

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

APPLICATION OF:)	
)	BZA Case No. 19651
)	
HOUSE OF RUTH, INC. D/B/A KIDSPACE)	Hearing Date: February 7, 2018
For a special exception under Subtitle U)	
§ 203.1(g), to replace an existing child)	ANC 7B03
development center with a new facility and)	
increase the number of children from 76 to 88)	
and the number of staff from 21 to 25 in the R-)	
1-B and R-3 Zones at premises 2910 and 2916)	
Pennsylvania Avenue S.E. (Square 5546, Lots)	
800, 5, 6, 7, and 8).)	

STATEMENT OF THE APPLICANT

I.

Nature of Relief Requested

House of Ruth, Inc., d/b/a Kidspace (“Applicant”), the owner of the property at 2910 and 2916 Pennsylvania Avenue, S.E. (“Property”), submit this statement through undersigned counsel in support of its application for special exception relief to operate a daytime care use within the R-1-B and R-3 zones pursuant to 11-U DCMR § 203.1(g). Relief will facilitate the replacement of Applicant’s existing child development center with a new facility and allow an increase the number of staff and children served. The Applicant currently occupies two former houses on the Property, which will be demolished for the new facility. The maximum number of children would increase from 76 to 88, and the maximum number of staff would increase from 21 to 25.

II.
Jurisdiction of the Board

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the special exception relief requested pursuant to 11-U DCMR § 203.1(g), 11-X DCMR § 901.2, and 11-Y DCMR § 100.3.

III.
Background

A. Description of House of Ruth – Kidspace

House of Ruth, Inc., is a not-for-profit community-based organization offering services and shelter to abused or homeless women and their children. In 1990, House of Ruth established Kidspace, a child development center for the children of families that are homeless and living at House of Ruth or other programs in the District of Columbia. The facility serves infants from six weeks to two years old, and children of ages two to five years old.

Kidspace has been located at 2910 and 2916 Pennsylvania Avenue, S.E., since 1996 when it obtained certificates of occupancy to use the two former single family dwellings as a child development center.

B. Description of the Site and Surrounding Area

The properties at 2910 and 2916 Pennsylvania Avenue, S.E., currently consist of five contiguous lots in the Randle Highlands neighborhood of Southeast Washington, as shown on the attached drawings. Lot 13 is the westernmost, triangular-shaped lot with frontage on Pennsylvania Ave. S.E. and P St. S.E. Lots 5, 6, 7, 8 and 9 are progressively longer rectangular parcels, which front on Pennsylvania Ave. S.E., and remain contiguous with P. Street, S.E. Lot 800 is a narrow 10-foot wide lot that forms the eastern boundary of the site. The Property is split-zoned, with the western portion in the R-3 District (Lots 7, 8, 9 and 13); the remainder is zoned

R-1-B (Lots 5, 6 and 800). The Property is sloped, rising from its low point on the western end of the site to the higher elevation at the east. A steep berm in public spaces also rises upward from Pennsylvania Avenue to the Property.

The surrounding area is comprised of residential and neighborhood-serving uses. Across Pennsylvania Avenue to the south are small-scale apartment buildings and the D.C. Dream Center, a community center providing a full range of services to the city's youth, including mentoring and tutoring. The Randle Highland Firehouse (Engine Co. 19) is also across Pennsylvania Avenue, S.E. at its intersection with 29th Street, S.E. To the north across P Street, S.E., are detached and semi-detached houses. To the east are two single-family dwellings in the same square, and the Pennsylvania Avenue Baptist Church is across 30th Street, S.E. The Randle Highlands Elementary School is just south of the church across Pennsylvania Avenue, S.E.

C. Description of Proposal

The Applicant proposes to demolish the existing buildings, which are in disrepair and challenging for childcare programs, in order to construct a new facility on the Property. The new two-story plus basement building will include indoor play space, infant care rooms, and activity rooms for children of different age groups. Kitchen and staff areas will also be provided. The main entrance to the building will be at the western end of the property where the lower elevation allows access to the exposed basement (first floor) level, adjacent to an outdoor play area. The entrance foyer will feature a stroller parking area, which are in high demand in daycare facilities. A secondary entrance is provided at the north side of the building adjacent to the parking lot. Vehicular access to the Property is provided via a 12.5-wide driveway at P Street, leading to eight required parking spaces.

Since the application was filed, the Applicant has made several minor changes to the initial site plan and public space areas in response to comments from the District's Department of Transportation ("DDOT"). First, the amount of paved area in public space has been significantly reduced, limited to the 6' walkway from the entry doors and ramp down to the play area. The green areas surrounding both the walkway and the play structure have been significantly increased in an effort to create a more park-like setting. The play structure has been moved as close to the property line as possible. The Applicant is now providing the addition of a separate gate from Pennsylvania Avenue for public access when Kidspace is closed. The existing grade along Pennsylvania Ave will remain with introduction of a new 42-inch retaining wall, and the terracing that was previously shown has been eliminated. The new plan also incorporates a new evergreen 'screen' along the edge of the parking area facing P Street. Finally, the brightness of the façade has been toned down based on feedback from the Advisory Neighborhood Commission 7B.

IV.

The Applicant Meets the Standard for Special Exception Relief

A. Standard of Review

In order to grant special exception relief, the Board must find that the proposal:

- (1) will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) [will be] subject in specific cases to special conditions specified in the Zoning Regulations.

11-X DCMR § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning district, provided the specific regulatory

requirements for the relief requested are satisfied. *See National Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adj.*, 753 A.2d 984, 986 (D.C. 2000); *see also Steward v. District of Columbia Bd. of Zoning Adj.*, 305 A.2d 516, 518 (D.C. 1973) (noting that “[s]pecial exceptions, unlike variances, are expressly provided for in the Zoning Regulations”). If the specific requirements of the regulations are met, the Board is generally precluded from denying an application.

B. The Applicant Satisfies the Burden of Proof for Special Exception Relief

1. The proposed use is harmonious with the general purpose and intent of the zoning regulations and maps.

The proposed daycare facility will be in harmony with the purpose and intent of the zoning regulations and related maps. The R-1-B and R-3 Districts are residential categories "designed to provide for stable, low-to moderate-density residential areas suitable for family life and supporting uses." 11-D DCMR § 100.2. They allow for limited compatible accessory and non-residential uses. 11-D DCMR § 100.3(c).

A daytime care facility is one such compatible and supportive non-residential use. The proposed special exception will allow for the continued use of a daycare facility on the Property to support family life in the surrounding community. Kidspace is an established neighborhood-serving facility that has met the needs of area pre-schoolers for the past two decades. The addition of 12 children and four staff to the program can be accommodated in the new facility and will meet the increased demand for child care for House of Ruth families.

2. The proposed daycare facility will not tend to affect adversely the use of neighboring property in accordance with the zoning regulations and zoning maps.

The proposed daytime care facility will not adversely affect the use of neighboring properties. Kidspace has successfully operated within this community for the past 20 years

without adversely affecting neighboring properties. The proposed new facility will better serve the needs of Kidspace children by providing adequate indoor and outdoor play space that will integrate with the surrounding uses and blend in with the character of the neighborhood. The new building will provide a safer, unified facility that is both welcoming and efficient.

3. The proposed daycare facility satisfies special conditions specified in the Zoning Regulations.

Under 11-U DCMR § 203.1(g), daytime care uses are allowed as special exceptions subject to four conditions. The Applicant satisfies each of these as described below.

- a. *The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance.***

The replacement facility has been carefully sited to accommodate children arriving by all modes of transportation. The majority of families will arrive by bus or foot. Families traveling by bus will arrive at the Pennsylvania Avenue bus stop and enter from the west through the outdoor plaza to the main entrance. Families walking to the site will also use the main west entrance. The outdoor plaza area provides ample space to accommodate families arriving at the same time during warm-weather months. There is also a large gathering space just inside the main entrance, including a stroller parking area, for drop-off and pick-up during inclement weather and colder months. For the families traveling by car, vehicles will park temporarily on P Street, S.E., and parents and children will enter through the outdoor plaza to the main entrance building.

- b. *Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility.***

The Applicant provides three on-site play areas as part of its new facility (including in the public space abutting the new facility), and does not propose any off-site play areas.

Consequently, there are no off-site locations to create any dangerous pedestrian conflicts.

- c. ***The Board of Zoning Adjustment may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.***

The proposed facility has been sensitively designed to integrate with the surrounding neighborhood. The site is well-screened by ample trees and vegetation in the public space abutting the Property. In coordination with DDOT, the Applicant has refined the public space areas with landscaping and trees to create a park-like setting.

- d. ***More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.***

As an existing child development center, Kidspace is not seeking to establish a new child development center within 1,000 square feet of another facility. The Applicant is not aware of any other child/elderly development or adult day treatment facilities within 1,000 feet of the Property.

V. Coordination with DDOT

The Applicant met several times with DDOT to discuss transportation planning and public space issues for the project. The transportation report prepared for DDOT concluded that the proposed redevelopment is not expected to have an adverse impact on the community. A copy of the transportation report is filed in the record at Exhibit 34. DDOT also provided comments on the configuration and usage of public space, resulting in revisions to the plans described above. The Applicant will be presenting plans to the Public Service Committee on January 25, 2018, and will update the Board on the outcome at the Board's February 7, 2018, hearing.

VI.
Community Outreach

The Applicant met informally with several members of the community and made an introductory presentation to Advisory Neighborhood Commission ("ANC") 7B on September 21, 2017. The ANC raised several design considerations, including reducing the use of multiple bold colors. As a result, the Applicant reduced the amount and intensity of bold colors to a more muted palette. At the suggestion of the ANC, the Applicant also agreed to offer the use of indoor space for community, and to prioritize the hiring of Ward 7 contractors, companies, and residents during the construction phase. The ANC thereafter voted 4 to 0 to support this application. In its letter to the Board, the ANC conveyed its "strong support ... for the proposed Kid Space by House of Ruth given that their proposed child development center honors the historic aesthetic of our neighborhood and demonstrates their unwavering community benefit commitments to our constituents."

VII.
Witnesses

The following witness may provide testimony at the Board's public hearing on the application. Outlines of witness testimony were previously submitted to the Board and are filed in the record at Exhibit 11. Resumes of proffered experts are filed in the record at Exhibits 12 and 13.

1. Sandra Jackson, MDW, LICSW, LCSW-C, Executive Director, House of Ruth
2. Jeff Stoiber, AIA, Project Architect (expert in architecture)
3. Kami Wilwol, Stoiber & Associates
4. Jamie Milanovich, Wells & Associates, Transportation Engineer (expert in transportation engineering)

VIII.
Conclusion

For the reasons stated above, Applicant House of Ruth satisfies the special exception requirements to continue its daytime child care program in a new facility. The Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

DONOHUE & STEARNS, PLC

By: 
Mary Carolyn Brown