

INTRODUCED: October 13, 2014

AN ORDINANCE No. 2014-222-204

To authorize the special use of the property known as 2319 Grove Avenue for the purpose of authorizing an expansion to an existing day nursery, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 10 2014 AT 6 P.M.

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 114-412.1 of the Code of the City of Richmond (2004), 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

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 10 2014 REJECTED: _____ STRICKEN: _____

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 114-1050.1 of the Code of the City of Richmond (2004), 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 2014 records of the City Assessor, being more particularly shown on a survey entitled “Plat of Property Located on the South Line of Grove Avenue, East of Stafford Avenue, Richmond, VA,” prepared by Foster & Miller, and dated October 2, 1972, 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 plans entitled “Ms. Bab’s Day Care, 2319 Grove Avenue – Richmond, VA,” prepared by Henry Tenser, Architect, and dated August 18, 2014, hereinafter 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) No parking shall be required for the day nursery use.

(b) A minimum outdoor play area of one hundred (100) square feet for each child enrolled in the day nursery shall be furnished on the Property, but shall not be located within a required front yard.

(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.

§ 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 (2004), 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 114-1220 of the Code of the City of Richmond (2004), 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.

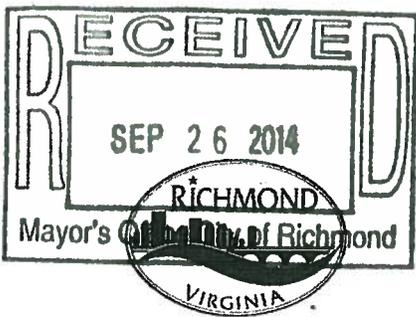
(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), 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 twenty-four (24) months 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
INTRACITY CORRESPONDENCE

O & R REQUEST

SEP 23 2014

Chief Administration Office
City of Richmond

O&R REQUEST



DATE: September 22, 2014

EDITION:

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request)
(This in no way reflects a recommendation on behalf of the Mayor.)

De J
OFFICE OF CITY ATTORNEY
CB

THROUGH: Christopher L. Beschler, Interim Chief Administrative Officer

THROUGH: Peter H. Chapman, Deputy Chief Administrative Officer for Economic Development and Planning

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

SUBJECT: Special use permit for 2319 Grove Avenue to allow an expansion of an existing day nursery

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 2319 Grove Avenue for the purpose of authorizing an expansion to an existing day nursery, upon certain terms and conditions.

REASON: The existing day nursery is considered a nonconforming use and any expansion of that use, including the proposed building addition, requires a special use permit.

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 November 3, 2014 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The property is located in the R-6 Single-Family Attached Residential zoning district. The property is currently improved by Ms. Babs' Nursery School, which is not a permitted use in the R-6 district. However, the existing day nursery use is deemed to be nonconforming. The applicant is proposing a two-story building addition that would be approximately 1,750 square feet, and include a pre-kindergarten room, an infant nap room, and an infant playroom.

The existing nursery has 8 employees and the addition would require 3 more employees, bringing the total number of employees to 11. Current zoning requires 1 parking space per 2 employees, and with the proposed 11 employees, zoning would normally require 6 off-street parking spaces. However, the special use permit ordinance is waiving those parking requirements.

With the proposed building addition, the applicant expects the day nursery attendance to be approximately 50 children. Conditions added to the special use permit would require at least 100 square feet of outdoor play area for each child and a continuous opaque fence, at least four feet in height that would surround the outdoor play area.

The Richmond Master Plan designates this property as Single-Family (medium density) in the Near West Planning District. "Primary uses 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 are R-43 and R-48" (133).

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

COST TO CITY: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: October 13, 2014

CITY COUNCIL PUBLIC HEARING DATE: November 10, 2014

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, November 3, 2014

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

RELATIONSHIP TO EXISTING ORDINANCES: None.

ATTACHMENTS: Application Form, Applicant's Letter, Draft Ordinance, Plans

STAFF: Willy Thompson, Senior Planner; Land Use Administration (Room 511), 646-5734

DCD O&R No.14-37



RECEIVED

Application for SPECIAL USE PERMIT

LAND USE ADMINISTRATION

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

Project Name: Mrs. Babo Nursery School addition Date: April 25th, 2014

Property Address: 2319 Grove Ave RVA, 23220 Tax Map #: W0001039004

Fee: 1800.00 Total area of affected site in acres:
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: RB Non-Conforming

Proposed Use

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

Existing Use: NURSERY SCHOOL

Is this property subject to any previous land use cases? N/A

Yes No

If Yes, please list the Ordinance Number.

Applicant/Contact Person: JOE L. CAFARELLA

Company: MS, BABS NURSERY SCHOOL LLC

Mailing Address: 2319 GROVE AVE

City: RICHMOND State: VA Zip Code: 23220

Telephone: (804) 812-7507 Fax: (804) 359-7792

Email: JOE.CAFARELLA@YAHOO.COM

Property Owner: CAFARELLA GROVE LLC

If Business Entity, name and title of authorized signee: JOE CAFARELLA, OWNER

(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) 812-7507 Fax: (804) 359-7792

Email: JOE.CAFARELLA@YAHOO.COM

Property Owner Signature: [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 School Special Use Permit

2319 Grove Ave.

Richmond, VA

23220

RECEIVED
APR 28
LAND USE ADMINISTRATION

This special use application is for Ms. Babs' Nursery School, a young toddler (20 months) to Pre-K school currently located on a double lot on the 2300 block of Grove Avenue. Established in 2003, Ms. Babs' Nursery is a locally owned and family operated business just east of Stafford avenue and west of Strawberry street. One block south of Fox Elementary. Our hours of operation are 7:30AM-6:00PM Monday through Friday. The purpose of this addition is to add an infant wing onto our current building as well as create a larger Pre-K classroom above. This addition will be approximately 1500 square feet and will be built of all the same existing material (brick, slate roof) as well as the same architectural design of the existing building. Fire exits will be provided on every level of the addition. The addition will bring an additional 3 employees to our already 8 on staff currently, bringing our total to 11 employees at the facility. There are 5 parking spaces allotted along Grove Ave for no parking between the hours of 7AM-9AM and 4PM-6PM, As well as ample parking along Stafford and Grove Avenue as most residents are gone during our hours of operation.

I believe this addition will benefit the community, as most of our families are from the Fan, Museum District and are looking for a school which can care for not only their rising kindergarteners but infants as well. Both properties adjacent to 2319 Grove Avenue are larger residential properties that both have put additions in the past. Both directly affected neighbors have given consent and are more than willing to allow our addition to proceed. Ray Throckmorton (2317 Grove Ave.) and Julian Rossi(2315 Grove Ave.) The addition plans show that the new part of the building will be set back a full 10 feet from the front of the existing building, allowing more light into the neighbor's house as the property sits facing the north.

In 2003, when Ms. Babs' Nursery first started we wanted to show the Richmond Fan area what real quality care for your children was like, eleven years later we are thriving and have a great reputation because of the family-like environment we create. My heart and soul goes into this school every day and I am willing to keep re-investing in the property to maintain our dreams and continue to provide real quality childcare to the Richmond Fan and Museum District.

Thank you for your time and consideration,

Joe L. Cafarella

Owner/Admin

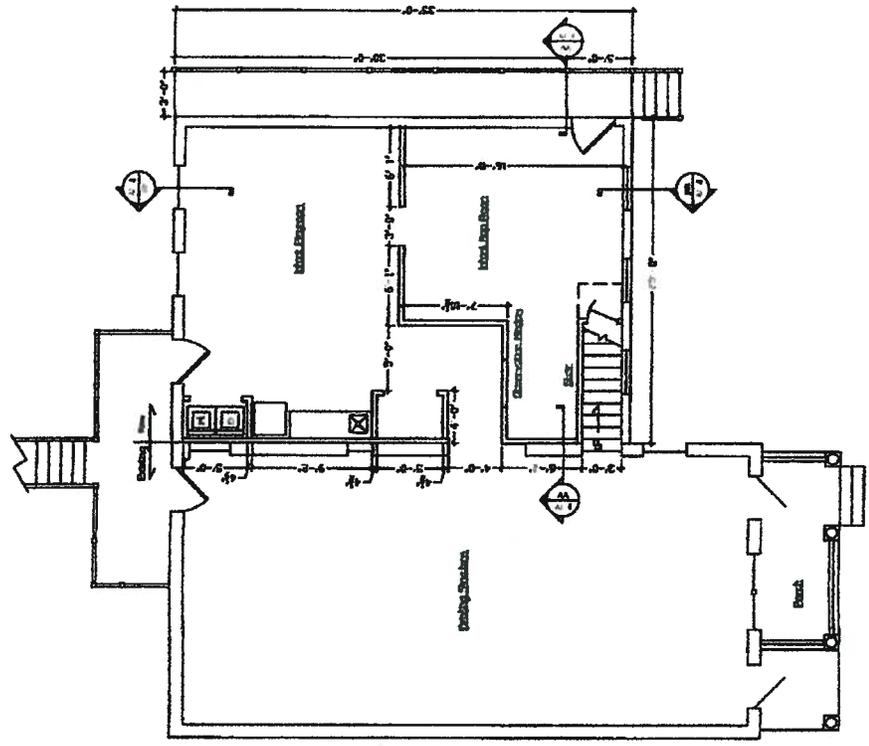
Ms. Babs Nursery School

RECEIVED

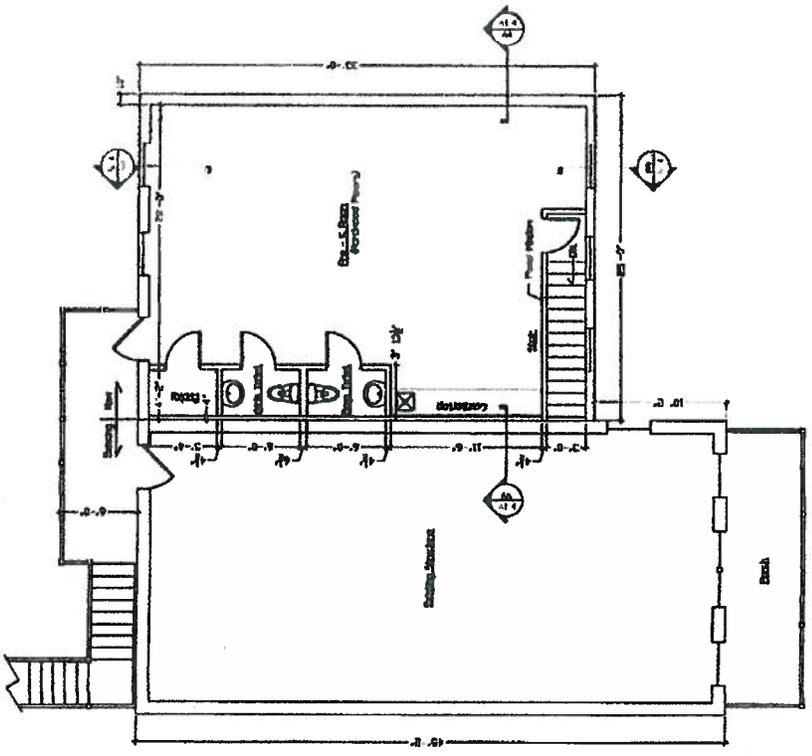
SEP 2 2014

LAND USE ADMINISTRATION

REVISIONS 1. Initial Layout 2.	Harry Tomasz, Architect 4000 W. HARRIS BLVD ARLINGTON, VA 22207 (703) 421-2530	DATE: 9/18/2014 SCALE: AS NOTED DRAWN BY: JPT	Ms. Babbs' Day Care 879 Green Avenue - Richmond, VA	SHEET NUMBER: A11	TITLE: Floor Plan



FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

REVISIONS

1. Existing Structure

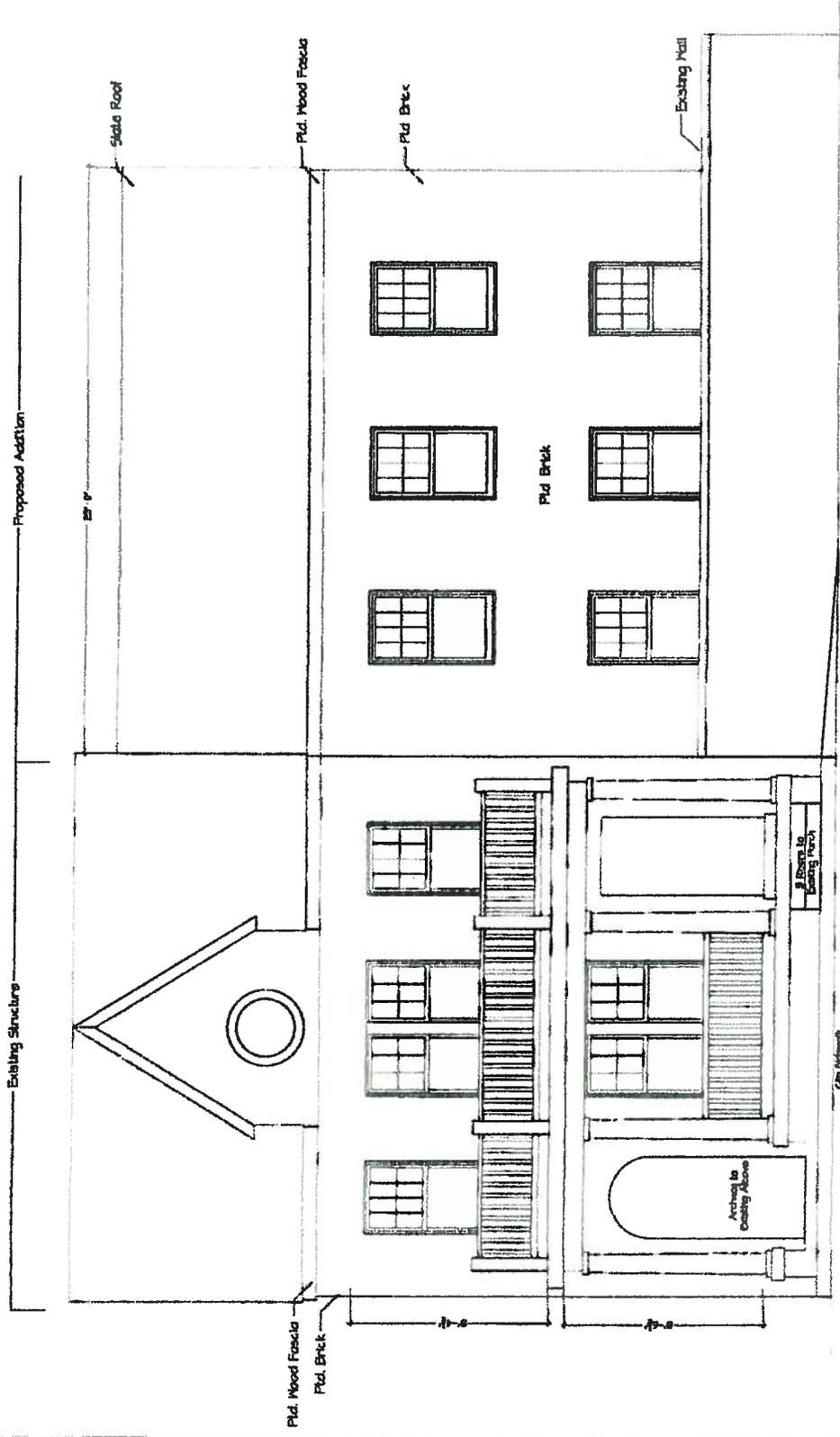
2. Proposed Addition

HENRY TOWNSEND, ARCHITECT
1000 MARKET STREET
DUNEDIN, FL 33511
(800) 233-4370
Architectural Drawing created by
Henry Townsend, Architect
DATE: 9/18/2014
SCALE: AS NOTED
DRAWN BY: JPL

DATE: 9/18/2014
SCALE: AS NOTED
DRAWN BY: JPL

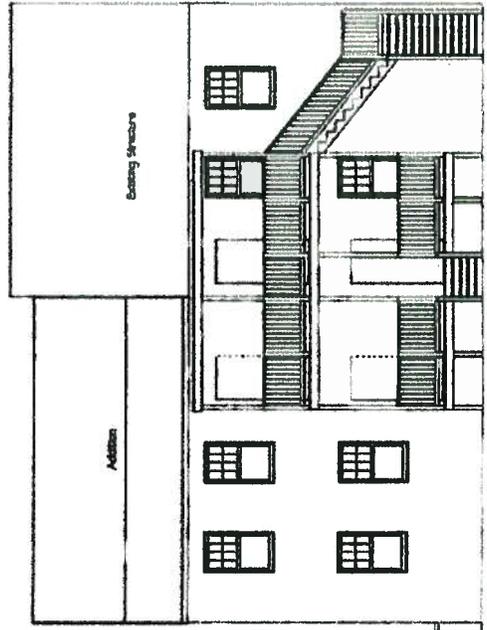
Ms. Babs' Day Care
1500 Green Avenue - Dunedon, VA
Front Elevation

SHEET NUMBER
A13
FILE NAME

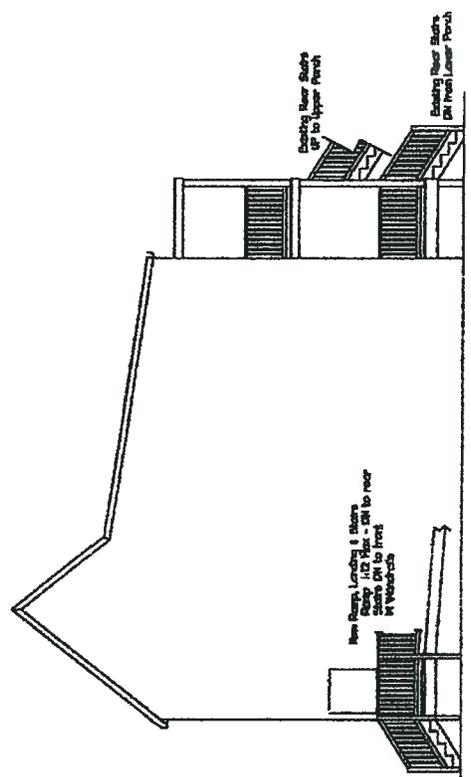


FRONT ELEVATION OF MS. BABS' DAY CARE
SCALE: 1/4"

REVISIONS 1 Proposed Changes	Henry T. Baber, Architect 4000 West 10th Street Richmond, VA 23226 (804) 251-1234	DATE: 9/16/2015 SCALE: AS NOTED DRAWN BY: JPM	Mr. Baber Day Care 220 Green Avenue - Richmond, VA	Side & Rear Elevations
		ARCHITECTURAL DESIGN SERVICES PROVIDED BY HENRY T. BABER ARCHITECT	SHEET NUMBER: A14 FILE NAME:	



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



SIDE ELEVATION
SCALE: 1/8"=1'-0"

REVISIONS

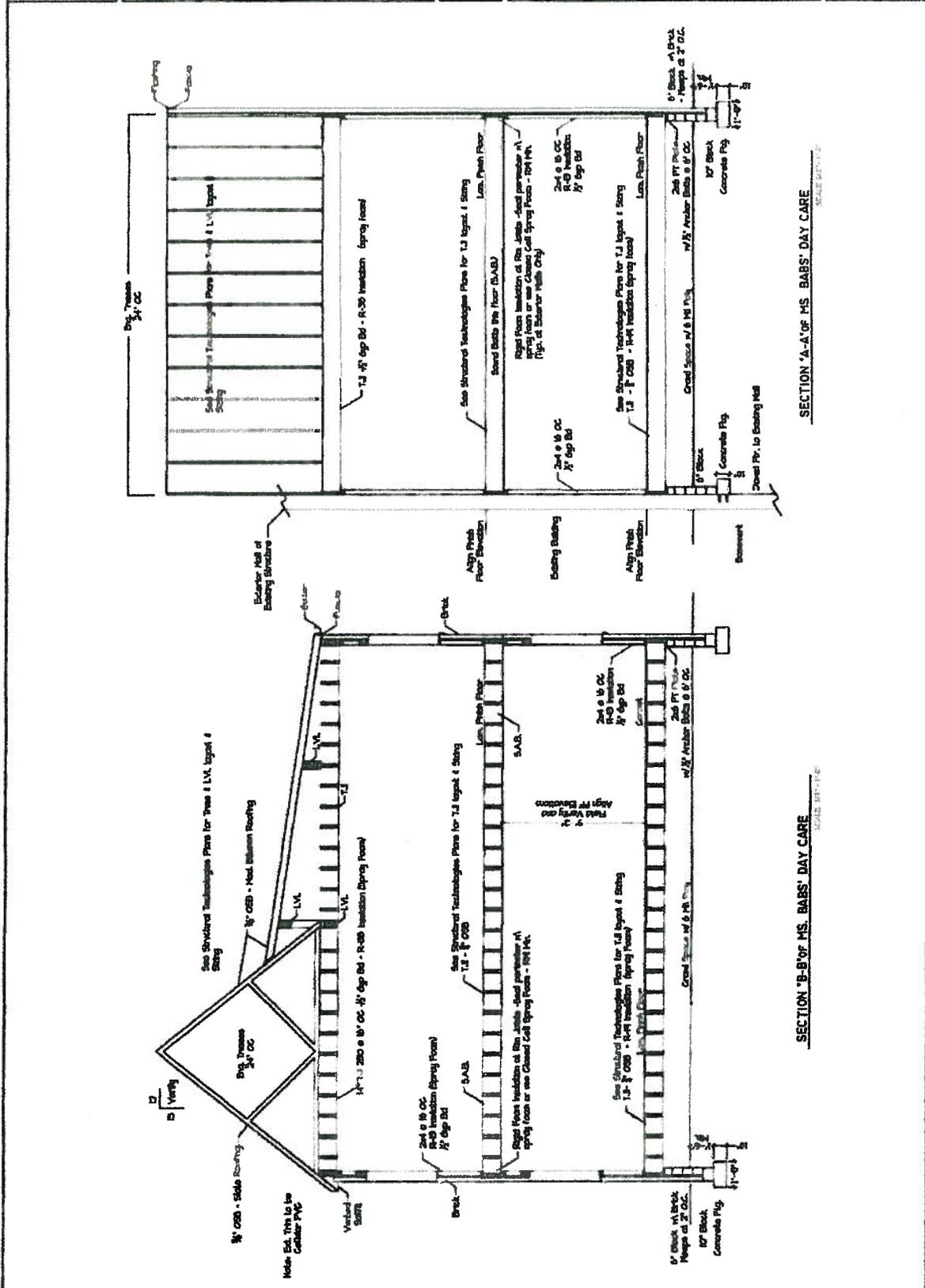
1	Construction Details
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Benny Tomasz, Architect
 400 W. Main Street
 Charlottesville, VA 22902
 (804) 253-1100
 Fax: (804) 253-1100
 benny@benny-tomasz.com

DATE: 8/18/2014
 SCALE: AS SHOWN
 DRAWN BY: JPL

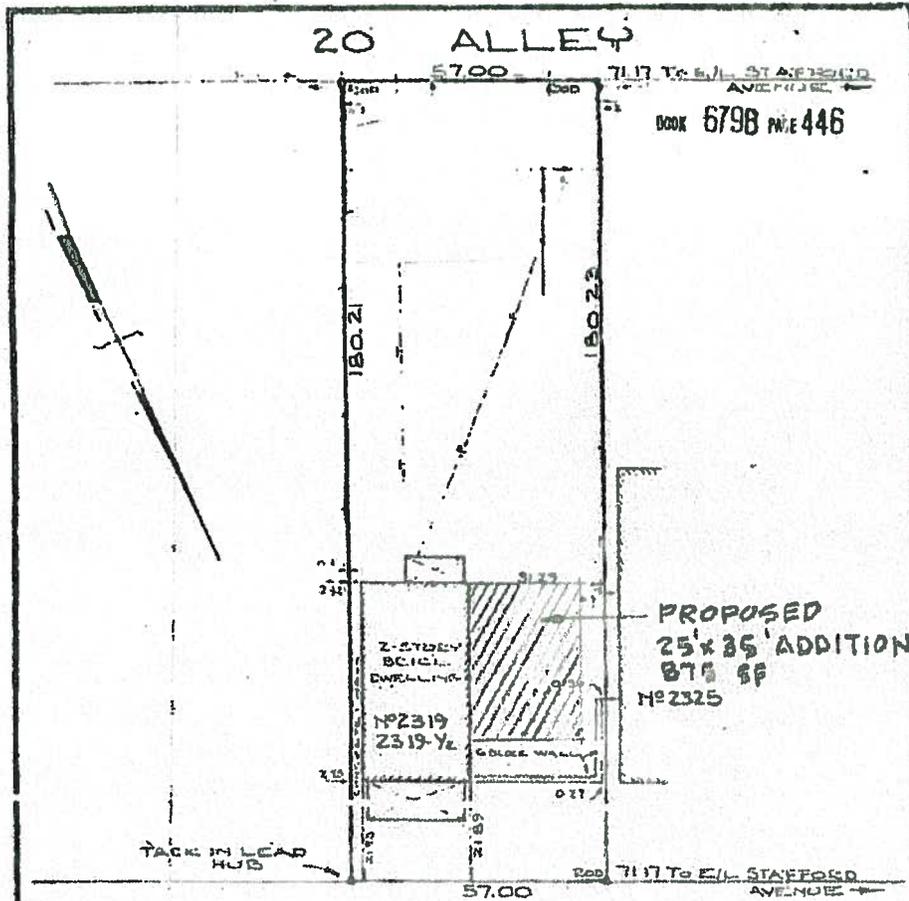
Ms. Babs' Day Care
 1500 Gwyn Avenue - Richmond, VA

SHEET NUMBER: **A14**
 FILE NAME:



SECTION 'A-A' OF MS. BABS' DAY CARE

SECTION 'B-B' OF MS. BABS' DAY CARE



GROVE AVENUE

PLAT OF PROPERTY LOCATED ON THE
 SOUTH LINE OF GROVE AVENUE, EAST
 OF STAFFORD AVENUE, RICHMOND, VA.
 SCALE 1" = 25' OCT. 2, 1972

FOSTER & MILLER
 CERTIFIED SURVEYORS
 RICHMOND, VIRGINIA

RLG 23785

1" = 40'
 3:14.14



**The Fan District Association of Richmond, Virginia
208 Strawberry Street, Richmond, Virginia 23220**

August 5, 2014

RECEIVED
SEP 2 2014
LAND USE ADMINISTRATION

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

Dear Sir:

**Subject: Request for Waiver to Parking Space Requirements for Space Expansion
Ms. Babs' Nursery School, 2319 Grove Ave.**

I am writing on behalf of the Fan District Association (FDA) to express no objection your request for a waiver from the requirement to provide three off-street parking spaces that would be a part of an expansion of your facility. I understand that most employees live in proximity, so they may walk or bike. There is sufficient on-street parking such that the expansion would not stress parking availability. Most important, off-street parking would be taken from a children's play area, which is an essential part of your school's development program.

We appreciated your attendance at the FDA Zoning and Parking Committee meetings. You were able to provide at these meeting documentation of your existing facilities and proposed expansion, explaining the importance of the play area and how off-street parking would adversely affect it. You also provided documentation of the availability of parking in the proximity of the building and fact that most employees either walk or bike to work.

Please keep in mind that the FDA position is based on the information we received and may change if you alter your plans. Feel free to call or email our Zoning Committee chair Bennette Burks if you have any questions, concerns, or issues or contemplate any changes. We appreciate your working with the FDA on your application.

Sincerely,

Matthew P. Stanley
President

cc Willy Thompson