

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

McKendree-Simmi-Brookland United Methodist Church
2420 Rhode Island Ave, NE (Square 4290, Lot 0803)

Statement of Compliance of Burden of Proof

Background and Relief Request

This Statement is submitted on behalf of McKendree-Simmi-Brookland United Methodist Church (the “Applicant”) owner of the property located at 2420 Rhode Island Ave, NE (square 4290, Lot 0803) (the “Property”). The property currently consists of 5 classrooms with 3 bathrooms and has always been used as a child development center. The property is in a R-1-B zone. The applicant will not make any new changes to the building, other than the change of ownership which will be named Children of The Future and owned and operated by Robert Teachey. The center will conform to all development standards in this zone. However, the childcare center requires special exception approval. Accordingly, the applicant is requesting special exception approval for the center.

Mr. Teachey now seeks a Use Variance from this Board to this as a Child Development Center. Mr. Teachey is not changing the use but just changing the ownership. The relief requested allows Mr. Teachey to avoid more practical difficulties and exceptions and undue hardship.

I. Jurisdiction

The Board has jurisdiction to grant the use variance requested pursuant to subtitle X 901.2 and U 203.1

II. The Application Meets the Requirements for Use Variance Relief

- a. Pursuant to Subtitle X 901.2 and U 203.1 of the District of Columbia Zoning Regulations, this Board is authorized to grant the requested relief where the strict application adopted under D.C. Official Code would result in peculiar and exceptional practical difficulties to or exception and undue hardship upon the owner of the property. A variance departs from the strict application to relieve those difficulties or hardship.

Specifically Subtitle X 901.2 (b) states, “applicant for a use variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X 901.2, strict application of the property.” The District of Columbia Courts have regularly assessed this standard under a three-prong test requiring the to show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced (undue hardship); and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan

Mr. Teachey meets the requirements for relief and should be granted a use variance.

b. The Current State of the Property Presents an Exceptional Condition.

For over 30 years 2420 Rhode Island Ave has always been a childcare center. But as it stands today the center is vacant. The property is currently vacant, but it is set up and ready to open. I have already moved in and set up every classroom. The use variance presents the opportunity for me to continue to serve my community with employment and educating children.

Allowing the property to remain in its current state presents difficulties and exceptional conditions that greatly impact Mr. Teachey as a business owner. First, denying such relief keeps the property in a status of non-compliance. If Mr. Teachey gets this opportunity to open, he can continue to employ more people and will comply with all orders. Moreover, the difficulty presented was not created as a result of any action taken by Mr. Teachey.

Denial of the variance presents an Undue Hardship on Mr. Teachey

Mr. Teachey had moved into the building fixing it up and not knowing that this commercial-looking building was zone R-1-B and needed a special exception to open. All 20 of his students, future students he had on a waiting list and teachers are gone. Mr. Teachey has put a lot of time into this building.

It goes without saying that this has drastically affected him financially and now he's unemployed along with those teachers who are now unemployed too.

The approval of this application for special exceptions as a child day care center would be consistent with the general intent and purpose of the zoning regulations and map which is to promote public health, safety, morals, convenience, order, prosperity, and general welfare.

Regulations state:

Adopt for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare to: (a) Provide adequate light and air; (b) prevent undue concentration of population and the overcrowding of land; (c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection, civic activity, and recreational, education, and cultural opportunities; and that will tend to further economic and efficiency in the supply of public services.

The proposed use of the property would not result in any addition to the building, thus the granting of the special exception would not result in any changes to the adequate provision of light and air in the property.

The granting of the special exception would not be inconsistent with preventing undue concentration of population and overcrowding of land. The center would not provide inhabitation for students and teachers, thereby would not be adding new residents to the neighborhood. There would be no addition to the property and since no changes would be made to the design, size, and occupancy of the property, there would be no overcrowding of land.

The Child Development Center's mission is to stay fully committed to offering affordable, safe, wholesome, and convenient childcare in a developmentally appropriate environment for toddlers, preschool age children in a licensed childcare center. The parents would not have to drive long distances to drop off their children at the center and can feel confident that their children are receiving high quality, educationally enriched instruction which will prepare them for the rigor of primary school.

The center proposes to help fill the shortage of high quality, educationally focused programs for the children living in the neighborhood. The Center's mission is to give each child a warm environment that encourages the development of social skills, independence, and services to the neighborhood. For over thirty years, the property has been used and was originally built for use as a child development center. The proposed use will maintain the current appearance of the building, thus conforming to the height, density and area requirements established for the area.

III. Will allow the use adversely to affect the use of the neighborhood properly: traffic, noise, lighting, etc.

There will be no additional lighting attached to the outside of the building or installed in the compound because the light fixtures existing are sufficient for the intended and/or proposed use for the property. Generally, child development centers do not generate noise, lighting, or other adverse effects on the neighborhood property. The center will be operated to

minimize any negative impact in terms of noise, lighting, etc. on neighborhood property.

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 serve up to 70 children with up to 12 staff members with operating hours from 7am to 6pm. Serving 1 year to 5-year-old in a residential neighborhood is compatible with other similarly situated centers approved by the Board. The Applicant understands that every application is judged on its merits, and it has provided this information merely to provide a general indication of the size and type of center that the Board has considered compatible with residential zone districts. The proposed number of children is consistent with what is permitted via building code and the Applicant would not have

70 students enrolled at first. The Applicant will work with neighbors, the ANC, and the Office of Planning regarding any proposed conditions to mitigate potential impacts on the use of neighboring properties. Further, the existing Building was most recently used as a childcare center and is not set up as a single-family home; therefore, the proposed use will not be removing any available housing stock.

C. Requirements of Subtitle X § 1002.1

The standard for granting a variance, as stated in Subtitle X § 1000.1 differs with respect to use and area variances as follows:

(b) An applicant for a use variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

PARKING

The center is close to the metro so there is no need for a parking lot .It is anticipated that most if not all children served will arrive on foot, as the school is intended to serve the local community. Drop off and pick up would be staggered depending on parental needs and the Applicant will work with a traffic consultant to develop a plan. Accordingly, the facility is located and designed to create no objectionable traffic conditions and no unsafe conditions for picking up and dropping off children in attendance.

(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 owns a large playground directly across the street on Lawrence Street. Children will be escorted to the crosswalk and across Lawrence Street to the playground. There are sidewalks on both sides which make it safe for children to travel to and from. Children. Outdoor activities will be done using the same adult: child ratios used inside the school.

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.

Robert Teachey