

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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APPLICATION OF YAINEABABA MASRESHA : CU 16-06  
FOR ACCESSORY APARTMENT :  
:  
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A hearing in the above-entitled matter was held on February 29, 2016, commencing at 9:37 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Lynn A. Robeson  
Hearing Examiner

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Yaineababa Masresha	4	--	--	--
Ivan Eloisa	7	--	--	--
Cece Kinna	29	--	--	--

E X H I B I T S

Exhibit No.		Marked/Received
26	Photo of sleeping room	Pre-marked
27	Photo of mechanical room	Pre-marked
29	Photo of rear area	Pre-marked
30	Photo of exterior steps	Pre-marked
32	Photo leading from rear den into kitchen	Pre-marked
33	Photo of water heater	Pre-marked
34	Photo of furnace	Pre-marked
35	Photo of sump pump area	Pre-marked

1 MS. MASRESHA: Yes.  
2 MS. ROBESON: Okay. If you could bring that up,  
3 I'm going to add that as Exhibit 26. Thank you. Oh, it's  
4 already in here as 24. Okay. Now, let me just tell you a  
5 little bit about the proceedings today. They're informal,  
6 but we do have some formalities. The testimony is under  
7 oath, and you can be asked questions of -- anyone here can  
8 ask you questions about your testimony. And, the same we're  
9 going to ask the housing inspector to present testimony.  
10 Are you familiar with the Staff Report from Planning  
11 Department, and I think it's Exhibit 22? It looks like  
12 this.  
13 MS. MASRESHA: Yeah, I have that copy.  
14 MS. ROBESON: Okay. So, let me do this. Can you  
15 raise your right hand, I'm going to swear you in, so you're  
16 going to promise to tell the truth.  
17 (Witness sworn.)  
18 MS. ROBESON: Ms. Masresha, have you had the  
19 chance to read through this?  
20 MS. MASRESHA: Yes.  
21 MS. ROBESON: Okay. Is it accurate to your  
22 knowledge? And, do you agree with what it says?  
23 MS. MASRESHA: Yes.  
24 MS. ROBESON: Would you like to adopt it as your  
25 own testimony or evidence in the case? Do you need a

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 Yaineababa --  
4 MS. MASRESHA: Yes.  
5 MS. ROBESON: Did I say it right?  
6 MS. MASRESHA: Yes.  
7 MS. ROBESON: Yaineababa Masresha, OZAH Case No.  
8 CU 16-06, an application for an accessory apartment at 14010  
9 Parkland Drive, Rockville, Maryland. My name is Lynn  
10 Robeson. I'm the hearing examiner, and what I'm going to do  
11 is take all the evidence and testimony, and write a decision  
12 in the case. If you disagree with my decision, you have the  
13 right to request oral argument before the Board of Appeals,  
14 within 10 days of the date on my decision. Can you please  
15 identify yourselves for the record?  
16 MS. MASRESHA: My name is Yaineababa Masresha, and  
17 I live in Rockville, Maryland, 14010 Parkland Drive.  
18 MS. ROBESON: Okay. And?  
19 MR. ELOISA: Cesar Ivan Eloisa, I'm a Housing Code  
20 Inspector with Montgomery County, Housing Code Enforcement.  
21 MS. ROBESON: Okay.  
22 MR. ELOISA: Cece Kinna, I'm also an Inspector  
23 with Housing Code Enforcement.  
24 MS. ROBESON: Okay. Do you have an Affidavit of  
25 Posting?

1 minute?  
2 MS. MASRESHA: Yes, because I read it like once, I  
3 didn't know I can use it as --  
4 MS. ROBESON: Oh, okay. All right. Take a  
5 moment. While you're doing that, I'm going to swear Mr.  
6 Eloisa in.  
7 MR. ELOISA: We're both going to testify, we were  
8 both out there.  
9 (Witnesses sworn.)  
10 MS. ROBESON: Please state your names and  
11 addresses for the record, business address.  
12 MR. ELOISA: Cesar Ivan Eloisa, 100 Maryland  
13 Avenue, Room 260, Rockville, Maryland 20850.  
14 MS. ROBESON: Okay.  
15 MS. KINNA: And, Cece Kinna, 100 Maryland Avenue,  
16 Room 260, Rockville, Maryland.  
17 MS. ROBESON: Okay. Are you still reading, Ms.  
18 Masresha?  
19 MS. MASRESHA: No, I'm done.  
20 MS. ROBESON: Take your time. No, take your time.  
21 MS. MASRESHA: I read it once, but I just over  
22 reviewing. So, yeah, I can use this as my testimony.  
23 MS. ROBESON: Okay. Now, before -- and are the  
24 pictures in the report, in the Staff Report, are they  
25 accurate? Do they accurately depict the property?

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1 MS. MASRESHA: Yes.  
2 MS. ROBESON: Okay. Now, I see, it sounds like --  
3 I'm going to go a little bit out of order -- is there  
4 anything else you would like to say before I go to the  
5 Planning Department? I mean, before I go to housing?  
6 MS. MASRESHA: Are you -- to say about the  
7 decision that they are --  
8 MS. ROBESON: No, not theirs yes. First, I want  
9 to hear from them. Do you want to say anything? Is it  
10 rented now?  
11 MS. MASRESHA: No, it's empty.  
12 MS. ROBESON: It's empty?  
13 MS. MASRESHA: Yes.  
14 MS. ROBESON: Is there parking on the street?  
15 MS. MASRESHA: Yes.  
16 MS. ROBESON: Is it permitted parking or can --  
17 MS. MASRESHA: No, it's residential parking, and  
18 there is no parking sign, with no blackout.  
19 MS. ROBESON: It's not prohibited?  
20 MS. MASRESHA: It's not prohibited, yeah.  
21 MS. ROBESON: Okay. And do you regularly have  
22 cars in front of -- do you regularly have spaces in front of  
23 your house on the street?  
24 MS. MASRESHA: Yeah, because in that area I would  
25 say 99 percent has a garage in the house, the house with the

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1 garage, so the street is free. Like maybe one or two cars  
2 available.  
3 MS. ROBESON: Okay. All right. What I'm going to  
4 do now, I'd like to hear from Mr. Eloisa and Ms. Kinna,  
5 because I see that the Housing Report, it doesn't meet some  
6 of the requirements. So, could you just, Mr. Eloisa, could  
7 you just, or Ms. Kinna, explain.  
8 MR. ELOISA: I'll do it. So we conducted the  
9 inspection on February 25th, 2016, and when we entered the  
10 basement unit that has the existing accessory apartment, we  
11 were able to observe that there is no proper egress. This  
12 is the emergency escape and rescue opening in the basement  
13 area.  
14 MS. ROBESON: Okay. It doesn't have the five foot  
15 -- what is it?  
16 MR. ELOISA: 5.7 square feet opening to get out in  
17 case of emergency.  
18 MS. ROBESON: Okay.  
19 MR. ELOISA: And that's a major issue, and the  
20 second major issue is that the area is in combustion air.  
21 That means the utility closet where the furnace and the  
22 water heater, which operate with gas, they borrow air for  
23 ventilation in that area.  
24 MS. ROBESON: Oh.  
25 MR. ELOISA: So, it's not considered as habitable

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1 space.  
2 MS. ROBESON: Oh, okay. To your knowledge, is  
3 there a way that they could arrange the interior to  
4 eliminate the -- are there pictures of the interior in here?  
5 MS. MASRESHA: Yes.  
6 MS. ROBESON: Let me just see. Basically, I'm  
7 asking you, is there a work around or is there any way?  
8 MR. ELOISA: The only way -- there's no way to  
9 rearrange the area so that one area can be used for  
10 sleeping, and another area can be combustion air. That's  
11 not an option, because the utility room is in the middle of  
12 the apartment. And it has openings. There's two rooms, and  
13 it has opening to both rooms. So it borrows air from the  
14 entire area. The only option that I can see is, if the  
15 appliances are changed over from gas to electric, or they  
16 are high efficiency.  
17 MS. ROBESON: You mean so they don't need the  
18 combustion air?  
19 MR. ELOISA: Combustion air.  
20 MS. ROBESON: Does the combustion air -- is that  
21 the source for the rest of the house too, or just?  
22 MS. MASRESHA: Yes, the entire house have central  
23 AC and then the heater, yeah, the entire house share that.  
24 MS. ROBESON: So it's all tied to that area?  
25 MS. MASRESHA: Yeah. But, my answer for him is,

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1 if the house five doors and nine windows, and the basement  
2 has three windows and two doors, one is to go outside, and  
3 one is to connect into the other room, the other basement.  
4 Because the basement was divided into two with a door.  
5 MS. ROBESON: Do you have a floor plan in here  
6 somewhere?  
7 MS. MASRESHA: Yes. I think I have it here.  
8 MS. ROBESON: Okay. Here, let me find it. Have  
9 you had a chance to speak with Mr. Eloisa about this?  
10 MS. MASRESHA: After the visit?  
11 MS. ROBESON: Yeah.  
12 MS. MASRESHA: Yes. I just complain they didn't  
13 look at the entire house. So he needs to --  
14 MS. ROBESON: Okay. Well, he has --  
15 unfortunately, he has some regulations in law that he has to  
16 comply with. I see, I'm looking at Exhibit 13 which shows  
17 your first floor, a basement, which is the rental area.  
18 MS. MASRESHA: Yes.  
19 MS. ROBESON: And then, a basement. Is there like  
20 a sub-basement?  
21 MS. MASRESHA: No. There is only one basement.  
22 We divided it, one our side, and the other one the rental  
23 side.  
24 MS. ROBESON: Okay. So, Mr. Eloisa, do you want  
25 to answer her question, why can't she use the rest of the

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1 house?  
2 MR. ELOISA: The windows and the doors? Well, we  
3 looked at the entire house. Even on her side of the house,  
4 like she said, it is correct, the basement was divided in  
5 two sections. One section is still occupied by the owner.  
6 The section where the apartment is located is currently  
7 vacant, but that's the one that she plans on renting in the  
8 future. None of the area in the basement has egress. Even  
9 on her said of the house, she has -- is it your brother?  
10 MS. MASRESHA: Yeah. But my side --  
11 MR. ELOISA: Her brother --  
12 MS. ROBESON: Do you mind coming up and when you  
13 say her side of the house, I don't know what that is on the  
14 floor plan.  
15 MR. ELOISA: I see that's not a very clear floor  
16 plan that was provided. But this is essentially one room.  
17 MS. ROBESON: Okay, I see.  
18 MR. ELOISA: So the way they did it, they  
19 separated it but --  
20 MS. ROBESON: And where is the combustion area?  
21 MR. ELOISA: It's right in the middle, right here.  
22 MS. ROBESON: Okay. So this is not separate?  
23 MR. ELOISA: No, this is together. It's just a  
24 door there.  
25 MS. ROBESON: Okay. Can you mark where the

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1 combustion area is on Exhibit 13?  
2 MR. ELOISA: There's a room around that side in  
3 the middle of the unit.  
4 MS. ROBESON: Okay.  
5 MR. ELOISA: Where the mechanical system is  
6 located.  
7 MS. ROBESON: Okay. Right in the middle, okay.  
8 All right. I'm sorry. Thank you, Mr. Eloisa. So, I  
9 interrupted you. Do you mind starting again and explaining.  
10 MR. ELOISA: Right. So the basement, there's no  
11 proper egress in the basement on either side, in the  
12 apartment or the owner's area.  
13 MS. ROBESON: There is no 5.7 foot clearing?  
14 MR. ELOISA: There's not windows. There are three  
15 windows that are really small and high. Way too high, way  
16 too small. They don't meet the requirements. And the only  
17 door to the outside is located in a foyer. There's not an  
18 area that can be used for -- it's not habitable. It's an  
19 area that's just a foyer to come in and get out. And from  
20 there you separate into the unit.  
21 MS. ROBESON: Okay. Oh, I see what you're saying.  
22 Do you mind, I hate to make you get up again, do you mind  
23 just marking where the door and the foyer is, because this  
24 just labeled.  
25 MS. MASRESHA: But -- okay, I'm sorry.

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1 MS. ROBESON: Just a second.  
2 MS. MASRESHA: I'm sorry.  
3 MR. ELOISA: The door to the exterior is -- so  
4 there's a door here.  
5 MS. ROBESON: Oh, I see, where it says entry.  
6 MR. ELOISA: And then there's a foyer right here.  
7 And there's the bathroom, and then there's a -- this is  
8 separated like that.  
9 MS. ROBESON: I see.  
10 MR. ELOISA: There's the kitchen and laundry room,  
11 and these are two areas, additional way to get out.  
12 MS. ROBESON: Oh, and where are the windows? Can  
13 you mark where the windows are?  
14 MR. ELOISA: There is a really small window right  
15 here. And that's the only one on this section. On her side  
16 there is other windows here, but this the area --  
17 MS. ROBESON: Oh, that's the only window? So  
18 she's got sleeping rooms with no windows?  
19 MR. ELOISA: Right.  
20 MS. ROBESON: And, you're saying that where it  
21 says den -- you can come up, Ms. Masresha, if you wish.  
22 When you have den/den, there's no way to put a window  
23 between -- it would connect to the basement. The windows  
24 would have to be on the north or south side, right?  
25 MS. MASRESHA: Yeah. What I'm explain to you is,

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1 there is a door -- first of all the foyer, is not a foyer.  
2 It's connecting with the living room, like the entire area.  
3 The entire area, and the foyer, you have to see. It's just  
4 a small door separating them. I mean, it's not like --  
5 MS. ROBESON: Can you mark it on here, where the  
6 door is?  
7 MR. ELOISA: So there's a door to come in. You go  
8 down the stairs and you go in.  
9 MS. MASRESHA: Yeah, but there is outside door.  
10 It's very close with the living room and the bedroom. Like  
11 you walk this way, and then you go to the bedroom.  
12 MR. ELOISA: Right, but there's a doorway.  
13 There's a doorway and it's not a door.  
14 MS. MASRESHA: Yeah, that one is we can just cut  
15 the wood. You know what I'm saying? It's just -- if you  
16 got the wood it's one --  
17 MR. ELOISA: All I know is what's there now.  
18 MS. MASRESHA: It look like a foyer, but it's one  
19 room up front.  
20 MS. ROBESON: No, hold on. Hold on. I'm not  
21 following. So, are these walls? Is this foyer that you've  
22 marked on Exhibit 13, are these like drywall walls? Are  
23 these walls? These lines that Mr. Eloisa put in here where  
24 it says egress?  
25 MS. MASRESHA: What wall?

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1 MR. ELOISA: The foyer. You have walls and a  
2 doorway.  
3 MS. MASRESHA: Yes. But, it's not -- it's just a  
4 drywall.  
5 MS. ROBESON: So, you're saying you could remove  
6 these two walls?  
7 MS. MASRESHA: Yes, because the wall is just to  
8 separate -- when you enter in and instead of just go to the  
9 living room, just to make it, you know, a little separation  
10 between the door and the living room. But if you remove  
11 that door, it's just you go outside, that's it.  
12 MS. ROBESON: Okay. What if she removes the two  
13 walls --  
14 MR. ELOISA: If she removes those two walls, then  
15 you have the egress for this section of the unit.  
16 MS. ROBESON: But not --  
17 MR. ELOISA: Not this section. Right. And, you  
18 need it from the sleeping area. That's the main concern.  
19 Sleeping area must have egress. And the sleeping area is  
20 this one.  
21 MS. ROBESON: Okay. Is this sufficient egress --  
22 say she slept in the -- I'm saying the top, I don't know  
23 where -- there's no direction on this but, the top --  
24 MR. ELOISA: That's the rear of the house, that's  
25 the front.

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1 MS. ROBESON: Oh, okay. Can you just mark, I'm  
2 not supposed to mark it. Just say front.  
3 MR. ELOISA: And this one already says --  
4 MS. ROBESON: Rear. Okay. So, if she moved the  
5 sleeping area to the rear?  
6 MR. ELOISA: You can't -- there's a regulation  
7 about you cannot come in through the bedroom to get to the  
8 rest of the house.  
9 MS. ROBESON: Oh, that's right. Yes, I remember  
10 that one.  
11 MR. ELOISA: The only exception is an efficiency  
12 unit, a multi-purpose room. But this is not what you have.  
13 You have three different sections, three different areas.  
14 MS. MASRESHA: When you come to the outside, you  
15 can go directly to the kitchen.  
16 MR. ELOISA: The kitchen is back here.  
17 MS. MASRESHA: Yeah, but when you come to the  
18 outside, the one we talk about the foyer, as you know, you  
19 go directly into the kitchen, the living room, and then the  
20 bedroom. So the bedroom has two doors, if you notice. One  
21 is connecting to the kitchen --  
22 MR. ELOISA: Are you referring to this area as the  
23 bedroom?  
24 MS. MASRESHA: Yeah, the one --  
25 MS. ROBESON: Why don't you -- can you mark, when

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1 you say bedroom, can you just write bedroom on that? Can  
2 you just mark where it is, and where the openings are?  
3 MS. MASRESHA: Yeah, it's not even bedroom, we  
4 just -- it's close to the kitchen. It can be used as dining  
5 room.  
6 MS. ROBESON: Okay, where's the door?  
7 MS. MASRESHA: The outside door is here.  
8 MS. ROBESON: No, no.  
9 MS. MASRESHA: The one connecting to the  
10 apartment, the other side?  
11 MS. ROBESON: No. I thought you said there was a  
12 door between what you're referring to that is now the  
13 bedroom, between the bedroom and the kitchen. Is there a  
14 door between the bedroom and the kitchen?  
15 MS. MASRESHA: Yes. Next to the --  
16 MS. ROBESON: Mark where it is.  
17 MS. MASRESHA: Do you --  
18 MR. ELOISA: Well, it's your house but, the door,  
19 you have a door here, and you have a door here.  
20 MS. ROBESON: I'm just going to mark it door.  
21 MR. ELOISA: Right?  
22 MS. MASRESHA: Yeah. When you come in through the  
23 -- like when you come from outside, left is the living room  
24 area.  
25 MS. ROBESON: Right.

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1 MS. MASRESHA: And then straight is kitchen.  
2 MS. ROBESON: Right.  
3 MS. MASRESHA: And then the other side is bedroom.  
4 And then there is inside door going to the kitchen and the  
5 living room.  
6 MR. ELOISA: Right.  
7 MS. ROBESON: Okay. I think Mr. Eloisa has that  
8 on here.  
9 MS. MASRESHA: Okay.  
10 MR. ELOISA: And, there's an additional door,  
11 looking at the pictures that I took out there. Right here,  
12 there's an additional door that opens this way. So there's  
13 a door -- there's three different sections.  
14 MS. ROBESON: Okay. So, what he's saying to you,  
15 we hear many of these cases. He has what they call housing  
16 regulations, and these have to meet -- these apartments have  
17 to meet -- while you have those pictures, Mr. Eloisa, can I  
18 introduce them as exhibits?  
19 MR. ELOISA: Sure.  
20 MS. ROBESON: And, do these fairly and accurately  
21 depict?  
22 MR. ELOISA: They do. You want to mark --  
23 MS. ROBESON: The premises? Yeah. First, let me  
24 just mark this one. Where are we on the exhibit list?  
25 Because it's hard to put -- okay, this will be 26.

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1 MS. ROBESON: Can you describe what 26 is?  
2 MR. ELOISA: 26 is the area that the applicant  
3 proposes to be the sleeping room. And you can see that  
4 there are no windows.  
5 MS. MASRESHA: We didn't propose it to be a  
6 bedroom. It's just close to the kitchen. People can use it  
7 as a bedroom. We didn't label it as --  
8 MS. ROBESON: Okay. It doesn't matter which of  
9 these rooms -- there's problems that I'm hearing Mr. Eloisa  
10 say, and tell me if I'm wrong -- the problem with the rear  
11 room is that you can't have access directly into this rear  
12 bedroom. The problem with the front area that you've marked  
13 as den, is that there are no windows?  
14 MR. ELOISA: There are two problems.  
15 MS. ROBESON: With the front area?  
16 MR. ELOISA: One problem is the -- with the front  
17 area. The first problem is no egress. Second problem is  
18 combustion air. Because again, you have the mechanical room  
19 in the middle.  
20 MS. ROBESON: Okay, lets get this in the record  
21 then. This is 27. Can you tell us what this is?  
22 MR. ELOISA: 27 is the mechanical room, where you  
23 can see the water heater.  
24 MS. ROBESON: So, I'm going to mark this as -- is  
25 this square in the middle the mechanical room,

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1 approximately?  
2 MR. ELOISA: Yes.  
3 MS. ROBESON: Okay.  
4 MR. ELOISA: And, what you can see here is the  
5 louvered doors, so that you have the air ventilation.  
6 MS. ROBESON: Ah, I got you.  
7 MR. ELOISA: And that leads to that area where it  
8 would be the one --  
9 MS. ROBESON: The front den? What's marked as the  
10 front den?  
11 MR. ELOISA: Right.  
12 MS. ROBESON: Okay. And then, let's go to this --  
13 this is, what is this?  
14 MR. ELOISA: That's the kitchen, which is located  
15 on this side. And when she's referring to I have windows,  
16 these are the windows that she's talking about.  
17 MS. MASRESHA: So this window is sharing between  
18 the kitchen and the potential dining or whatever room.  
19 MS. ROBESON: Show me what room you're talking  
20 about in this plan?  
21 MR. ELOISA: This is the kitchen, and this is the  
22 window that I marked earlier.  
23 MS. ROBESON: Oh, okay. Is this the window to an  
24 outside or? Is this to the outside, yes?  
25 MS. MASRESHA: Yes.

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1 MS. ROBESON: Okay. Can you tell me what 29 is?  
2 MR. ELOISA: This is the rear area, which also  
3 marked as den.  
4 MS. ROBESON: Okay. And, is this the foyer that  
5 you're --  
6 MR. ELOISA: No. The foyer is on the other side.  
7 I'm taking it from the foyer side.  
8 MS. ROBESON: I see. Okay. I see. Okay. This  
9 will be 30. Can you describe what this is?  
10 MR. ELOISA: That's the exterior steps the owner  
11 has leading to the unit, which are also not safe. She will  
12 need to secure them, and install a handrail to make it safe.  
13 MS. ROBESON: Okay. And, can you describe this?  
14 MR. ELOISA: This is the front of the house where  
15 you can see both sets of stairs. The one to the main house,  
16 and the one on the side that goes up towards the side of the  
17 house.  
18 MS. ROBESON: This is the accessory apartment  
19 steps?  
20 MR. ELOISA: Right.  
21 MS. ROBESON: I'm marking them as accessory  
22 apartment steps. Front exterior. Do you have copies of  
23 these? Can I keep?  
24 MR. ELOISA: You can keep those, I think. I can  
25 reprint them.

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1 MS. ROBESON: Thank you. Now, tell me what this  
2 is, 32? What I've marked as 32?  
3 MR. ELOISA: This is looking from the rear den  
4 into the kitchen area.  
5 MS. ROBESON: Oh, I see.  
6 MR. ELOISA: And the second den. And also to the  
7 pic that there is ventilation to this area, which is the  
8 combustion area issue.  
9 MS. ROBESON: Okay. This was from the rear den?  
10 MR. ELOISA: From rear den into the front den and  
11 kitchen.  
12 MS. ROBESON: And this is the --  
13 MR. ELOISA: A close-up of the water heater, to  
14 show that it is a gas, and it's not high efficient.  
15 MS. ROBESON: Okay, that's 33. And then the last,  
16 oh no, there's one more, 34. What's this?  
17 MR. ELOISA: That's the furnace.  
18 MS. ROBESON: And then, 35?  
19 MR. ELOISA: This is from -- this is to show,  
20 because one of the things I observe is that this work was  
21 done around 2009 or 2010. The way I was able to determine  
22 that is, looking at the wood, and I saw the signs that are  
23 posted, they are labeled, and those were manufactured in  
24 2009. And I looked at the permits, and I didn't see any  
25 permits for the work that was done --

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1 MS. ROBESON: So, it was done without a permit.  
2 MR. ELOISA: Without permits.  
3 MS. ROBESON: What is this a picture of?  
4 MR. ELOISA: This a picture of what's coming to  
5 the foyer?  
6 MS. ROBESON: Yeah.  
7 MR. ELOISA: I guess they decided to separate this  
8 area because they have the sump pump.  
9 MS. ROBESON: Which area is this?  
10 MR. ELOISA: It's the sump pump. It's close to  
11 the bathroom. This is the bathroom, and this is a tiny  
12 little room that they just closed around --  
13 MS. ROBESON: Oh, okay. I'm just going to put,  
14 enclosed sump pump area. Okay. You can go -- do you want  
15 to say anything about these?  
16 MS. MASRESHA: Yeah. I mean, it's a basement, so  
17 basement has sump pumps and, you know, all he's explaining,  
18 I mean, it's a basement.  
19 MR. ELOISA: Right. It's a mechanical room.  
20 MS. MASRESHA: So, when I apply, I applied for,  
21 just in basement. I mean, what you say the foyer, it's not  
22 just -- it's just one to separate the door. Because, in the  
23 living room you see outside. So, it's just to prevent you  
24 seeing the outside door. That's what comparable is it.  
25 Third, is where you go inside, there is plenty of air coming

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1 from the outside door.  
2 MS. ROBESON: Well, I guess my -- why don't you  
3 have a seat. I guess my question is, one of the  
4 requirements in the zoning ordinance is that you be  
5 licensed. And so, I guess the question is, do any fixes  
6 come to your mind? It's not, I mean, he can't change the --  
7 what he's saying is, there are regulations governing how  
8 these apartments have to be laid out, and they're safety  
9 regulations, and you have to have the big windows so firemen  
10 can get down there. They don't have to go through doors and  
11 things like that. So, he doesn't have a choice on waiving  
12 these requirements. Now, I guess what I'm asking either one  
13 of you is, and it's really the homeowner's job is, given  
14 these requirements, are there fixes that you can make?  
15 MS. MASRESHA: I mean, if there is any suggestion  
16 I can change, I can do it. But, the question I have is,  
17 it's existing basement. The only thing I did was just  
18 separate the other house with a door.  
19 MS. ROBESON: Right. But that doesn't make any  
20 difference cause theoretically, this has never been used as  
21 an apartment. Even if it's an existing basement, it still  
22 has to meet all the safety standards. And, to me, correct  
23 me if I'm wrong, Mr. Eloisa, but it seems to me your biggest  
24 problem at the moment is the gas furnace in the middle of  
25 the room. And, I'm trying to think of -- sometimes we can

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1 actually have people rearrange the floor plan, you know, if  
2 they need the -- if they have -- or some people even cut a  
3 window. That can be expensive, but it's been done. But,  
4 you have this furnace in the middle of the room. I guess  
5 the fix would be to what? Is there a fix?  
6 MR. ELOISA: There's -- I don't want to say  
7 always, but almost always there are fixes, right? There are  
8 things you can do. In this case, you would need, number  
9 one, egress windows in the sleeping area. And, number two  
10 --  
11 MS. ROBESON: And you would have to speak with Mr.  
12 Eloisa. They have to be a certain size, and a certain type  
13 of window, so that people can get in and out. Okay, go  
14 ahead.  
15 MS. MASRESHA: Uh-huh.  
16 MR. ELOISAA: And the combustion air issue can be  
17 resolved by either switching the appliances, the furnace and  
18 water heater to all electric, or to high efficiency  
19 appliances. High efficiency appliances -- what they do is,  
20 they don't borrow air from the area. There's no combustion  
21 air. They have two pipes that go to the outside. One is  
22 intake, one is outtake.  
23 MS. ROBESON: Oh, I didn't know that.  
24 MR. ELOISA: Right. They're more a newer  
25 technology out there. That's an option. If you switch the

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1 furnace and the water heater to high efficiency, or to all  
2 electric, that's going to take care of the combustion air  
3 issue.  
4 MS. MASRESHA: Okay, the high efficiency gas,  
5 there is also a gas?  
6 MR. ELOISA: Furnace and water heaters.  
7 MS. MASRESHA: Okay. So they have a gas high  
8 efficiency heater that is out there?  
9 MR. ELOISA: Yes.  
10 MS. MASRESHA: Okay. I'm willing to do that, but  
11 the window, it's brick, so you have to cut the brick?  
12 MR. ELOISA: Right. You have to get a permit, you  
13 have to get the support, and you have to get a window well,  
14 because underground.  
15 MS. ROBESON: Usually they dig a well. I had to  
16 put one in my basement, and they dig a well and, you know,  
17 then they have to install the window.  
18 MR. ELOISA: And, in addition that, she has to go  
19 and make sure she gets all the permits for the work that has  
20 been done, and the work to be done, the mechanical and  
21 plumbing, and building permits.  
22 MS. MASRESHA: You mean for the changes I'm going  
23 to make?  
24 MR. ELOISA: For the changes to be made, and also  
25 for what you have done. There was some wiring done to

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1 install the stove.  
2 MS. MASRESHA: Oh, the only thing done was just to  
3 cover the -- what's that, the sump pump. I can remove it. I  
4 just put some --  
5 MS. ROBESON: Well, you can't just remove it  
6 because then you have an open sump pump. What can she do?  
7 MR. ELOISA: My suggestion is, get the permits,  
8 get a permit inspector out there. You usually have to get  
9 the WSSC permit for the connection for the sink to the line  
10 in the kitchen, and the electrical permit for the stove.  
11 And the gas feeding permit for the -- because it's a gas  
12 stove.  
13 MS. MASRESHA: Yeah, everything was existed.  
14 Everything was existing. The only thing I put in was --  
15 MS. ROBESON: It doesn't matter. You still have to  
16 have it all checked by DPS, and they'll tell you.  
17 MS. MASRESHA: Okay. So --  
18 MS. ROBESON: Let me do this. I think what you  
19 -- what he's saying is that any work in the basement has to  
20 -- I don't know if you -- if the kitchen was -- they got,  
21 whoever put the kitchen in got a building permit. Anything  
22 in the basement that didn't have a building permit, they  
23 have to go reinspect. Am I incorrect on that?  
24 MS. KINNA: You're correct. Any alterations from  
25 when the house was initially built would have required a

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1 permit.  
2 MS. MASRESHA: Yeah, but there was no alteration,  
3 like safety, cabinets, I can't have that like that.  
4 Everything is existed except the cabinets.  
5 MS. ROBESON: Oh, the cabinets?  
6 MS. MASRESHA: Yeah, and then the wall just to  
7 separate the sump pump, it's a drywall to separate the sump  
8 pump. That I can provide.  
9 MS. ROBESON: Okay. Well, I think what you may  
10 want to do, and I'm just saying, as I said, it's a criteria  
11 that you meet the housing code regulations.  
12 MS. MASRESHA: Uh-huh.  
13 MS. ROBESON: And I can't approve it until Mr.  
14 Eloisa comes -- at least not with this much work. This  
15 isn't a matter of just, you know, putting a pathway in.  
16 MR. ELOISA: Right.  
17 MS. ROBESON: I could do this. I could not make a  
18 decision and give you a certain amount of time if you want  
19 to price out -- talk to Mr. Eloisa more in depth, and price  
20 out what you may want to do to get it, you know, to the  
21 point where it can get a license.  
22 MS. MASRESHA: Uh-huh.  
23 MS. ROBESON: We can keep this record open for 30,  
24 60 days, I don't know, and see if there's a mechanism, and  
25 then you and he can work together and let me know if, you

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1 know, what you've decided to do. If you can't make it, I  
2 really can't approve it unless it's in a licensable  
3 condition.  
4 MS. MASRESHA: Yeah. Is there anyway if someone  
5 from their department can come and visit, because when they  
6 come in, I didn't know they are going to visit the entire  
7 house, so the entire house was not available, because some  
8 doors are closed. The door connecting to the basement in  
9 the entire -- the windows and everything, he didn't look at  
10 the entire picture of the safety. So, is there, is it  
11 possible someone else --  
12 MS. ROBESON: Well, no. I just want you to know,  
13 it doesn't matter the rest of the house for the improvements  
14 that he's telling you, because you have to have the windows  
15 in the basement. You can't get out of them.  
16 MS. MASRESHA: Oh, for the window, yes.  
17 MS. ROBESON: The windows have to be in the  
18 basement. It doesn't matter if there's some kind -- you  
19 guys are the experts in this, but jump in if I'm saying  
20 something incorrect.  
21 MR. ELOISA: Well no, you're correct, and I just  
22 want to point out or make it clear that, the area is not  
23 safe. It's not safe, and in terms of get out in case of a  
24 fire, and it's not safe or healthy for the air that's  
25 circulating in the basement. The way it is, my

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1 recommendation would be to deny the petition.  
2 MS. KINNA: I'd also like to get something on  
3 record. This house was built in 1961, and the current owner  
4 purchased it in 2005. So between 1961 and 2005, alterations  
5 were made which there's no permits for.  
6 MS. ROBESON: No permits for anything?  
7 MS. KINNA: You are still responsible -- she's  
8 still responsible to have permits pulled to show that the  
9 work that has been done over all these years, is acceptable  
10 according to the county guidelines.  
11 MS. MASRESHA: Okay.  
12 MS. KINNA: So that's what I'm trying to be clear  
13 on. You are responsible for that.  
14 MS. MASRESHA: Yeah, but I didn't do any  
15 alteration.  
16 MS. KINNA: You may not have, but you still have  
17 to have someone come in and make sure that --  
18 MS. MASRESHA: Oh, okay.  
19 MS. KINNA: Joe Smith's work that he did 20 years  
20 ago is correct.  
21 MS. MASRESHA: Uh-huh. Okay.  
22 MS. ROBESON: So what you're saying is, because we  
23 do have these deadlines. What you're saying is there's --  
24 it may be best to deny it and then let her come back and  
25 reapply when you makes the -- if she makes the changes?

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1 MR. ELOISA: Well, that's up to the owner. Is  
2 that something that you plan on doing?  
3 MS. MASRESHA: Yeah, what happened was, I spend  
4 five months for this application, and I've been working with  
5 this Planning Department and everything, and I did what I  
6 was told. So, I didn't know someone will come a day before  
7 the hearing and determine whether it's illegal, eligible or  
8 not. So I wasn't -- I didn't give him access, full access,  
9 because I didn't know. So, what happened was, I think I  
10 don't have money for a lawyer, I cannot explain because I am  
11 not experienced, so whatever --  
12 MS. ROBESON: Well, then let me do this.  
13 MS. MASRESHA: Yes.  
14 MS. ROBESON: I will keep the record open, today  
15 is the 29th.  
16 MS. MASRESHA: Yes.  
17 MS. ROBESON: I will keep the record open for 30  
18 days, all right? That will give you time to explore what  
19 your options are. If you decide to go forward, you would  
20 have to -- see, I don't want to approve it because some of  
21 the changes are large. If you want -- at the end of 30  
22 days, and you see what you have to do, and how much it's  
23 going to cost, then you can let me know and let me know how  
24 much it's going to cost -- or how long it's going to take  
25 you to make the changes, and we can keep the record, I'm not

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1 going to keep the record open forever, I can't.  
2 MS. MASRESHA: Okay.  
3 MS. ROBESON: But, I could get another 30 days.  
4 But, if you decide oh, this is too much money, it's not  
5 worth it, then you can apply to withdraw the application.  
6 MS. MASRESHA: Okay.  
7 MS. ROBESON: So, we're going to say by March  
8 29th, you let me know whether you want to withdraw or make  
9 the changes required.  
10 MS. MASRESHA: Okay.  
11 MS. ROBESON: If you want to make the changes  
12 required, you ask for the record -- tell me in your letter  
13 how much time you need.  
14 MS. MASRESHA: Okay.  
15 MS. ROBESON: But, I'm not going to keep it open  
16 forever, because, you know, it sounds to me like you're  
17 cutting a window, and you're changing the furnace to energy  
18 efficient, and you're getting DPS out there, Permitting  
19 Services out there to check the work.  
20 MS. MASRESHA: Okay.  
21 MS. ROBESON: So, I'm not going to keep it open  
22 forever. So, don't ask for six months.  
23 MS. MASRESHA: Okay.  
24 MS. ROBESON: So, but by March 29th, you can e-  
25 mail me and Mr. Eloisa, and Ms. Kinna, you can e-mail them

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1 with a copy to me, and let them know or let all of us know  
2 whether you want to continue to try and work on the  
3 application.  
4 MS. MASRESHA: Okay.  
5 MS. ROBESON: Okay?  
6 MS. MASRESHA: Okay.  
7 MS. ROBESON: So March 29th would be your date.  
8 If I don't hear from you, then I'm going to write the  
9 decision based on the evidence I have, which is, it doesn't  
10 meet the building code.  
11 MS. MASRESHA: Okay.  
12 MS. ROBESON: Or the housing code.  
13 MS. MASRESHA: Okay.  
14 MR. ELOISA: And the area cannot be occupied once  
15 the other changes are made. It must remain vacant.  
16 MS. ROBESON: Okay, do you understand that?  
17 MS. MASRESHA: Yeah. So, yeah, I did.  
18 MS. ROBESON: Okay.  
19 MR. ELOISA: And if it gets denied, the  
20 application is denied, then you have to eliminate that unit.  
21 It has to be restored to a single family use.  
22 MS. ROBESON: You have to take out the kitchen, is  
23 that correct?  
24 MR. ELOISA: Once we get to that point, you'll get  
25 a notice for that.

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1 MS. ROBESON: The stove? Is that how you define  
2 it, okay. All right. So, March 29th you will let me know  
3 one way or the other, and please -- you should send it to  
4 me. Ellen Forbes will give you -- or you can get the e-mail  
5 addresses from them. Ellen Forbes in our office will give  
6 you mine, and you can send it to Ellen Forbes too, and let  
7 us know what you've decided to do. Okay?  
8 MS. MASRESHA: Okay.  
9 MS. ROBESON: All right.  
10 MS. MASRESHA: All right, thank you.  
11 MS. ROBESON: With that, I'm going to adjourn the  
12 hearing. Thank you everyone for your work. And, we will  
13 here by March 29th.  
14 MS. MASRESHA: Yes.  
15 (Whereupon, at 10:19 a.m., the hearing was  
16 concluded.)  
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C E R T I F I C A T E

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

Application of Yaineababa Masresha  
For Accessory Apartment  
OZAH No. CU 16-06

By:

Keena Lukacinsky, Transcriber

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