

INTRODUCED: November 13, 2017

AN ORDINANCE No. 2017-232

To authorize the special use of the property known as 2318 Grove Avenue for the purpose of a day nursery for up to 30 children, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 11 2017 AT 6 P.M.

WHEREAS, the owner of the property known as 2318 Grove Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a day nursery, which use, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), 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

AYES: 1 NOES: 8 ABSTAIN: _____

ADOPTED: _____ REJECTED: JAN 8 2018 STRICKEN: _____

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 2318 Grove Avenue and identified as Tax Parcel No. W000-1040/032 in the 2017 records of the City Assessor, being more particularly shown on a plat entitled “Survey Showing Improvements on Property Located at 2318 Grove Avenue, City of Richmond, Virginia,” prepared by Bruce Robertson Land Surveying, P.C., and dated July 31, 2017, 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 a day nursery, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “2318 Grove Avenue, Ms. Babs Nursery Annex,” prepared by Markham Planning, and dated May 5, 2017, and on the plans entitled “Ms. Babs’ Annex Playground/Greenhouse,” prepared by an unknown preparer, and undated, hereinafter collectively referred to as “the Plans,” copies of which are attached to and made a part of this 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 30 children, substantially as shown on the Plans.

(b) No off-street parking shall be required for the Special Use.

(c) The play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a required front yard or a required side yard.

(d) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(e) The hours of operation for the day nursery shall be limited to the hours between 7:30 a.m. and 6:00 p.m., Monday through Friday.

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

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

(h) Signage on the Property shall meet the requirements of section 30-506 of the Code of the City of Richmond (2015), as amended, for nondwelling uses permitted by right in the underlying zoning district.

§ 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 or when the Special Use of the Property as authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, 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 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 ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This 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. 2017.445

~~RECEIVED~~

NOV 07 2017

~~O & R REQUEST~~

4-7179
OCT 26 2017

OFFICE OF CITY ATTORNEY

O & R Request

Office of the
Chief Administrative Officer

DATE: October 25, 2017

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *LL 11/7/17*
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *SCG*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning *PLD 10-26-17*

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

RE: To authorize the special use of the property known as 2318 Grove Avenue for the purpose of permitting a day nursery for up to 30 children, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 2318 Grove Avenue for the purpose of permitting a day nursery, upon certain terms and conditions.

REASON: The applicant is proposing a day nursery to be operated within an existing building. Day nurseries are not a permitted principal use in the R-6 Single-Family Attached Residential District. A special use permit is therefore required.

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 December 4, 2017, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property consists of a 4,421 SF, or 0.1 acre, parcel of land improved with a two-family dwelling, and is a part of The Fan neighborhood in the Near West Planning District. The proposed day

nursery at the subject property would be an expansion of an existing day nursery located at 2319 Grove Avenue.

The City of Richmond's Master Plan recommends Single-Family (medium density) land use for the subject property. This category includes single-family detached dwellings at densities up to eight to twenty units per acre and residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses (p. 133).

The current zoning for the subject property and all surrounding properties is R-6 Single-Family Attached Residential. Residential land uses predominate the vicinity of the subject property, with some mixed-use and commercial land uses present as well.

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: November 13, 2017

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, December 4, 2017

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.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: Leigh Kelley, Senior Planner
Land Use Administration (Room 511) 646-6384

PDR O&R No. 17-41



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/>

SUP-017213-2017

6869

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: 2318 GROVE AVENUE Date: 5-5-17
 Tax Map #: W0001040032 Fee: \$300
 Total area of affected site in acres: .101 ac

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

Zoning

Current Zoning: R-6
 Existing Use: TWO-FAMILY

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

DAY NURSERY
 Existing Use: RESIDENTIAL

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: WILLY THOMPSON
 Company: MARKHAM PLANNING
 Mailing Address: 2314 W. MAIN ST
 City: RICHMOND State: VA Zip Code: 23220
 Telephone: (540) 383-4320 Fax: ()
 Email: WILLY.THOMPSON@MARKHAMPLANNING.COM

Property Owner: CAFARELLA GROVE LLC
 If Business Entity, name and title of authorized signee: _____

(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: 2319 GROVE AVE
 City: RICHMOND State: VA Zip Code: 23220
 Telephone: (804) 353-5019 Fax: ()
 Email: JOE@MJBABS.COM

Property Owner Signature: [Signature]

The names, addresses, telephone numbers and signatures of a* 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)



May 9, 2017

Mr. Mark Olinger, Director
Department of Planning & Development Review
900 East Broad Street, Suite 511
Richmond, VA 23219
Mark.Olinger@richmondgov.com

RE: Applicant's Report for Special Use Permit Application at 2318 Grove Avenue

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report for the Special Use Permit (SUP) application for 2318 Grove Avenue. With this application, Joe Cafarella, owner of Ms. Babs' Day Nursery, is petitioning the City Council for authorization to use their property at 2318 Grove Avenue for the purposes of operating a day nursery use. Currently, the R-6 Single-Family Attached Residential zoning district does not permit a day nursery use on this property.

Site

The property is located north of Grove Avenue on the block bounded by North Stafford Avenue to the west and Strawberry Street to the east. Directly across Grove Avenue to the south is the existing Ms. Babs' Day Nursery, which received a special use permit in 2014 (Ord. No. 2014-222-204) to expand the nonconforming day nursery. This request is to expand the existing day nursery to include the property at 2318 Grove Avenue. The property at 2318 Grove Avenue is comprised of .101 acres (4421 square feet). The existing building, constructed in 1922, is a two-story residential structure that has been historically used as a two-family dwelling. The building has approximately 2,876 square feet in finished floor area and a basement that 1,418 square feet in area. There is a detached garage in the rear that is approximately 500 square feet in size.

Proposal

The applicant proposes to expand the existing operations of Ms. Babs' Day Nursery by using the building at 2318 Grove Avenue. The use of this property would be for a 16-month to 26-month old toddler classroom downstairs and a pre-k class room upstairs for a maximum of 40 children. The basement would be used as an arts and ceramics room. The rear of the property, including the garage would be used for outdoor and recreational space.

The current Ms. Babs' Day Nursery has approximately 5000 square feet, which holds 75 children. The infant and pre-k classes are experiencing a significant lack of space for the school's desired programming. By moving part of the toddler class and entire pre-k class into 2318 Grove Avenue, Ms. Babs' would be able to maintain their excellent quality of care and education built on the foundations of low teacher to student ratios and low-stress teaching environments. The total number of students

affiliated with Ms. Babs' Day Nursery (2319 and 2318 Grove Avenue) would be approximately 115 children. There would be 6 teachers affiliated with the new operations at 2318 Grove Avenue.

Zoning and Ordinance Conditions

The zoning is R-6 Single-Family Attached Residential, which does not permit the proposed day nursery use. The applicant will provide at least 100 square feet of outdoor play area per child and the outdoor play area will be screened by a continuous opaque fence of at least four feet in height. The total number of employees working at 2318 Grove Avenue would be 6. The applicant respectfully request that the 3 parking spaces normally required be waived by the special use permit ordinance.

Master Plan

The City's 2001 Master Plan recommends Single-Family (medium density) for the property, which may include single and two-family dwellings with densities up to 20 units per acre. It also includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. The property is currently adjoined by residential uses to the west and east and sits across from the existing Ms. Babs' Day Nursery. One block to the north is the location of William Fox Elementary School and two blocks to the west is North Robinson Street which is occupied by a mix of commercial uses, including the Retreat Doctors Hospital and a number of restaurants and office uses. The Master Plan encourages maintaining existing values in the near west end area and Ms. Babs' has demonstrated its tremendous value to the neighborhood. Allowing for the expanded use of Ms. Babs' at 2318 Grove Avenue would further enhance that value and only add to the numerous neighborhood amenities afforded to the citizens of the Fan District.

City Charter Conditions

This is an ideal opportunity in the City's Near West End area to utilize a property in need of much repair for the community's benefit. We trust that you will agree with us that this day nursery use meets the City Charter criteria as the project 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.

Thank you for your consideration of this application. Please feel free to contact me at willy.thompson@markhamplanning.com or (540) 383-4320 if you have any questions or require additional materials to process the application.

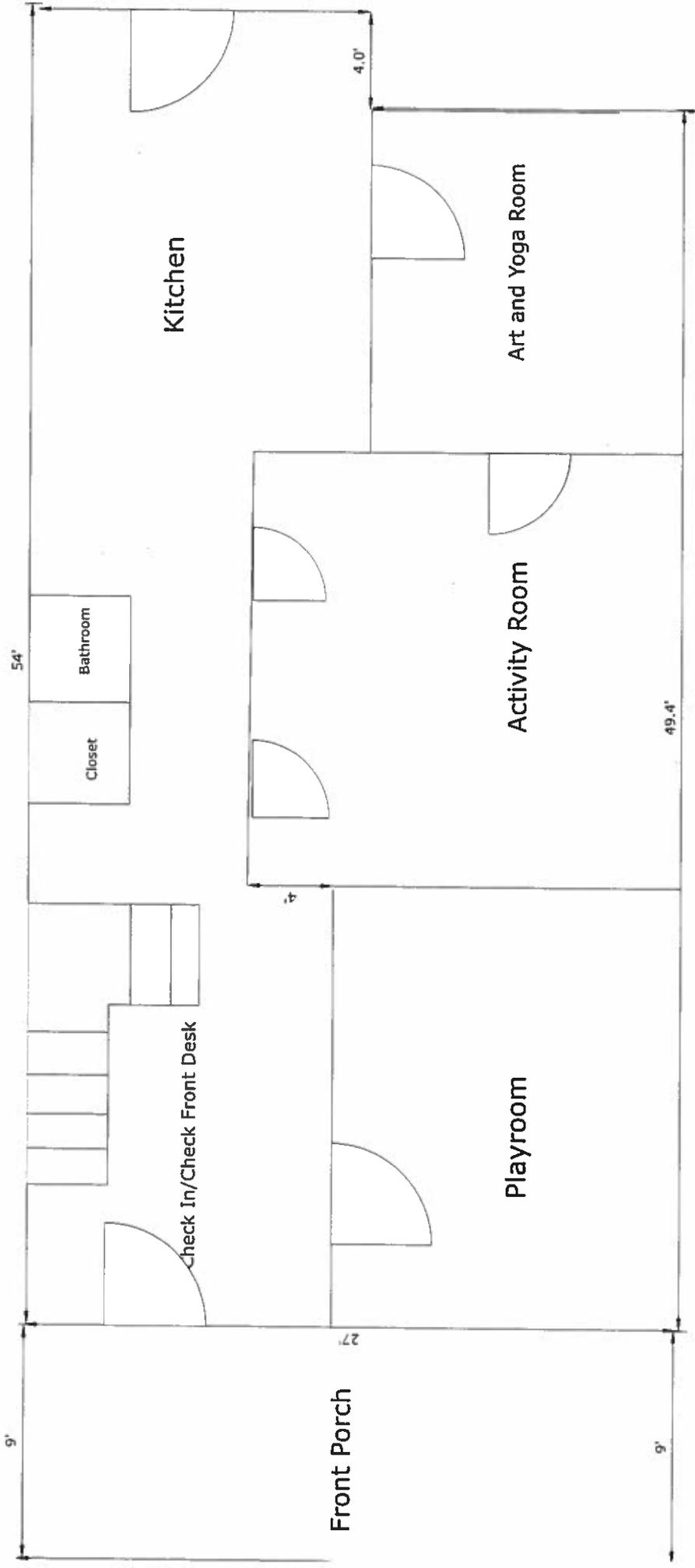
Very Truly Yours,

Willy Thompson, AICP

Enclosures

cc: The Honorable Kimberly Gray
Matthew Ebinger, Secretary to the City Planning Commission

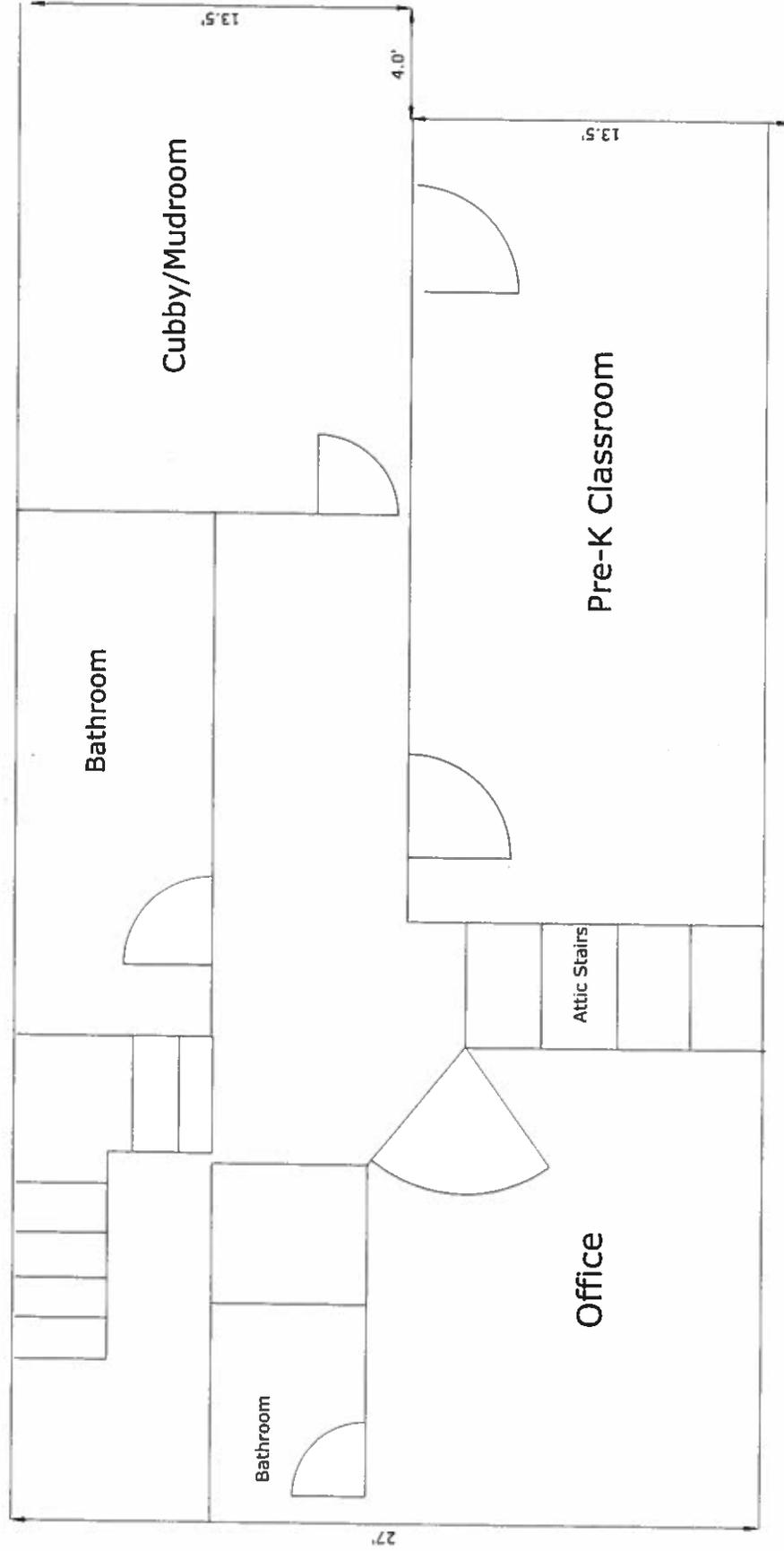
2318 Grove Avenue Ms. Babs Nursery Annex

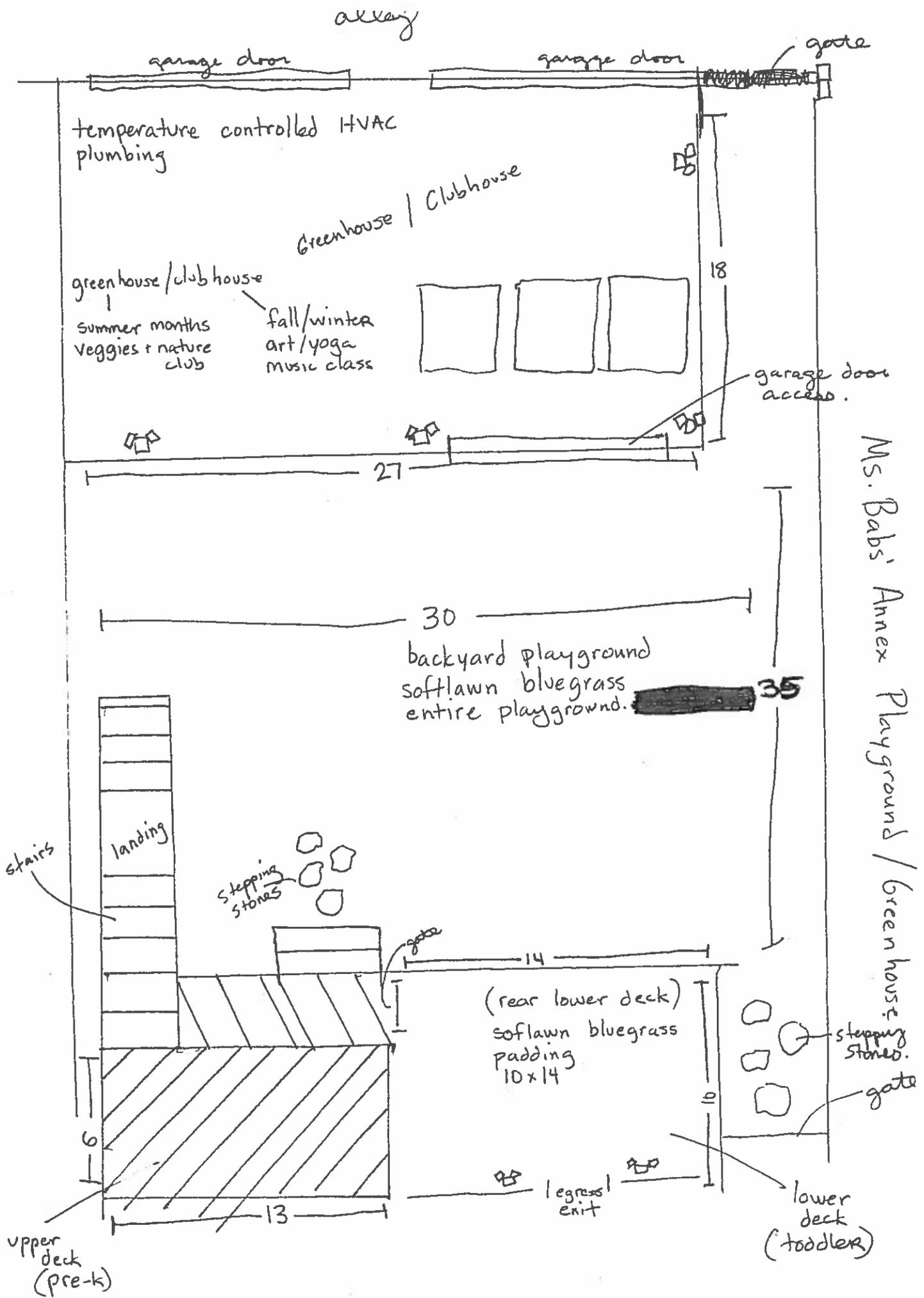


First Floor

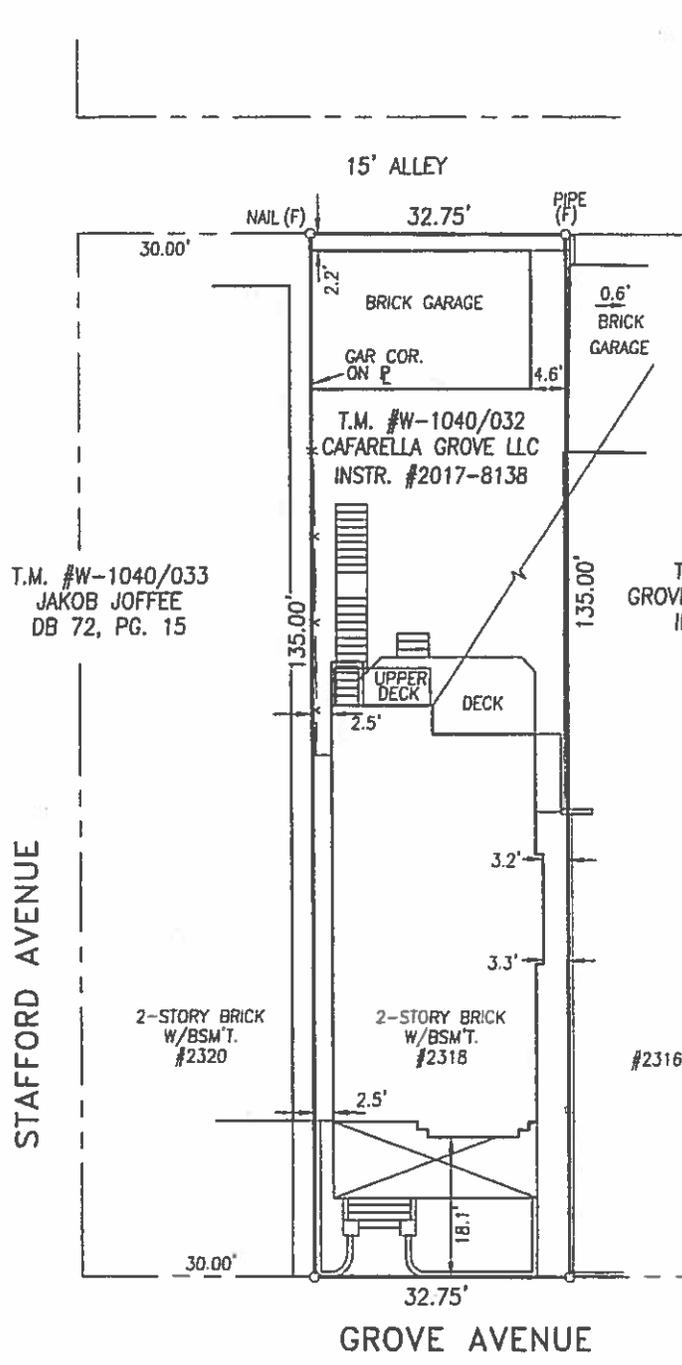
Drawn By: Markham Planning
Date: May 5, 2017

2318 Grove Avenue
Ms. Babs Nursery Annex





Ms. Babs' Annex Playground / Greenhouse

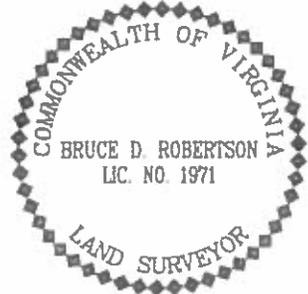


LOCATION OF U/G UTILITIES SHOWN ON THIS MAP IS BASED ON FIELD OBSERVATION AND RECORD INFORMATION. ADDITIONAL U/G UTILITIES MAY EXIST OTHER THAN THOSE SHOWN.

WETLANDS (IF ANY) AND RESOURCE PROTECTION AREA LIMITS ARE NOT SHOWN ON THIS SURVEY

BUILDING SETBACKS OR OTHER ZONING CONDITIONS NOT DETERMINED FOR THIS MAP. COMPLIANCE WITH APPLICABLE ZONING ORDINANCES SHOULD BE CONFIRMED PRIOR TO CONSTRUCTION.

This plat was prepared without the benefit of a title report and may not, therefore, indicate all easements or conditions affecting subject property.



**SURVEY SHOWING IMPROVEMENTS
ON PROPERTY LOCATED AT
2318 GROVE AVENUE
CITY OF RICHMOND, VIRGINIA**

This is to certify that on JULY 27, 2017
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 as shown hereon.

