



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
November 11, 2015

SPECIAL USE PERMIT– 685 EAST WOLFE STREET (SECTION 10-3-91 (9))

GENERAL INFORMATION

Applicant: Power Acceleration, Inc. with representatives Saber Khoshnaw and Bashdar Azeez

Tax Map: 33-V-15

Acreage: 9,350 square feet

Location: 685 East Wolfe Street

Request: Public hearing to consider a special use permit request per Section 10-3-91 (9) of the B-2, General Business District to allow a reduction in the side yard setback to zero feet. Such permission is only permitted along the lot line of an adjoining parcel zoned B-2 or M-1.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Professional. This designations states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

The following land uses are located on and adjacent to the property:

Site: Car wash, zoned B-2

North: Across East Wolfe Street, Beth El Cemetery, zoned R-2

East: Across Old Furnace Road, vehicle repair shop, zoned B-2

South: Vehicle repair shop, zoned B-2

West: Residential dwelling, zoned R-2

EVAULATION

The applicants are requesting a special use permit (SUP) per Section 10-3-91 (9) of the Zoning Ordinance, which allows B-2 property owners the ability to request a zero side yard setback along adjoining properties zoned B-2 or M-1. The applicants hope to utilize the SUP to renovate the existing principle buildings, which are non-conforming to setback regulations, and to change the property's use to a vehicle repair shop, which is a use permitted by right.

The standard side yard setback in the B-2 district is 10 feet, unless the adjoining property is zoned residentially and then the setback increases to 30 feet. The subject property is located at the southwestern corner of the East Wolfe Street/Old Furnace Road intersection, where a car wash has

operated for many years. In this particular case, the southern parcel boundary is the property line they are requesting the ability for a zero lot line setback, and in fact is the only internal line the applied for SUP can be utilized because the western property line is considered the rear line and the adjacent western property is zoned R-2.

The site is improved with two principle structures and an accessory building, all three of which are non-conforming to setback regulations. With regard to the two principle buildings, the easternmost building does not meet the required 30-foot setback along East Wolfe Street nor does it meet the side yard setback along the southern boundary as the structure is about 20-feet from the front line along East Wolfe Street and one-foot from the southern side line. The westernmost building also does not meet the required setback along East Wolfe Street nor the southern side boundary as this building is just over 10 feet from the front line along East Wolfe Street and 0.7 feet from the southern lot line. The structures do, however, meet the required minimum setbacks from the front line along Old Furnace Road and the western rear boundary.

Improving the property by either renovating the existing principle buildings or demolishing all structures and constructing on a vacant lot would be challenging for anyone owning the subject property. This is because the property is a corner parcel, where 30-foot setbacks are required along both street frontages; it adjoins a residentially zoned property, which requires increased setbacks; the structures are non-conforming to setback regulations, where Section 10-3-20 (2) of the Zoning Ordinance prohibits the existing buildings from being extended, enlarged, reconstructed or structurally altered except in conformity with the Zoning Ordinance; and lastly, because the parcel is relatively narrow at just over 60-feet wide.

With regard to setback regulations, the Zoning Ordinance has existing, accommodating provisions that affords some relief to the required setbacks for corner parcels. Section 10-3-112 (2) states that “[c]orner lots shall provide a setback equal to the required front setback for all yards adjoining a public street; provided, however, that the setback regulations shall not reduce the buildable width of a lot to less than fifty (50) percent of lot width and measured at the point of required setback line.” In applying this code section, at the required 30-foot setback from Old Furnace Road, the subject parcel is 60.38 feet wide and thus the parcel shall have a buildable width of 30.19 feet. After subtracting the required 10-foot setback along the side line, at first glance one would compute the setback off of East Wolfe Street to be 20.19 feet. However, because the front lot line along Old Furnace Road is a non-perpendicular line, when the setback line is extended the length of the lot and measured at a right angle, staff computes the setback distance at 19.92 feet, which happens to be more accommodating for the property owner. Once all setback regulations are applied, the 9,350-square foot parcel is limited to a buildable area of 2,864 square feet.

As described above, the applicants plan to change the use of the site from an operating car wash to an automotive repair shop. Their plan is to renovate the existing principle structures and to connect the two buildings by constructing an addition between the two buildings, where the end result would be one structure. However, because the buildings are non-conforming to setback regulations, renovations to the buildings can only occur on the portions of the structures that fall within the buildable area. After discussing different options over several months with the applicants, the option of applying for the requested SUP appeared to be the most useful for their plans because if approved, larger portions of the buildings could be improved.

If the SUP is approved, improvements to the principle buildings could be made entirely to the southern side of the buildings, and as is planned by the applicants, they could connect the buildings with an

addition between the structures in line with the existing southern walls. The northern side of both existing buildings, however, would still be in question as to where and how much of the buildings can be renovated. As noted above, staff believes the required setback along East Wolfe Street is 19.92 feet; it is clear that the existing westernmost building will not be able to be completely renovated as this building is located just over 10 feet from the front property line along East Wolfe Street. This means any portion of the building that encroaches the minimum required setback cannot be extended, enlarged, reconstructed or structurally altered. The current location of the easternmost building might however fit just within the buildable area of the site. The physical survey of the property scales this structure at 20 feet or just less than 20 feet from the front lot line. If approved, when the applicants submit their building permit application, their submission must include an exact surveyed measurement of the easternmost building from the front property line along East Wolfe Street. The surveyor should also confirm what staff believes would be the required setback along East Wolfe Street. In addition, the building permit application must demonstrate where the setback is located within the westernmost building so staff and the property owners understand where improvements are permitted to occur.

During this application's review, the Fire Department noted that generally speaking they are opposed to zero yard setbacks due to the associated fire spread danger when buildings are constructed so close together and the difficulty that occurs in fighting the fire. However, in understanding the applicants' plan to renovate the existing principle buildings and to add an addition to connect the two buildings, they consented to the idea, but only if the permit was granted to the stated plan of development.

As noted by the Zoning Ordinance's review standards for SUPs, Section 10-3-125 states, among other things, that "[t]he proposed use shall be consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district." In this particular case, staff does not believe the proposed use would have an adverse effect on the health, safety or comfort of persons living or working in the area nor be injurious to property or improvements in the surrounding area. The subject site's principle buildings have been established for several years at one foot and less than a foot from the adjacent property; approving the SUP does not change the general characteristics of how the site has been improved. Furthermore, the adjacent property—the property most impacted by the SUP—is also improved with a principle building that is non-conforming to setback regulations and at its closest point is likely less than one foot from the shared property boundary.

Staff is recommending approval of the SUP, but only with the following condition:

- The special use permit shall only be applicable for the renovation of the existing principle buildings, where the zero side yard setback shall be applied along the location of those buildings and in the space between the buildings so that the two buildings may be connected to create one structure.

The above condition means that a zero side yard setback shall not be applied for any new building to the west of the westernmost principle building or the east of the easternmost principle building. Further, if the existing principle buildings are substantially demolished, where for all intents and purposes the site is being redeveloped, the standard side yard setback must be applied.

If the SUP is approved, at the time of building permit review, the applicants must still ensure the site can accommodate the required minimum off-street parking spaces. Given that the site is paved to the northeastern corner at the intersection of the public streets, staff is concerned that parked vehicles at

this corner could block sight distance for vehicles stopped on East Wolfe Street. Staff recommends the property owner devise a parking layout to prevent this situation. Furthermore, it would be advantageous to the public if parking spaces were located at least five feet off of the back of curb along East Wolfe Street to provide a clear pedestrian pathway along the public street.

As noted above, vehicle repair shops are permitted by right in the B-2 district per Section 10-3-90 (7). Specifically within this section it states that “all activities and storage of inoperable vehicles must be completely enclosed within a permitted structure.” These provisions are stricter than those specifying how vehicle repair shops shall operate in the M-1, General Industrial District, where the Zoning Ordinance states that “[a]ny outside storage or repair shall be located within a designated area and screened.” Since the planned use of the site is to convert the car wash, which has pipes draining to the sanitary sewer system, to a vehicle repair shop, the site must comply with all applicable City Codes and Building Codes pertaining to grit chambers and oil/water separators. Lastly, the applicant must understand that building in close proximity to property lines triggers restrictive Building Code requirements that can lead to significant construction costs.

Staff recommends approving the SUP to allow a zero side yard setback along the southern property line with the condition as noted above that it shall only be applicable for the renovation of the existing principle buildings, where the zero side yard setback shall be applied along the location of those buildings and in the space between the buildings so that the two buildings may be connected to create one structure.