

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

Application of House of Ruth d/b/a Kidspace
2910 and 2916 Pennsylvania Avenue, S.E.
(Square 5546, Lots 5-9, 13 and 800)

**APPLICANT’S PRELIMINARY STATEMENT OF
COMPLIANCE WITH BURDEN OF PROOF**

I. Introduction

House of Ruth, Inc., d/b/a Kidspace (“**Applicant**”), the owner of the property at 2910 and 2916 Pennsylvania Avenue, S.E. (“**Property**”), seeks special exception relief to replace its existing child development center with a new facility and 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. Nature of Relief Requested

Pursuant to 11-U DCMR § 203.1(g), the Applicant seeks special exception relief to operate a daytime care use within the R-1-B and R-3 zones.

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. *See* BZA Order No. 16132 (June 30, 1997), a copy of which is attached to this application. Copies of current certificates of occupancy are also attached.

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 replace 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.

IV. Jurisdiction of the Board

The Board of Zoning Adjustment 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.

V. The Applicant Meets the Burden of Proof for the Requested Special Exceptions.

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 Section 203.1(g), daycare 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 few 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 will provide three on-site play areas as part of its 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.

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.

VI. Public 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. Thereafter, the Applicant met individually with the new commissioner for ANC 7B03.

Adjacent neighbors were also invited to the meeting but only one neighbor attended. The Applicant will return to the ANC for a formal presentation within the next two months.

VII. Conclusion

Based on the foregoing, Applicant House of Ruth satisfies the special exception requirements to continue its daytime child care program in a new facility. The Applicant will supplement this statement no less than 21 days in advance of any hearing scheduled on the application.