

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement of Faith Moravian Church of the Nation's Capital
405 Riggs Road, NE (Square 3741 Lot 0809).

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Newlen Early Childhood Educational Services (“**Newlen**”) and Faith Moravian Church of the Nation's Capital (collectively known as the “**Applicant**”). Faith Moravian Church (the “**Church**”) is the owner of the property located at 405 Riggs Road, NE (Square 3741 Lot 0809) (the “**Property**”). The Property is currently improved with a two-story building (the “**Building**”) used as a church and a childcare center. The Property is located in the R-2 zone. In 1998, the Church requested and the BZA granted a special exception in BZA Case No. 16322 (the “Original Approval”) for a portion of the Building to be used as a CDC for 59 children and 11 staff, subject to a 10-year time limit and other conditions. The space was originally used by the Church Daycare (Faith Day care and Learning Center). Newlen began using the space in 2016. They also operate another successful location on Michigan Ave. and have been operating there since 2021.

The Applicant is now seeking to reinstate the original approval, through this new BZA case, as the previous BZA order expired in 2008. Newlen has operated in this space since 2016. The Applicant is not proposing to increase capacity nor change any conditions of the original approval, only to continue the approved use listed on the most recent C of O (2007), included as Exhibit A. Accordingly, the Applicant is requesting special exception approval for the center pursuant to U-203.1(h).

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2 and U-203.1(h).

III. WITNESSES.

The Applicant anticipates that Alexandra Wilson from Sullivan & Barros will lead the presentation and that a representative from Newlen Educational Services will be available for questions.

IV. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-2 zone district with 22,308 square feet of land area. The primary use is as a Moravian Church with the entrance on Riggs Road, NE. Newlen is located along Chillum Place, NE, abutting Chillum Place to the south. Chillum Place serves as the border for the R-2 zone and abutting MU-4 Zone. Accordingly, the entrance to the daycare faces the side of a commercial property, which is separated by a street. Abutting the Property to the north are the rears of four semi-detached single-family homes which front on Madison Street, NE. Across from those homes, to the north, is Riggs Road Playground and Recreation Center. Abutting the Property to the west is Riggs Road, NE. The Property is also catty-corner to Fort Totten Square, a large mixed-use development in the abutting MU-4 zone, at 5601 3rd Street, NE. Abutting the Property to the east is a public alley. The area is primarily made up of mix of uses, including varying residential and commercial uses, as well as a large playground and recreation center.

B. About Newlen.

The Applicant is seeking to continue the approved use from the original BZA Case. Newlen has two locations, one on Michigan Avenue and one at the subject Property. It has operated its services at the Property since 2016. Newlen serves children ages 2-5 using a scientifically-based, comprehensive curricula called Creative Curriculum. It has been designated a High-Quality program by the Office of the State Superintendent of Education. Newlen's mission is to prepare children and families for their future by providing comprehensive early childhood education and family support programs in a bilingual and multicultural setting. Newlen staff consists of exceptional educators who are dedicated and committed to the teaching profession. Administrative and teaching staff have accumulated more than 100 years of teaching experience combined.

Newlen is open from 7pm to 6pm, Monday through Friday. The entrance to Newlen is located on Chillum Place, NE, separate from the Church entrance on Riggs Road, NE. There is ample street parking in front of the school and in the surrounding area, which parents utilize for safe and effective pick-up and drop-off. While most families drive, there are at least five families in the area that walk. During the summer, many bike. Drop off is between 7:00am and 9:30 am. Pick up usually ranges from 3:30 to 5:30. The pickup and drop off has operated smoothly since the daycare opened.

Staff are always able to either park on site or in the ample available street parking nearby. There are parking spaces available on site at the rear and an area on located between the alley and

Building which can accommodate staff parking as well—meeting or exceeding the parking requirement of 2 spaces.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. Overview.

Pursuant to Subtitle X-901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle U-203.1(h) of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. General Special Exception Requirements of Subtitle X § 901.2.

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

In general, the Applicant's request to reinstate the Original Approval, with 59 children and up to 11 staff members within an existing church is compatible with the originally approved use and other similarly situated centers approved by the Board. Newlen has operated peacefully and as a good neighbor since 2016 and it will continue to operate with no issues. There are parking spaces available for staff and ample space for pick-up and drop-off, and available on-street parking in front of the entrance on Chillum Place.

C. Requirements of Subtitle U-203.1(h).

A Child Development Center is considered a "Daytime Care" use per Subtitle B. Subtitle U-203.1(h) permits Daytime Care use in the R-2 Zone District via special exception, subject to certain requirements. The Application meets the requirements of U-203.1(h) as follows:

(1)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 facility has been operating without objectionable traffic conditions and has created no unsafe condition for picking up and dropping off persons in attendance. The entrance to Newlen is located on Chillum Place, NE, separate from the Church entrance on Riggs Road, NE. There is ample street parking in front of the school and in the surrounding area, which parents utilize for safe and effective pick-up and drop off. The entrance is located close to the sidewalk and the average drop-off takes approximately 5 minutes. While most families drive, there are at least five families in the area that walk. During the summer, many bike. Drop off is between 7:00am and 9:30 am. Pick up usually ranges from 3:30 to 5:30. Given that there is a range of times for pickup and drop off, the number of children is limited to 59, some families walk, and some bike, and there is ample available street parking, the pickup and drop off has operated smoothly since the daycare opened.

(2)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 has a playground on the Property and therefore staff do not walk the children to off-site play areas.

(3)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; and

The Applicant will comply with any requirements.

(4) 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;

Based on a review of the area using publicly available information and the GIS Map, there is not another child development center within 1,000 square feet of the Property.

V. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
Date: December 12, 2024