



TOWN OF SMYRNA BOARD OF ZONING APPEALS

MEETING MINUTES

October 20, 2022

5:00 p.m.

Smyrna Town Hall

Vice-Chairman Phil Wilson called the regular session of the Smyrna Board of Zoning Appeals to order on October 20, 2022 at 5:00 p.m. The invocation was given by Troy Powell and the Pledge of Allegiance was led by Scott Demonbreun.

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

Present: Phil Wilson; Jay Michaelson; Scott Demonbreun; Troy Powell

Absent: Steve Sullivan, Councilman

Staff: Todd Spearman, Assistant Town Manager; Jason King, Attorney; Kevin Rigsby, Town Planner;

Present: Mitchell Wensman, Planner; Kathryn Bobbitt, Office Coordinator

1. Citizens' Comments: None at this time.
2. Approval of Minutes of the September 19, 2022 meeting.

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the minutes of the September 19, 2022 meeting.

Vote: 4 - 0 Passed - Unanimously

3. New Business:
 - a. Temporary Use Permit:
 1. Scott Hudgens
540 Sam Ridley Parkway, W.

Location: 540 W. Sam Ridley Pkwy.

Property Owner: First Presbyterian Church of Smyrna

Request: For a temporary use permit to allow Christmas tree sales.



Staff Analysis:

The applicant has requested a temporary use permit to allow for Christmas tree sales to be held at the First Presbyterian Church at 540 W. Sam Ridley Parkway. The applicant has requested this temporary use permit from November 22nd – December 22nd between the hours of 9am – 9pm. Anticipated supply of trees for sale would be 175 trees. Applicant has noted that based on sales from 2021, the expectation is to be sold out in approximately 2 weeks.

Trees would be displayed in an open grassy area adjacent to the parking lot with parking and loading in the existing parking lot. Restrooms would be open to customers inside the church. Food and beverages would not be sold on location and there will not be any permanent structures added on site.

The Municipal Zoning Ordinance requirements for this use are detailed below.

Section 4.030 Temporary Use Regulations

The following regulations are necessary to govern the operation of certain necessary or seasonal use non-permanent in nature. Application for a Temporary Use Permit shall be made to the Building Official. Said application shall contain a graphic description of the property to be utilized and a site plan, to determine yard requirements setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located:

B. Christmas Tree Sale:

May obtain a thirty (30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.

Staff Recommendation:

Staff recommends approval of this request.

No one spoke at the public hearing.

Motion by Scott Demonbreun, seconded by Jay Michaelson to approve the temporary use permit for 540 Sam Ridley Parkway, West with the above listed staff comments.

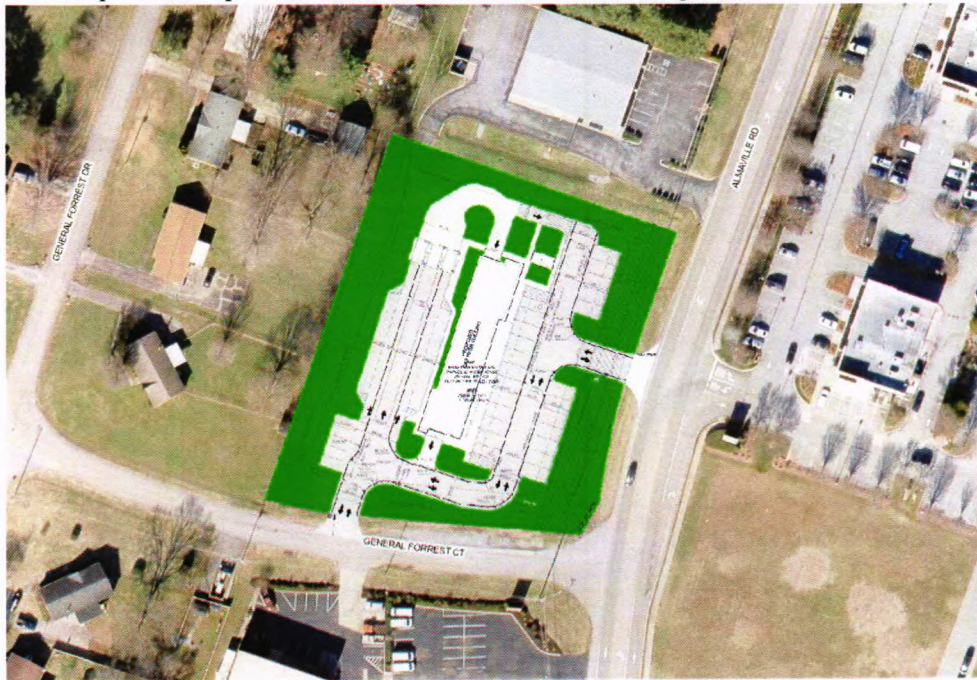
Vote: 4 - 0 Passed - Unanimously

b. Special Exceptions:

1. Grand Salkhi Properties, LLC
North of Almaville Rd. & General Forrest Ct. Intersection

Location: Almaville Rd. & General Forrest Ct.	Property Owner: Mass Properties LLC
Tax Map/Group/Parcel #: Map 50E, Group F, Parcel 1.00	Zoning/Use Classification: 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 the vacant tract at the northwestern quadrant of the intersection at Almaville Road and General Forrest Court. Surrounding zoning consists of C-2 and R-1 to the west. As proposed, there would be an access point on both road frontages. The proposed access point on Almaville Road is aligned across from the

entrance to the Publix shopping center. Three queue lanes would support approximately 32 vehicles narrowing to a single aisle upon entering the building.

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.
 1. 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.
 1. 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 single family dwellings. The exit of the building would be approximately 200' from the nearest home. Vacuums are proposed on the opposite side of the building as the homes, which should help with buffering the sound of the vacuums.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 1. 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.
 1. 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.
 1. Access to the site is proposed to utilize an access point off Almadale Road and a second access point off General Forrest Court.
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.

1. Staff finds that the development of this vacant property will increase traffic, more than currently exists, thus more noise for surrounding property owners, notably the residential district west of the parcel.
3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection would need to be coordinated with a local company for proper disposal of any waste.
4. Utilities, with reference to locations, availability, and compatibility.
 1. This location has access to gas, water and sewer, all of which are located on the property.
5. Screening and buffering with reference to type, dimensions and character.
 1. West of the subject property are residentially zoned properties which would require a buffer to be installed by the developer along the property line. This would be a Type C landscape buffer, per the Zoning Ordinance, at a minimum. A Type C landscape buffer consists of an area at least 15' wide with offset alternating rows of evergreen trees and shrubs.
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.
 1. 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.
 1. Staff finds that there is adequate space on this lot to support a car wash.
8. General compatibility with adjacent properties and other property in the district.
 1. Staff finds that the use may not be compatible with the adjacent single family dwellings. However, there are commercial uses present on adjoining parcels as well as the property being located on Almadale Road, which is a minor arterial roadway.
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.
 1. Not applicable.

Conclusion:

Staff finds that a majority of the surrounding properties are commercially zoned and would fit for the use. The property is located along Almadale Road, which is highly trafficked. The lot is of adequate size to support this use as well as adhering to regulations required per the Design Review Manual and Zoning Ordinance.

At this time, Vice-Chairman Phil Wilson acknowledged Alan Jacob with Car Wash Pro Designers to speak regarding this request.

At this time, Vice-Chairman Phil Wilson acknowledged homeowner Roger Rickabaugh of 829 General Forrest Drive to speak regarding this request.

At this time, Vice-Chairman Phil Wilson acknowledged homeowner Sharon Rickabaugh of 829 General Forrest Drive to speak regarding this request.

At this time, Vice-Chairman Phil Wilson acknowledged Nick S. with Car Wash Pro Designers to speak regarding this request.

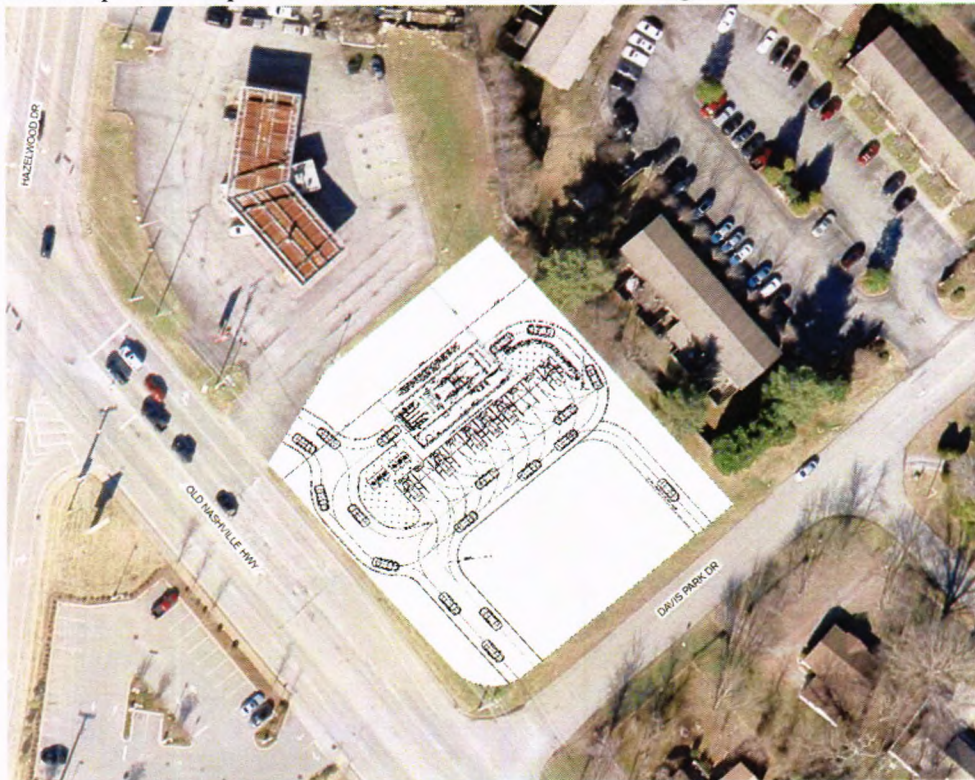
Motion by Scott Demonbreun, seconded by Troy Powell to approve the special exception for Rutherford County Tax Map: 50E, Group: E, Parcel: 1.00 at Almadale Road and General Forrest Ct. requiring them to submit a sound study to the Planning Commission, and with the above listed staff comments.

Vote: 4 - 0 Passed - Unanimously

2. JKW Holdings, LLC
North of Old Nashville Hwy. & Davis Park Dr. Intersection

Location: Intersection of Old Nashville Hwy. and Davis Park Dr	Property Owner: Richland South LLC
Tax Map/Group/Parcel #: Map 34I, Group A, Parcel 28.00	Zoning/Use Classification: 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 the vacant tract north of the intersection at Old Nashville Highway and Davis Park Drive. Surrounding zoning consists of C-2, R-2 and R-6. As proposed, there would be an access point on both road frontages with a dedicated egress point on Davis Park Drive. The proposed access point on Old Nashville Highway is part of a shared access drive to the adjoining tract to the north. A single queue lane would support approximately 15-18 vehicles upon entering the building.

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.
 1. 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.
 1. 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 single family dwellings and townhome development. The entrance of the building would be approximately 100' from the nearest dwelling. Vacuums are proposed on the east side of the building, which may create some noise pollution for residents nearby.
3. Is within the provisions of "Special Exceptions" as set forth in this ordinance.
 1. 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.
 1. 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.
 1. Access to the site is proposed to utilize an access point off Old Nashville Highway and a second access point off Davis Park Dr. with a single egress point on Davis Park Dr.
 1. Staff would prefer a different design to the site than the proposed site plan in an effort to create more efficient traffic flow and reduce any noise and light pollution to the neighboring residential tracts. If approved, staff would work with the applicant when the plan is submitted for site plan approval from the Planning Commission to resolve this issue.
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.
 1. Staff finds that the development of this vacant property will increase traffic, more than

currently exists, thus more noise for surrounding property owners, notably the townhome development east of the parcel.

3. Refuse and service areas, with particular reference to the items in 1. and 2. above.
 1. Refuse collection would need to be coordinated with a local company for proper disposal of any waste.
4. Utilities, with reference to locations, availability, and compatibility.
 1. This location has access to gas, water and sewer, all either located on the parcel or within close proximity to the parcel.
5. Screening and buffering with reference to type, dimensions and character.
 1. East and south of the subject property are residentially zoned properties. The property to the east is a townhome development, which requires a Type C landscape buffer, at a minimum. A Type C landscape buffer consists of an area at least 15' wide with offset alternating rows of evergreen trees and shrubs. The properties across Davis Park Dr. are single family detached dwellings, but would only require streetscaping as road frontage separates these properties.
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.
 1. 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.
 1. Staff finds that there is adequate space on this lot to support a car wash.
8. General compatibility with adjacent properties and other property in the district.
 1. Staff finds that the use may not be compatible with the adjacent single family dwellings and townhomes. However, there is a commercial use present on an adjoining parcel as well as the property being located on Old Nashville Highway, which is a minor arterial roadway.
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.
 1. Not applicable.

Conclusion:

Staff finds that there is a mix of commercial and residentially zoned properties surrounding this property. The tract has road frontage on Old Nashville Highway, a highly trafficked roadway. With modifications to the site plan design and the addition of landscaping to create a buffer between this tract and the adjoining residential properties, staff believes this tract could support the use of a car wash. If approved, staff would work with the applicant when the plan is submitted for site plan approval from the Planning Commission.

At this time, Vice- Chairman Phil Wilson acknowledged property owner Jeff Wisner to speak regarding this request.

Motion by Scott Demonbreun, seconded by Troy Powell to approve the special exception for Rutherford County Tax Map: 34I, Group: A, Parcel: 28.00 at the intersection of Old Nashville Highway and Davis Park Drive. requiring them to submit a sound study to the Planning Commission, and with the above listed staff comments.

Vote: 4 - 0 Passed - Unanimously

c. Setback Variance:

1. Joshua Eldred
3911 Henricks Hill Drive

Location: 3911 Henricks Hill Drive	Property Owner(s): Joshua & Ansley Eldred
Tax Map/Group/Parcel #: 32L/D/11.01	Zoning/Use Classification: R-3/Single Family Medium Density Residential

Request: For a rear setback variance to allow a deck 11' 9" off the rear property line.



Staff Analysis

The applicant has requested an 8' 3" rear setback variance to place a deck 11' 9" off the rear property line. The property is zoned R-3, Medium Density Residential, and is 10,000 square feet in size. Minimum rear yard setback requirement in an R-3 zone is 20'. The elevated deck is 40' x 12' in size and connected to the home. The property has a 20' PUDE along the rear property line. Public Works will need to review this request since the structure is built within their drainage easement, however Public Works typically will not allow structures within their easement. There is an existing fence which encloses the rear yard as well. This structure was noticed by Codes Enforcement, in which it was found that no permits had been issued for this structure.

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.
 1. Staff finds that the property has a uniquely shaped angled rear lot line in a pie shape and the lot location along an arced portion of Henricks Hill Drive, which pushes the house further back on the property.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district.
 1. Due to the property location along an arc on Henricks Hill Drive, the home is located further back on the property, closer to the rear setback line and the uniquely shaped rear lot lines are not comparable to other lots within the same district.
3. The variance will not authorize activities in a zone district other than those permitted by this ordinance.
 1. Attached structures are allowed by right in the R-3 zoning district, but are to adhere to all applicable setbacks of the principal structure.
4. Financial returns only shall not be considered as a basis for granting a variance.
 1. The property owner has not identified financial returns as a reason for requesting a 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.
 1. The creation and size of the lot and house were not completed by the applicant, however the structure has been constructed and 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.
 1. Staff finds that the variance requested may provide the applicant with special privileges denied by the ordinance to other lands, structures, or buildings in the R-3 district.
7. The variance is the minimum that will make possible the reasonable use of the land, building, or structure.
 1. Staff finds that the requested setback variance may not be the minimum to make reasonable use of this structure for the proposed use. The structure could be constructed to meet setback requirements at a smaller size.
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.
 1. Staff finds that the variance should not be detrimental to the public welfare or injurious to other property or improvements in the area.
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.
 1. Staff finds that the variance may not have any of the above effects, but is located within a drainage easement.
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.

1. Not applicable.

Conclusion:

Staff finds that this property does have an oddly shaped rear lot line. Having the lot located in the arc of Henricks Hill Drive pushes the principal structure towards the rear lot line, creating a constricted building envelope. However, there is a 20' drainage easement in the rear of the lot, which would also need to be approved by the Public Works Department.

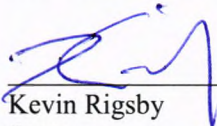
At this time, Vice-Chairman Phil Wilson acknowledged applicant Josh Eldred to speak regarding this request.

Motion by Scott Demonbreun, seconded by Troy Powell to defer to the November Board of Zoning Appeals meeting to allow for staff to review easement requirements with the Public Works Department.

Vote: 4 - 0 Passed - Unanimously


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

Respectfully submitted:



Kevin Rigsby
Secretary

Certified by:



Phil Wilson
Vice-Chairman