

INTRODUCED: March 9, 2020

AN ORDINANCE No. 2020-089

To amend Ord. No. 2014-222-204, adopted Nov. 10, 2014, as previously amended by Ord. No. 2018-328, adopted Jan. 14, 2019, which authorized the special use of the property known as 2319 Grove Avenue for the purpose of authorizing an expansion to an existing day nursery, to modify the fencing requirements for the roof-top play area, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: APR 13 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2014-222-204, adopted November 10, 2014, as previously amended by Ordinance No. 2018-328, adopted January 14, 2019, be and is hereby amended and reordained as follows:

WHEREAS, the owner of the property known as 2319 Grove Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of expanding an existing day nursery, which, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2015), as amended; and

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    MAY 11 2020    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond [~~(2018)~~] 2019, as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2015), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other

dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 2319 Grove Avenue and identified as Tax Parcel W000-1039/004 in the [~~2018~~] 2020 records of the City Assessor, being more particularly shown on a survey entitled “Survey and Plat of the Property Known as #2319 Grove Avenue in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated November 14, 2018, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of expanding an existing day nursery, hereinafter referred to as “the Special Use,” substantially as shown on (i) the plans entitled “Ms. Bab’s Day Care, 2319 Grove Avenue – Richmond, VA,” prepared by Henry Tenser, Architect, and dated August 18, 2014, copies of which are attached to and made a part of Ordinance No. 2014-222-204, adopted November 10, 2014, (ii) the plans entitled “Addition – Ms. Babs’ Daycare, 2319 Grove Avenue, Richmond, VA,” prepared by Henry Tenser, Architect, dated July 9, 2018, and last revised September 13, 2018, and (iii) the plans entitled “Site Plan,” prepared by Joe Cafarella, and dated September 28, 2018, as modified by sheets SK101, SK102, and SK103 of the plans entitled “Ms Babs Nursery School, 2319 Grove Avenue, Richmond, Virginia, and dated December 17, 2019, hereinafter referred to as “the Plans,” copies of which are attached to and made a part of this amendatory ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the

fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as “the Owner.” The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as a day nursery for up to 90 children, substantially as shown on the Plans.

(b) No parking shall be required for the day nursery use.

(c) The ground level play areas shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, substantially as shown on the survey referred to in section 2(a).

(d) The proposed roof-top play area shall have a [~~non-opaque, four-foot high~~] fence, substantially as shown on the Plans.

(e) The hours of operation for the day nursery shall be limited to the hours between 7:30 a.m. and 7:00 p.m., Monday through Friday.

(f) The number of children using the outdoor play areas at one time shall meet the requirements of the Virginia Department of Social Services or its successor entity.

(g) The day nursery shall be licensed by and operated under the requirements of the Virginia Department of Social Services or its successor entity.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2015), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this amendatory ordinance becomes effective. If

either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, this amendatory ordinance shall terminate and become null and void, and Ordinance No. 2014-222-204, adopted November 10, 2014, shall govern the special use permit for the Property thereafter.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

II. This amendatory ordinance shall be in force and effect upon adoption.

# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.richmondgov.com

## Item Request

File Number: PRE.2020-016

**O & R REQUEST**

**RECEIVED**

FEB 27 2020

2020-021  
FEB 12 2020

OFFICE OF THE CITY ATTORNEY

Office of the  
Chief Administrative Officer

### O & R Request

**DATE:** February 10, 2020

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (Mayor, by Request)  
(This is no way reflects a recommendation on behalf of the Mayor.)

*JS 2/21/2020*

**THROUGH:** Lenora G. Reid, Acting Chief Administrative Officer *LR*

**THROUGH:** Sharon L. Ebert, Deputy Chief Administrative Officer for Economic  
Development and Planning *SE*

**FROM:** Mark A. Olinger, Director, Department of Planning and Development Review *MO*

**RE:** To amend and reordain Ord. No. 2018-328, adopted January 14, 2019, which authorized the special use of the property known as 2319 Grove Avenue for the purpose of authorizing an expansion to an existing day nursery, to authorize modification of requirements for fencing of the roof-top play area, upon certain terms and conditions.

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** To amend and reordain Ord. No. 2018-328, adopted January 14, 2019, which authorized the special use of the property known as 2319 Grove Avenue for the purpose of authorizing an expansion to an existing day nursery, to authorize modification of requirements for fencing of the roof-top play area, upon certain terms and conditions.

**REASON:** The applicant is requesting to amend an existing Special Use Permit which allowed for the expansion of an existing day nursery in order to change a feature requirement of the approved plans. The existing Special Use Permit was approved in 2019 for the purposes of expanding the nursery and to include a non-opaque railing on the roof of the approved addition. The current application to amend the existing Special Use Permit would allow for an opaque railing.



**RECOMMENDATION:** In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Commission at its April 6, 2020, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The property is located in the Fan neighborhood of the Near West Planning District on Grove Avenue between North Stafford Avenue and Strawberry Street. The property is currently improved by Ms. Babs' Nursery School, which is authorized by Special Use Permit Ordinance 2018-328. The applicant has already completed a two-story, 1,750 square foot addition that included a pre-kindergarten room, an infant nap room, and an infant playroom and a total number of employees of 11 and has increased the facility to 876 square feet of classroom space and accommodating an additional 10 students for a total occupancy of 85 students per day as well as an additional two teachers. The current application to amend the existing Special Use Permit would legitimize an opaque railing that currently exists on an outdoor, roof-top classroom.

The City of Richmond's current Master Plan designates a future land use category for the subject property as Single Family Residential at Medium densities. Primary uses for this category "...are single family and two family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. Typical zoning classifications that may accommodate this land use category: R-5A, R-6 and R-7. (City of Richmond Master Plan, 133)

The current zoning for this property is R-6 (Single Family Attached Residential). All adjacent properties are located within the same R-6 Residential Zone. A mix of residential densities, with some commercial uses, are present in the area.

**FISCAL IMPACT / COST:** The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

**FISCAL IMPLICATIONS:** Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** March 9, 2020

**CITY COUNCIL PUBLIC HEARING DATE:** April 13, 2020

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, April 6, 2020

**AFFECTED AGENCIES:** Office of Chief Administrative Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amend of Ordinance No. 2018-328

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, Map

**STAFF:** Jonathan Brown, Senior Planner  
Land Use Administration (Room 511) 646-5734



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
900 E. Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
<http://www.richmondgov.com/>

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

**Project Name/Location**

Property Address: 2319 Grove Ave Richmond, VA 23220 Date: 12.18.19  
Tax Map #: \_\_\_\_\_ Fee: \$200  
Total area of affected site in acres: \_\_\_\_\_

(See **page 6** for fee schedule, please make check payable to the "City of Richmond")

**Zoning**

Current Zoning: R-6

Existing Use: Day Nursery

**Proposed Use**

(Please include a detailed description of the proposed use in the required applicant's report)  
To Change current plan of non-opaque railings (4 foot) to solid HardiPlank w/lattice on rooftop playground

Existing Use: Day Nursery

Is this property subject to any previous land use cases?

Yes  No  If Yes, please list the Ordinance Number: SUP-038625-2018 2014-222-204

**Applicant/Contact Person:** Joe Cafarella  
Company: Ms. Babs' Nursery LLC  
Mailing Address: 2319 Grove Ave  
City: Richmond State: VA Zip Code: 23220  
Telephone: (804) 212-7507 Fax: ( )  
Email: Joe@msbabs.com

**Property Owner:** Cafarella Grove LLC  
If Business Entity, name and title of authorized signee: Joe Cafarella

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: "same as above"  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone: ( ) Fax: ( )  
Email: \_\_\_\_\_

**Property Owner Signature:**

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

**NOTE:** Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

Ms. Babs Nursery  
2319 Grove Ave  
Richmond, VA  
23220

SUP-038625-2018  
Plan Amendment

This is a request to change Ordinance No. 2018-328 S. 3 (d) from the proposed roof-top play area having a non-opaque , four-foot-high fence changed into a five-foot two inch solid Hardiplank siding wall with lattice and pressure treated cap. (SK103 in revised plans 12/17/19)

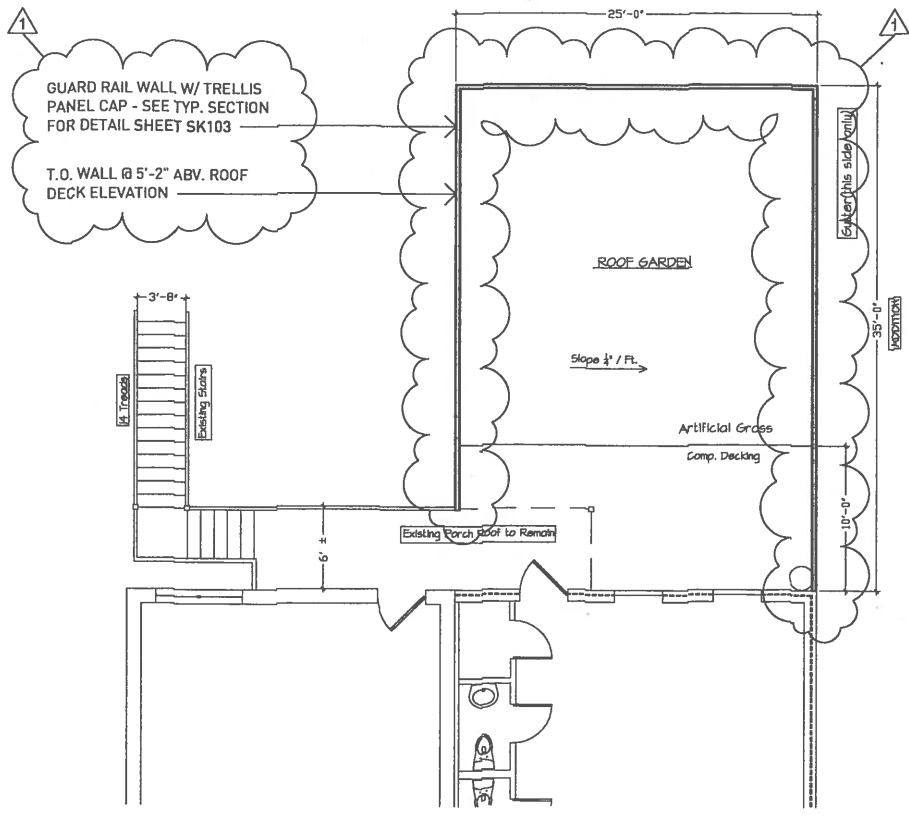
*This amendment is one of necessity for the safety of the children. While during construction both business owner and contractor felt the four foot fencing with four inch spacing between bars was inadequate to provide a completely safe playing environment for the children. Safety concerns such as children climbing the rails, sticking arms and legs outside of the rails, rails becoming loose over time as well children becoming scared of the height they are up looking down on the rooftop playground were our biggest issues. Other concerns were the privacy of children and neighbors privacy, children being seen from the alley as well as children being able to look into the neighbors houses directly. After several trips around town to see some of the recent rooftop bars and restaurants to find the best solution we had a discussion with neighbors on each side of the rooftop playground and the decision to build the enclosed rooftop was agreed upon unanimously. Paint colors for said siding and lattice were also agreed upon. (white for siding and off white for lattice)*

*The added security of the solid siding provides safety for the school as well as privacy for the children and the directly affected neighbors.*

*In closing, this amendment helps Ms. Babs' continue to provide above and beyond safety to the care of children while we practice yoga on our rooftop, music club and nature club on our rooftop as well as keeping up with the renaissance of richmond by creating another one of a kind space in the heart of our beloved city.*

**We greatly appreciate everyone's time and effort in helping us create such a unique place. We know everyone in this city helps do what they can to help us have the special school we have and we feel very fortunate to be where we are and do what we love. We look forward to many many years ahead serving the Richmond community.**

All the best,  
Joe Cafarella  
Owner/Admin  
Ms. Babs Nursery School  
2319 Grove Ave  
Richmond, VA  
23220



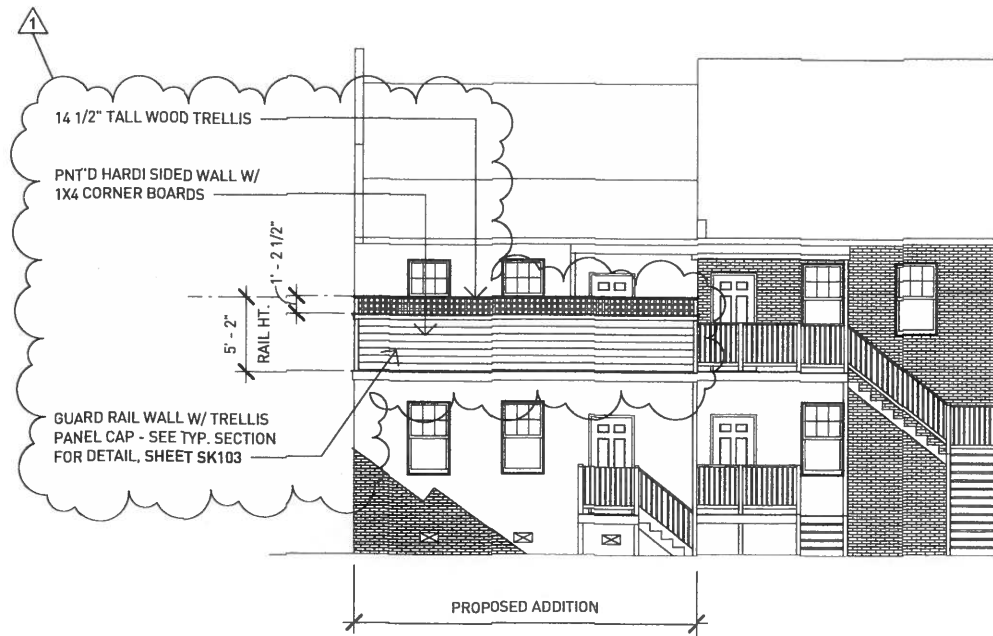
RAILING REVISION IN REFERENCE TO ORIGINAL CONSTRUCTION DRAWINGS PREPARED BY HENRY TESNER, ARCHITECT & MEARA DESIGN GROUP FOR MS BABS NURSERY - ADDITION II DATED 2/26/2019 REVISED 3/21/2019

1 ROOF DECK PLAN  
1/8" = 1'-0"

\*NOTE: REFERENCE SHEET A1.1 IN "ADDITION II" SET FOR ORIGINAL ARCHITECT'S DRAWING

REVISIONS	12/17/2019
1	RAILING ALTERATION
<b>MS BABS NURSERY SCHOOL</b> 2319 GROVE AVENUE RICHMOND, VIRGINIA 17 DECEMBER 2019	
<b>SK101</b> ROOF DECK PLAN 17 DECEMBER 2019	
CONSTRUCTION DOCUMENTS	

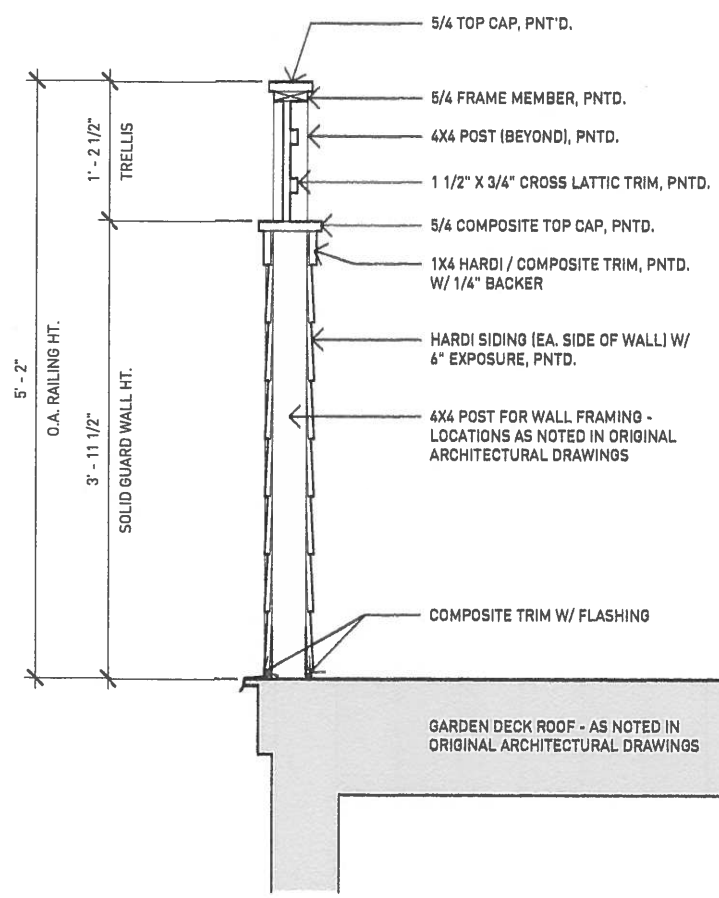
RAILING REVISION IN REFERENCE TO ORIGINAL CONSTRUCTION DRAWINGS PREPARED BY HENRY TESNER, ARCHITECT & MEARA DESIGN GROUP FOR MS BABS NURSERY - ADDITION II DATED 2/26/2019 REVISED 3/21/2019



1 REAR ELEVATION  
1/8" = 1'-0"

\*NOTE: REFERENCE SHEET A1.2 IN "ADDITION II" SET FOR ORIGINAL ARCHITECT'S DRAWING

REVISIONS	12/17/2019
1 RAILING ALTERATION	
MS BABS NURSERY SCHOOL	
2717 GROVE AVENUE RICHMOND, VIRGINIA	
17 DECEMBER 2019	
CONSTRUCTION DOCUMENTS	
SK102	
Rear Elevation	
17 DECEMBER 2019	



RAILING REVISION IN REFERENCE TO ORIGINAL CONSTRUCTION DRAWINGS PREPARED BY HENRY TESNER, ARCHITECT & MEARA DESIGN GROUP FOR MS BABS NURSERY - ADDITION II DATED 2/26/2019 REVISED 3/21/2019

1 TYP. ROOF DECK RAIL DETAIL  
 1" = 1'-0"

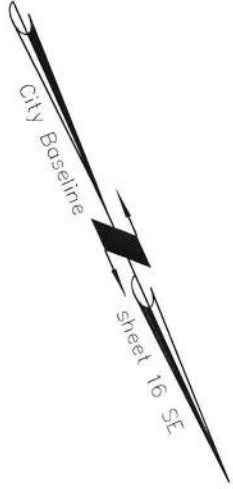
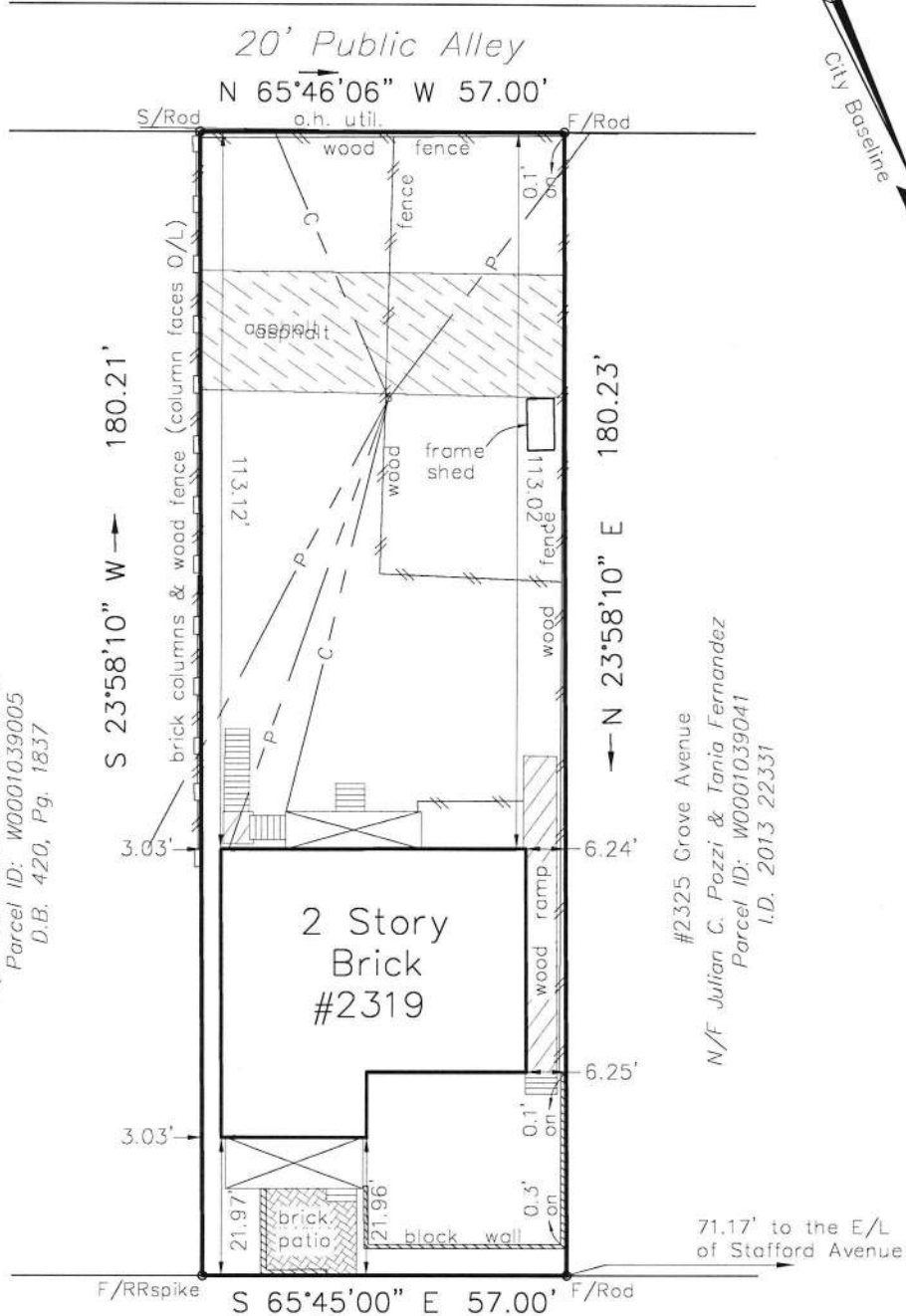
REVISIONS	12/17/2019
1 RAILING ALTERATION	

MS BABS NURSERY SCHOOL  
 2319 GROVE AVENUE  
 RICHMOND, VIRGINIA  
 17 DECEMBER 2019  
 CONSTRUCTION DOCUMENTS

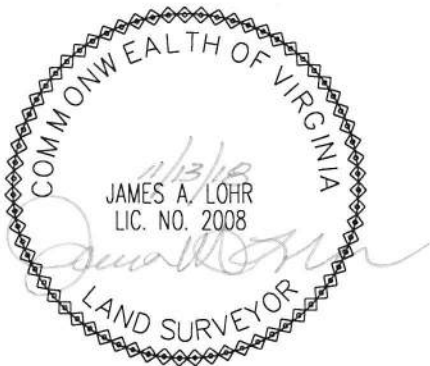
SK103  
 Roof Railing Detail  
 17 DECEMBER 2019

Address: # 2319 Grove Avenue  
 Current Owner: Cafarella Grove, LLC  
 Parcel ID: W0001039004  
 I.D. 2013 15432

Note: Bearings protracted from City  
 Baseline sheet 16 SE.



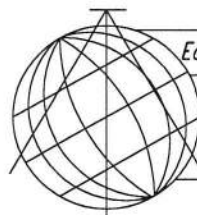
# GROVE AVENUE



Survey and Plat of  
**The Property Known as  
 #2319 Grove Avenue in  
 the City of Richmond, VA**

This is to certify that on 11/13/18 I made an accurate field survey of the premises shown hereon that all improvements and easements known or visible are shown hereon, that there are no encroachments by improvements either from adjoining premises or from subject premises upon adjoining premises other than shown hereon. THIS PLAT WAS MADE WITHOUT THE BENEFIT OF A TITLE SURVEY OR REPORT.

FLOOD INSURANCE NOTE: By graphics plotting only, this property is in ZONE X of the Flood Insurance Rate Map, Community Panel No. 5101290036D effective date of 04/02/09. Exact designations can only be determined by an Elevation Certificate. Based on the above information, this property IS NOT in a Special Flood Hazard Area.



Edwards, Kretz, Lohr & Associates, PLLC

Land Surveyors-Planners

Virginia-North Carolina

1900 Byrd Avenue, Suite 103  
 Richmond, Virginia, 23230  
 Phone (804) 673-9666  
 Fax (804) 673-9990

Scale: 1"=30'  
 Drawn: TCJ  
 Job: 1649-18

Date: 11/14/18  
 Checked: JAL