKAM: Whenever my other friends or
13 relatives come see my friend, he leave his car in the
14 workplace only. He doesn't bring his car.
15 MS. ROBESON: You're going to have a limitation --
16 MR. BEKKAM: Yeah, two.
17 MS. ROBESON: -- on the number of people who can
18 be in the apartment.
19 MR. BEKKAM: Right. So only two cars will be
20 there in front of the, this thing.
21 MS. ROBESON: That's right.
22 MR. BEKKAM: Yeah.
23 MS. ROBESON: And it doesn't matter who is
24 visiting --
25 MR. BEKKAM: Right.

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1 MS. ROBESON: -- or who isn't visiting.
2 MR. BEKKAM: Right.
3 MS. SAUNDERS: The gray Nissan, she was there. I
4 have it written down. It was a lady with a black outfit --
5 MS. ROBESON: Okay. I --
6 MS. SAUNDERS: -- and a carry out bag, and she was
7 only there for about two hours.
8 MS. ROBESON: Okay.
9 MS. SAUNDERS: And she left.
10 MS. ROBESON: Okay. The scope of my remand at
11 this stage is just about the fence and whether it continues
12 to be needed, all right? So anything else about the fence?
13 All right. All right. With that, this hearing is adjourned
14 and my report will be out as soon as I can get it out, okay?
15 All right. Thank you.
16 MR. BEKKAM: Thank you.
17 MS. ROBESON: Now, we will have a copy of the
18 transcript tomorrow and that will be posted on our website
19 as well, the written record of what was said here. And that
20 will be posted on the website as well.
21 MR. KABRAN: Who do we get a copy of the address
22 of the website from?
23 MS. ROBESON: You can get it from Ellen Forbes in
24 our office.
25 MR. KABRAN: Across the, across the hall?

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1 MS. ROBESON: Yes.
2 MR. KABRAN: Thank you.
3 MS. ROBESON: Okay. With that, this hearing is
4 adjourned.
5 (Whereupon, at 12:35 p.m., the hearing was
6 concluded.)
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. Digitally signed by Josephine Hayes
ELECTRONIC CERTIFICATE

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 Someswara Rao Bekkam
Case No.: S-2842
OZAH No.: 12-34

By:

Josephine Hayes,
Transcriber

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