

**MINUTES OF THE REGULAR MEETING OF THE
MEMPHIS & SHELBY COUNTY BOARD OF ADJUSTMENT**

Wednesday, January 27, 2021

*PURSUANT TO A STATE OF TENNESSEE EXECUTIVE ORDER SIGNED BY
GOVERNOR BILL LEE, THIS WAS A STREAMED MEETING WITH ELECTRONIC VOTING*

Present:

Ms.	Mary Baker
Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	John Jackson
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
Ms.	Madeline Savage-Townes
Ms.	Portia Trass Scurlock

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, DPD
Mr.	Brett Ragsdale, DPD
Mr.	Jeffrey Penzes, DPD
Mr.	John Zeanah, DPD Director

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Jackson made the motion to approve the minutes from the December 16, 2020, Board Meeting; Malasri seconded the motion. The Minutes from the previous meeting were approved.

In some of the following cases, the application for a building permit or sign permit was rejected by the Memphis and Shelby County Building Official or Planning Director because the request is prohibited by the applicable Unified Development Code. The interested party has filed an appeal within the time provided by statute and written notice of public hearing has been sent to the property owners in the neighborhood.

1. Resolution of the Board of Adjustment that continuation of meeting telephonically is necessary to protect the health, safety and welfare of the citizens of Memphis and Shelby County in light of the COVID-19 outbreak, pursuant to Sec. A(1) of Governor Lee’s Executive Order No. 71.

3. **DOCKET:** **B.O.A. 20-126 (City)**
APPLICANT(S): Landon Himelright
PREMISES AFFECTED: 331 Saint Nick Drive
USE DISTRICT: Residential Single Family 10 (R-10)
REQUESTING: Variance pursuant to Sub-Section 3.2.9F to allow an encroachment into a platted front yard setback
ACTION OF THE BOARD: Approval with Conditions

Condition:

- 1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.

THE RESOLUTION:

WHEREAS, Landon Himelright filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow an encroachment into a platted front yard setback;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

4. **DOCKET:** **B.O.A. 20-128 (City)**
- APPLICANT:** Jim Williams of Williams Sign Company, Inc.
- PREMISES AFFECTED:** 3925 Wales Avenue
- USE DISTRICT:** Residential – 6 and Commercial Mixed Use – 3
- REQUESTING:** Variances from UDC Sub-Items 4.9.6E(2)(g)(3) and 4.9.6E(2)(h)(5) to permit a sign that uses a video message board within 100 feet of a residential use
- ACTION OF THE BOARD:** Approval with one condition

Condition:

1. Any change to the approved site plan, landscape plan, and/or elevations shall be subject to the approval of the Zoning Administrator.

THE RESOLUTION:

WHEREAS, Jim Williams of Williams Sign Company, Inc., filed an application with the Board of Adjustment for a variances from UDC Sub-Items 4.9.6E(2)(g)(3) and 4.9.6E(2)(h)(5) to permit a sign that uses a video message board within 100 feet of a residential use; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27 2021**, after due notice; and

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and

WHEREAS, The Board has determined that said variances would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with one condition on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variances, provided, however, that the variances are granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a sign permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

- 5. **DOCKET:** **B.O.A. 20-129 (City) (Correspondence case to Docket BOA 20-114)**
- APPLICANT(S):** Gill Property – Humes GP
- PREMISES AFFECTED:** 2847 Poplar Avenue
- USE DISTRICT:** Commercial Mixed Use 3 (CMU-3) and Residential Urban 3 (RU-3)
- REQUESTING:** Modification to Docket BOA 20-114 to allow additional retail sales and service uses
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. The general category of “All retail sales and service, except as listed below:” of Section 2.5.2 of the Unified Development Code shall be permitted on the subject site that is approximately fifty (50) feet wide by one hundred fifty (150) feet long and currently zoned Residential Urban – 3 (RU-3).

3. The following retail sales and service uses shall also be permitted: animal hospital, veterinary clinic, pet clinic; animal boarding, animal shelter, kennel, doggy day care; art or photo studio, gallery; bakery, retail; hair, nail, tanning, message therapy and personal care service, barber shop or beauty salon; and vehicle parts and accessories.
4. This entitlement shall not be subject to the comments from City Engineering included herein, nor their review unless such review is determined necessary by the Division of Planning and Development Land Use and Development Services Department.

THE RESOLUTION:

WHEREAS, Gill Property – Humes GP filed an application with the Board of Adjustment for a modification to Docket BOA 20-114 to allow additional retail sales and service uses;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

6. **DOCKET:** **B.O.A. 20-130 (City)**
- APPLICANT(S):** City Construction & Development, LLC
- PREMISES AFFECTED:** 2197 Central Avenue
- USE DISTRICT:** Employment (EMP)
- REQUESTING:** Use variance from Section 8.4.7 to allow townhouses and variance from Sub-section 3.10.2B to allow a minimum lot square footage of 19,000 square feet in the Employment District
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. A final site plan, landscape plan, and elevations with exterior finishes shall be submitted for administrative review and approval by the Division of Planning and Development Land Use and Development Services Department.

THE RESOLUTION:

WHEREAS, City Construction & Development, LLC filed an application with the Board of Adjustment for a use variance pursuant to from Section 8.4.7 to allow townhouses and variance from Sub-section 3.10.2B to allow a minimum lot square footage of 19,000 square feet in the Employment District and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

8. **DOCKET:** **B.O.A. 20-132 (City)**
- APPLICANT(S):** KHD Investments Group, LLC
- PREMISES AFFECTED:** 1076 Bruce Street
- USE DISTRICT:** Residential Single Family Historic (R-6[H]) District
- REQUESTING:** Variance from Section 3.6.1 to allow a side (street) yard setback of five (5) feet instead of the required ten (10) feet
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. A non-use variance to allow a side (street) yard setback of five (5) feet for a single-family home 1,877 sq. ft. in area as illustrated on the site plan. No curb-cut shall be permitted to Bruce Street.
2. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission and any change or deviation to the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment and the Memphis Landmarks Commission for review and approval or administrative review and approval by the Office of Planning and Development.

THE RESOLUTION:

WHEREAS, KHD Investments Group, LLC filed an application with the Board of Adjustment for a variance pursuant Section 3.6.1 to allow a side (street) yard setback of five (5) feet instead of the required ten (10) feet;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within a period of two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

- 9. **DOCKET:** **B.O.A. 20-133 (City)**
- APPLICANT(S):** Michael Babb of Memphis Country Club
- PREMISES AFFECTED:** 600 Goodwyn Street (on the north side of Southern Avenue at Terrell Place)
- USE DISTRICT:** Residential Urban 1 (RU-1)
- REQUESTING:** Use variance from Section 2.5.2 to allow indoor recreational uses
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. The building shall be no more than 45 feet in height, per the RU-1 regulations.
3. The applicant shall have a Class III Type A or Type B buffer on the eastern property line.

THE RESOLUTION:

WHEREAS, Michael Babb of Memphis Country Club filed an application with the Board of Adjustment for a variance pursuant to Section 2.5.2 to allow indoor recreational uses;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

10. **DOCKET:** **B.O.A. 20-134 (City)**
APPLICANT(S): Delinor Smith and Cleo Davis of All About Us
PREMISES AFFECTED: 2764 Lamar Avenue
USE DISTRICT: Commercial Mixed Use 1 (CMU-1)
REQUESTING: Use variance from Section 2.5.2 to allow a funeral home.
ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. All refuse containers shall be completely screened from view from all adjacent properties and all public right- of-way

THE RESOLUTION:

WHEREAS, Delinor Smith and Cleo Davis of All About Us filed an application with the Board of Adjustment for a variance pursuant to Section 2.5.2 to allow a funeral home.;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

11. **DOCKET:** **B.O.A. 21-005 (City)**
APPLICANT(S): Darrell Derosia
(Representative: Clark Davis)
PREMISES AFFECTED: 5305 Mesquite Road
USE DISTRICT: Residential Single Family (R-6) District
REQUESTING: Variance from Sub-Section 3.6.1A to allow an encroachment into a side yard setback
ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.

THE RESOLUTION:

WHEREAS, Darrell Derosia filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.6.1A to allow an encroachment into a side yard setback;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

- 2. **DOCKET:** **B.O.A. 20-103 (City)**
- APPLICANT(S):** Kenneth L. and Terri L. Jones
- PREMISES AFFECTED:** 1189 & 1191 Snowden Avenue
- USE DISTRICT:** Commercial Mixed Use Historic (CMU-3[H]) District
- REQUESTING:** Variances from Sub-Section 4.6.7C and Paragraph 4.6.7E(4) to allow a temporary black chain-link fence six (6) feet in height in front side yards of single family home
- ACTION OF THE BOARD:** Approval with Conditions, as amended
- APPEARANCES:** Support: Terri L. Jones
Opposition: Justin Gillis

Conditions:

1. A non-use variance to allow a temporary black chain-link fence six (6) feet in height in the front and side yards of 1189 & 1191 Snowden Avenue for a single family home shall be permitted for a period of 15 (fifteen) months.
2. Until such time above has expired, black metal posts and fencing six (6) feet in height to include a matching gate shall be installed to replace the black chain-link fence and the black chain-link fence shall be installed in the rear yard subject to review and approval by staff.
3. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission and any change or deviation to the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment and the Memphis Landmarks Commission for review and approval or administrative review and approval by the Office of Planning and Development.

THE RESOLUTION:

WHEREAS, Kenneth L. and Terri L. Jones filed an application with the Board of Adjustment for variances pursuant to from Sub-Section 4.6.7C and Paragraph 4.6.7E(4) to allow a temporary black chain-link fence six (6) feet in height in the front and side yards of a single family home and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for variances in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variances would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved with amended conditions.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variances. Provided, however, that the variances are granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within fifteen (15) months.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

7. **DOCKET:** **B.O.A. 20-131 (City)**

APPLICANT(S): Bird’s Nest, LLC

PREMISES AFFECTED: 2166 Elzey Avenue

USE DISTRICT: Residential Single Family Historic (R-6[H]) District

REQUESTING: Variance from Sub-Section 4.4.4B to allow two (2) curb-cuts on a residential lot for non-circular private drive access

ACTION OF THE BOARD: Approval with Conditions

APPEARANCES: Support: Aaron James

Opposition: None

Conditions:

1. A non-use variance to allow two (2) curb-cuts on a residential lot for non-circular private drive access to a single family home shall be permitted until the new curb-cut and new private drive is constructed as illustrated on the site plan.
2. Until such time above, the existing private gravel drive shall be removed and replaced with sod and the existing curb-cut shall be closed with curb, gutter and sidewalk.
3. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission and any change or deviation to the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment and the Memphis Landmarks Commission for review and approval or administrative review and approval by the Office of Planning and Development.

THE RESOLUTION:

WHEREAS, Bird’s Nest, LLC filed an application with the Board of Adjustment for a variance pursuant Sub-Section 4.4.4B to allow two (2) curb-cuts on a residential lot for non-circular private drive access;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 27, 2021**, after due notice and;

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for a variance in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect to impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved with conditions.

NOW THEREFORE, Be it resolved that the application be and hereby granted for the requested variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:0

FOR MOTION:8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

ADJOURNMENT:

There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY