



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

May 20, 2021

5:00 p.m.

Smyrna Town Hall

Chairman Steve Sullivan called the regular session of the Smyrna Board of Zoning Appeals to order on May 20, 2021 at 5:00 p.m. The invocation was given by Troy Powell and the Pledge of Allegiance was led by Councilman Steve Sullivan.

The following Board of Zoning Appeals members/staff were present/absent:

Present: Steve Sullivan, Councilman; Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

Staff Present: Kevin Rigsby, Town Planner; Mitchell Wensman, Planner; Jeff Peach, Town Attorney; Jennifer Bizarri, Planning Technician; Kathryn Bobbitt, Office Coordinator; Brian Hercules, Town Manager

1. Citizens' Comments: None at this time.

2. Approval of Minutes of the April 15, 2021 meeting

Motion by Phil Wilson, seconded by Jay Michaelson to approve the Minutes of the April 15, 2021 meeting.

Vote: 5 - 0 Passed - Unanimously

3. New Business:

a. Setback Variance:

1. Maikel Reazkallah
100 Bungalow Court

Location: 100 Bungalow Court

Property Owners: Maikel Reazkallah

Tax Map/Group/Parcel #: Map 33-K, Group C, Parcel 15.00

Request: A front setback variance of 35' along Bungalow Court to allow for a fence.



Staff Analysis The applicant has requested a front setback variance of 35' to allow for a fence in the front yard. Property request is located at 100 Bungalow Court and has a lot size of approximately 0.23 acres. The property is zoned R-3, medium density residential, and has a minimum front setback requirement of 35'. The fence was discovered after a complaint was received regarding the location of the fence. It was then discovered the applicant failed to apply for a permit before installation of the fence. Had the applicant notified staff of the desire to install a fence, the issue could have been resolved beforehand. Other options are present to the applicant to create a buffer along the property line, such as landscaping.

Section 7.080 D of the Zoning Ordinance detail the requirements for variances not involving special flood hazard areas. These are detailed below.

Zoning Variance Requirements

Section 7.080 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff's findings are as follows:

Section 7.080 Procedure for authorizing zoning variances

The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his

property under this ordinance.

B. Standards for Variances not Involving Special Flood Hazard Areas:

The board shall not grant a variance unless it makes finding based upon evidence presented to it as follows:

1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out must be stated.
 - Staff finds that 100 Bungalow Court is a fairly uniform shape for a corner lot and is flat, not affecting location of the fence.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 - Staff finds that the petition for a variance is based is not in regard to the physical lay of the land.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 - Fences are allowed by right in the R-3 zoning district, but are to adhere to any applicable setbacks of the principal structure.
4. Financial returns only shall not be considered as a basis for granting a variance.
 - The property owner has not identified financial returns as a reason for requesting this variance.
5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this ordinance.
 - The creation and size of the lot was not completed by the applicant.
6. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same districts.
 - Front setback variances for a fence has been requested several times over the last couple years and have been denied due to lack of hardship.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 - Staff finds that the requested setback variance is not the minimum that will make possible the reasonable use of the structure as the applicant has alternative options to create a buffer along the property line that do not involve a fence, including landscaping.
8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
 - Staff finds that the variance should not be detrimental to the public welfare or injurious to other property or improvements in the area due to the lot being located on a cul-de-sac.
9. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.
 - Staff finds that granting this variance should not create any of the above effects.

10. Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places upon a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building, and provide the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historic designation.

- Not applicable.

Conclusion

Staff finds that the lot is relatively uniform in shape and size for other similar corner lots within the R-3 district. Fences in residential districts are to adhere to setbacks applicable to the principal structure. In this instance, the fence is installed along the side property line to the front property line. Had the applicant contacted staff before installation, the location error could have been prevented. There have been similar front setback variance requests for fences presented to the Board in previous years and the requests have been denied due to lack of hardships.

Motion by Phil Wilson, seconded by Jay Michaelson to deny a 35' front setback variance for a fence in the front yard due to a lack of hardship.

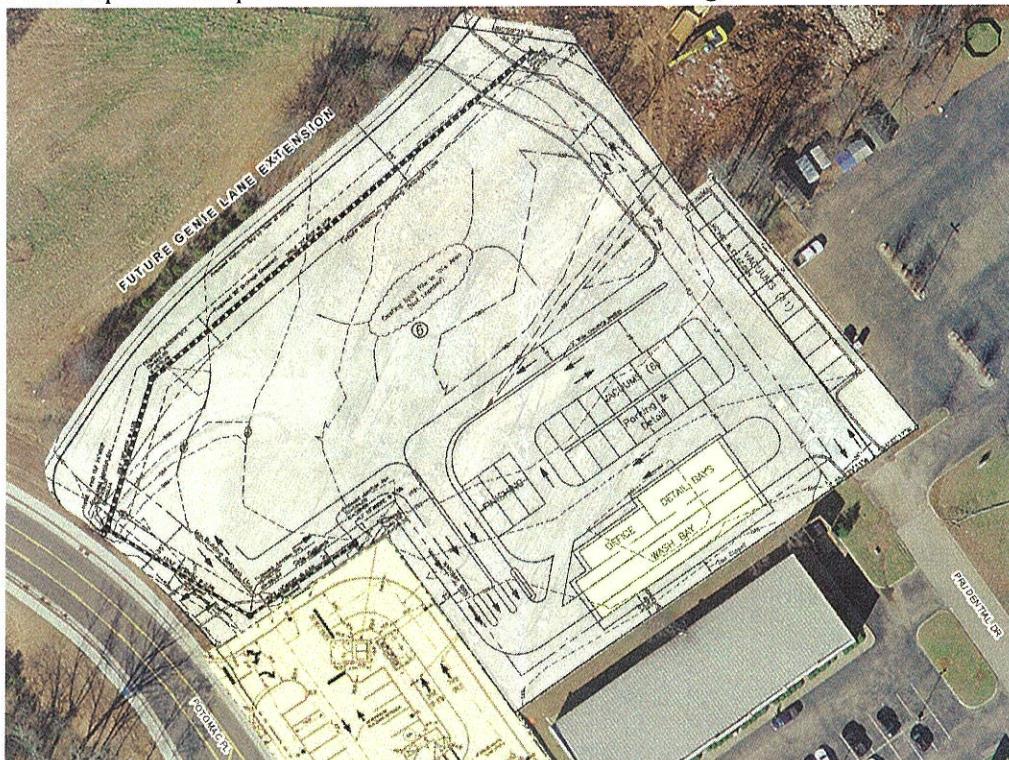
Vote: 5 - 0 Passed - Unanimously

b. Special Exceptions:

1. Rocky Crossland
Potomac Place & Genie Lane

<i>Location:</i> Potomac Place	<i>Property Owner:</i> John Lee, LLC
<i>Tax Map/Part of Parcel #:</i> Map 28, Part of Parcels 67.16 & 67.17	
<i>Zoning/Use Classification:</i> C-2/Car Wash	

Request: For a special exception to allow a car wash in a C-2 zoning district.



Staff Analysis The applicant has requested a special exception to allow a car wash within a C-2 zone on a vacant tract in the Lee Bohman commercial subdivision. Property is approximately 2.85 acres, zoned C-2 and is surrounded by other C-2 zoned properties. Located to the south is a bank and commercial strip mall, a church is located to the east, to the north is the Genie Lane extension and Potomac Place to the west. The site has three queue lanes with the ability to support roughly stacking for 50 vehicles and has self-service vacuums on site.

Architectural elevations for this building would be required to meet Design Review; staff would recommend a brick or stacked stone appearance. Current design submitted shows a textured block appearance; applicant has indicated they will work with staff to provide an acceptable design. The architectural elevations will be reviewed by the Planning Commission as part of the site plan submittal. Also, the building as shown on the civil site plan, shows an awning overhang of approximately 5'. It has been communicated and understood by the applicant that the awning will be in compliance with appropriate setbacks.

Public Works has recommended one of two options for the access point off of Potomac Place: a left/right in and left/right out, or left/right in and right only out. Upon completion of the Genie Lane extension at Potomac Place, the entrance shall be modified to the latter of left/right in and right out only.

Additionally, that eastern road connecting Prudential Drive to Genie Lane be a private road or relocation of the proposed vacuums and parking along the eastern property line if the road will be public.

Section 7.060 B of the Zoning Ordinance details the requirements for authorizing special exceptions. These are detailed below.

Special Exception Requirements

Section 7.060 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff's findings are as follows:

Section 7.060 Procedure for authorizing special exceptions

The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Section 13-7-206 of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Official to determine whether a proposed use is potentially noxious, dangerous or offensive.

B. General Requirements:

A conditional use permit (a special exception) shall be provided the Board finds that it:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 - Staff finds the proposed use of a car wash should not negatively affect the health, safety, and welfare of the public.
2. Will not adversely affect other property in the area in which it is located.
 - Staff finds that the proposed use should not adversely affect other properties in the surrounding area as this property is surrounded by other commercially zoned properties and approximately 440' from the nearest residentially occupied home.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 - Section 5.052.2 C lists "car washes and automobile detailing" as a special exception in the C-2 district.
4. Conforms to all applicable provisions of this ordinance for the district in which it is to be located as well as the provisions cited in Sections 7.060 and 7.061, and is necessary for public convenience in the location planned.
 - Staff finds that this site may be able to conform to all provisions of the Municipal Zoning Ordinance as listed in Criteria Review Section 7.060 C.

C. Criteria for Review:

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions (Section 7.061), and that satisfactory provisions and arrangement has been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - As proposed, access to the site will three entrances and exits, one on Potomac Place, Prudential Drive and the future Genie Lane extension from Wolverine Trail to Potomac Place. Staff has concern regarding the entrance off Potomac Place being a left/right in and out with the future Genie Lane extension connecting to Potomac Place. Upon completion, staff would recommend the entrance become left/right in and right only out. The proposal to connect Prudential Drive and Genie Lane also creates issues as that roadway could be used as a cut-through with vehicles driving immediately alongside customers vacuuming their vehicles without any buffer.

2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
 - Staff finds that the lot would provide sufficient space for parking and is surrounded by other commercially zoned properties.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - Refuse collection will need to be coordinated with a company for collection and an added dumpster location to the site.
4. Utilities, with reference to locations, availability, and compatibility.
 - This location will have all the necessary utilities available when Genie Lane extension is completed.
5. Screening and buffering with reference to type, dimensions and character.
 - A buffer is not applicable in this instance being all adjoining parcels are commercially zoned, but applicant has noted they would install a fence along the eastern property line adjoining the church to create a buffer. Staff would recommend utilizing landscaping in lieu of the fence to create a more visually appealing appearance.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
 - Staff finds that the proposed car wash will fit the compatibility with properties in the same district in reference to the above effects.
7. Required yard and other open space.
 - Staff finds that there is adequate space on this lot to support a car wash as it is currently a vacant site.
8. General compatibility with adjacent properties and other property in the district.
 - Staff finds that the use may be compatible with adjacent properties as there are other commercial uses present in the surrounding area.
9. The following additional rules apply for upper story residential development proposals:
 1. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.
 2. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.
 - Not applicable.

Conclusion

Staff finds that this property is surrounded by other commercially zoned properties and fits the area where proposed. If the applicant would like to create a buffer along the eastern property line, staff would recommend utilizing landscaping rather than a fence to create a more visually appealing appearance. For the entrance off Potomac Place, it may remain a full service ingress/egress until Genie Lane is extended, and completed, in which case the entrance shall become a left/right in and right out

only. Furthermore, staff would recommend the proposed road connecting Prudential Drive to Genie Lane be a private road or that the vacuums and parking be relocated elsewhere on the property if it will be a public roadway.

At this time, Councilman Steve Sullivan acknowledged applicant Rocky Crossland and property owner John Lee to speak regarding this request.

Motion by Phil Wilson, seconded by Scott Demonbreun to approve the use of a car wash within a C-2 zone with the following conditions:

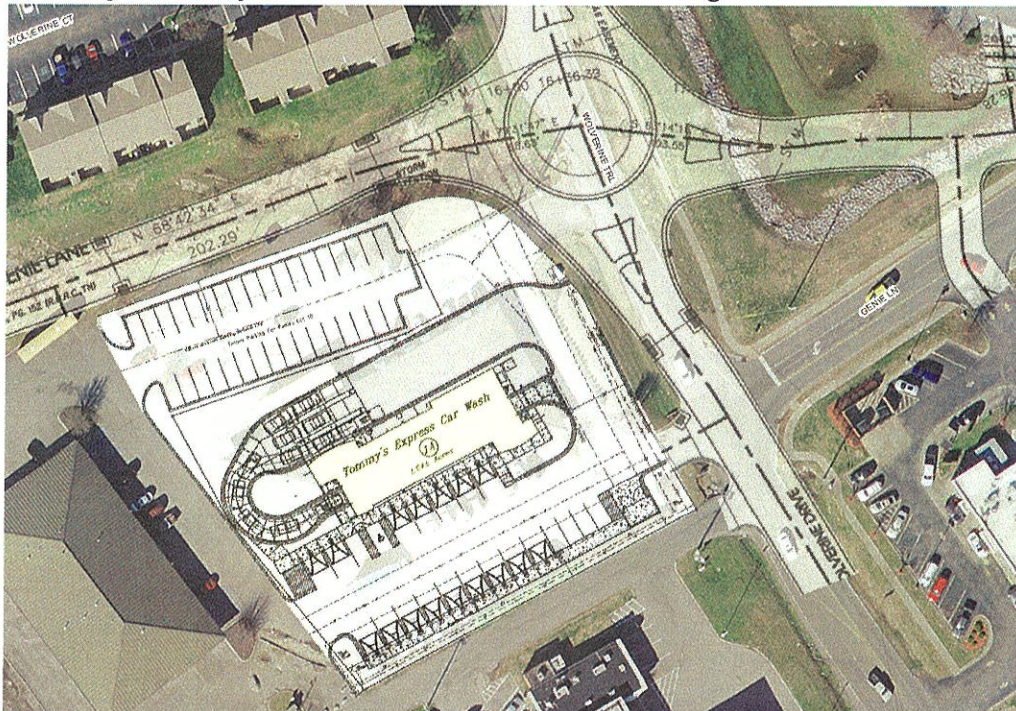
1. Utilization of landscaping in lieu of a fence along the eastern property line bordering the church.
2. The ingress/egress off Potomac Place may be a L/R in and L/R out until Genie Lane is extended, and completed, connecting to Potomac Place. Upon completion, the entrance shall be converted to a L/R in and Right out only.
3. The proposed road connecting Prudential Drive to Genie Lane shall be a private road.

Vote: 5 - 0 Passed - Unanimously

2. Scott Findlay
301 Wolverine Trail

<i>Location:</i> 301 Wolverine Trail	<i>Property Owner:</i> Wayne Qualls
<i>Tax Map/Part of Parcel #:</i> Map 28, Part of Parcel 57.06	
<i>Zoning/Use Classification:</i> C-2/Car Wash	

Request: For a special exception to allow a car wash in a C-2 zoning district.



Staff Analysis The applicant has requested a special exception to allow a car wash within a C-2 zone at the existing 301 Wolverine Trail. The property is zoned C-2, General Commercial, and is approximately 2.88 acres in size. Surrounding zoning consists of C-2 and R-6 to the north. As existing, the site as two commercial office buildings on site, with this proposal, one of the buildings is to be demolished. Genie Lane and Wolverine Trail intersection will be realigned with the addition of a

roundabout, one ingress/egress will be off of Wolverine Drive. Three queue lanes would support approximately 30 vehicles narrowing to a single aisle upon entering the building. Building elevations show a predominately brick building with varying colors along with an aluminum accent at the entrance and exit.

Section 7.060 B of the Zoning Ordinance details the requirements for authorizing special exceptions. These are detailed below.

Special Exception Requirements

Section 7.060 of the Municipal Zoning Ordinance lists general requirements for a zoning variance request. Those requirements and staff's findings are as follows:

Section 7.060 Procedure for authorizing special exceptions

The following procedure is established to provide procedures for review of a proposed use as a conditional use or special exception by the Board of Zoning Appeals. The procedure shall be the same whether review is required under Section 13-7-206 of the Tennessee Code Annotated, by this ordinance, or whether a review is requested by the Building Official to determine whether a proposed use is potentially noxious, dangerous or offensive.

B. General Requirements:

A conditional use permit (a special exception) shall be provided the Board finds that it:

1. Is so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.
 - Staff finds the proposed use of a car wash should not negatively affect the health, safety, and welfare of the public.
2. Will not adversely affect other property in the area in which it is located.
 - Staff finds that the proposed use has the potential to adversely affect other properties in the surrounding area due to noise produced from this use onto the adjacent residential townhome development. The building would be approximately 190' from the townhomes. Applicant states the car wash utilizes maximum insulation around the blowers and exit to reduce any residual sound. The future Genie Lane extension will also separate this business from the townhomes.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 - Section 5.052.2 C lists "car washes and automobile detailing" as a special exception in the C-2 district.
4. Conforms to all applicable provisions of this ordinance for the district in which it is to be located as well as the provisions cited in Sections 7.060 and 7.061, and is necessary for public convenience in the location planned.
 - Staff finds that this site may be able to conform to all provisions of the Municipal Zoning Ordinance as listed in Criteria Review Section 7.060 C.

C. Criteria for Review:

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions (Section 7.061), and that satisfactory provisions and arrangement has been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - Access to the site is proposed to utilize one primary entrance and exit off Wolverine Trail with a secondary access off Genie Lane. These proposed entrances would not prevent access to the existing commercial building in the rear of the property.

2. Off-street parking and loading areas where required, with particular attention to the items in item 1. above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
 - Staff finds that the business has potential to increase traffic onto the property than current exists, thus more noise for surrounding property owners, notably the residential district north of the parcel.

3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 - Refuse collection may proceed in the same manner as currently.

4. Utilities, with reference to locations, availability, and compatibility.
 - This location has access to gas, water and is serviced currently by a private sewer line. Upon completion of the Genie Lane extension, this sewer line will be abandoned and serviced by new public sewer lines.

5. Screening and buffering with reference to type, dimensions and character.
 - North of the subject property is a residentially zoned property which would require a buffer to be installed by the developer along the property line. However, with the Genie Lane extension being proposed in this area, staff would recommend the developer adhere to the Design Review Manual requirements for streetscaping.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.
 - Staff finds that the proposed auto wash use will fit the compatibility with properties in the same district in reference to the above effects. Lighting may not shine beyond the property lines.

7. Required yard and other open space.
 - Staff finds that there is adequate space on this lot to support a car wash in addition to the other office uses present at this site.

8. General compatibility with adjacent properties and other property in the district.
 - Staff finds that the use may not be compatible with the adjacent townhome development. However, there are other commercial uses present on adjoining parcels and the same parcel as well.

9. The following additional rules apply for upper story residential development proposals:

1. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.
2. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Smyrna Municipal Code.

- Not applicable.

Conclusion

Staff finds that a majority of the surrounding properties are commercially zoned and would fit for the use. With Genie Lane extension, in lieu of a Type C landscape buffer, staff would recommend the applicant install streetscaping in compliance with the Design Review Manual.

At this time, Councilman Steve Sullivan acknowledged applicant Scott Findlay to speak regarding this request.


Motion by Phil Wilson, seconded by Scott Demonbreun to approve a car wash within a C-2 zone with the following condition:

1. Utilize streetscaping along Genie Lane property line in lieu of a Type C landscape buffer.

Vote: 5 - 0 Passed - Unanimously


4. Staff comments and/or other business
5. Adjournment

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Councilman Steve Sullivan
Chairman