

**Memorandum to the Providence Zoning Board of Appeals Supporting Denial of Application for Special Use Permit and Dimensional Variance to allow a car wash for property at 68 Pleasant Valley Parkway. --- filed on behalf of The Paul Cuffee School, Rathbone Properties LLC, Teatro Group LLC and 67 Rathbone LLC**

**APPLICATION:**

Applicant is proposing a car wash with three vacuuming stations off Pleasant Valley Parkway that will also have vehicular access to Rathbone Street. The Application seeks a **special use permit** for the this use and a **dimensional variance** to allow the planting of only 84 bushes along the side and rear yards vs the 250 required.

**SUMMARY:**

The Application for a special use permit should be denied because (1) the use will generate vehicular traffic that would adversely impact (a) the drop off and pick up of students on Rathbone Street at the nearby Paul Cuffe School, (b) food delivery and pick up business at the abutting property at 47 Rathbone Street and (c) residential apartments at the abutting 47 Rathbone Street and 91 Valley Street; (2) there is no evidence that substantially more of the required 254 bushes could not be planted along the side and rear yards; and (3) Applicant is not entitled to a special use permit and a dimensional variance because Applicant cannot evidence that the car wash could not exist if more bushes were planted, as required by Section 1901 C of the Zoning Ordinance.

**ANALYSIS:**

**I. No special use permit may be granted because the proposed car wash would have a material negative impact on abutting and nearby properties.**

To obtain a special use permit to allow the car wash, the Applicant must demonstrate that the proposed special use will not substantially injure the use and enjoyment of neighboring property and will not significantly devalue neighboring property:

The application materially mis-categorizes the neighborhood and thus the proposed car wash use (a) is only partially consistent and complimentary to the abutting businesses and the surrounding area and (b) would adversely impact (i) the Paul Cuffee School (ii) the food delivery business at 47 Rathbone Street and (iii) the apartments in two abutting properties—and thus the special use permit should not be granted.

The Applicant’s petition incorrectly describes the neighboring properties. The application states;

“Surrounding uses consist of service and auto related industries such as, gas stations, auto repair and sales, fast food restaurants with drive throughs, commercial uses and manufacturing/distribution uses.”

**Facts:** (a)The Paul Cuffee School and its parking area are located several hundred feet away at Rathbone Street. The School uses Rathbone Street for the twice daily pick up and drop

off of students by cars and buses. Rathbone Street is congested in the morning and afternoon of school days with buses and cars. There is existing signage which limit parking and access on Rathbone during such times of the day. Additional traffic from the car wash operation would make Rathbone more congested and dangerous and thus have a material negative impact on Paul Cuffee School, its students and their parents.

(b) Two abutting buildings at 47 Rathbone and 91 Valley Streets have residential apartments which are proximate to the proposed car wash and look over the proposed car wash building. Lights from the car wash building and cars using the car wash at night would adversely impact the residents in these apartments. The current use of the proposed car wash property ends at 5 p.m.

(c) The abutting building at 47 Rathbone Street is used primarily as a food service business which involve frequent pick up by GoPuff of prepared food to be delivered to customers --- which therefore creates a lot of traffic that would be immediately proximate to the Rathbone entrance/exit of the Applicant's car wash. Cars exiting the car wash on Rathbone Street would risk accidents with the Go Puff delivery and pickup vehicles.

**Conclusion:** Therefore, the Application for a special use permit should be denied because the proposed car wash would have an adverse impact on

- (1) The nearby Paul Cuffee School located at 15-17 Rathbone Street and 459-509 Promenade Street which needs the use of Rathbone Street for buses and pick-up and drop off of young/lower school students. The street is already congested in the morning and afternoon of school days and would become more congested and dangerous to Cuffee students if the car wash is built because of the proposed vehicular exit onto Rathbone Street.
- (2) The business use of the building at 47 Rathbone Street because potentially significant number of vehicles exiting (and perhaps entering) the car wash property would risk collisions with the Go Puff delivery vehicles.
- (3) The residential apartments in the buildings at 47 Rathbone Street and 91 Valley Street Street because unlike the current use of the Applicant's property by Johnson and Wales, the car wash would be operated after 5 p.m. into the night and the idling cars would produce a lot of exhaust.

**II. The Zoning Board is prohibited by Sec 1901 of the Zoning Ordinance from granting both a special use permit and the requested dimensional variance because Applicant cannot establish that a car wash could not exist if more than the proposed number of bushes had to be planted.**

Section 1901 C of the Zoning Ordinance prohibits the Zoning Board from granting the requested special use permit and the requested dimensional variance because the proposed car wash use could still exist if more bushes than the proposed 84 bushes were planted.

Section 1901 C. Special Use Permit and Variance

The Zoning Board of Review, or the City Plan Commission, as part of unified development review, may issue a dimensional variance in conjunction with a special use permit. **If the special use could not exist without the dimensional variance**, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, **will consider the special use permit and the dimensional variance together** to determine if granting the special use is appropriate based on both the special use criteria and the variance evidentiary standards.

**Conclusion:** the Zoning Board may not grant both the requested special use permit and dimensional variance because of the obvious fact that if there were fewer battery charging stations, more bushes could be planted.

### **III. Facts Do Not Support the Granting of Dimensional Variance.**

The Application seeks a dimensional variance to allow a material reduction in the number of bushes required by the Zoning Ordinance from 250 required to 84 proposed solely because the Applicant states that the lot is too small to allow the required number of bushes.

**Zoning Ordinance: Section 1202 F. Car Wash** provides:

“1. Car wash facilities shall be screened along interior side and rear lot lines with a solid fence or wall, a minimum of six feet and a maximum of seven feet in height. One shrub a minimum of three feet in height at time of planting shall be planted linearly every three feet on-center along such fence or wall.”

A dimensional variance must be requested for the shrub requirement where this standard cannot be met.

The Applicant is proposing to plant only 84 of the required 250 bushes. The Application is unclear as to why such a small percentage of the bushes can be planted, especially since the proposed site plan seems to show room for more bushes.

In any case the Application should be denied because many more of the number of required 250 bushes could be planted if the proposed building were smaller and/or there were fewer than eleven (11) charging stations.

**IN SUM** the Zoning Board should deny the requested special use permit and the requested dimensional variance.