

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

Wednesday, February 24, 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.	Brett Davis, DPD
Mr.	Lucas Skinner, DPD
Mr.	Seth Thomas, DPD
Mr.	John Zeanah, DPD Director

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Baker made the motion to approve the minutes from the January 21, 2020, Board Meeting; Savage-Townes 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.

2. **DOCKET:** **B.O.A. 21-0002 (County)**
- APPLICANT(S):** LaShelle Melton
- PREMISES AFFECTED:** 6181 Old Millington Road
- USE DISTRICT:** Residential Single Family 6 (R-6)
- REQUESTING:** Use variance from Section 2.5.2 and variance from Sub-Section 3.1.4A to allow a mobile home on a lot with a pre-existing 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. A written statement from the Memphis and Shelby County Health Department approving the sewage disposal facilities for the home is required.
3. The home meets the requirements of the state of Tennessee for installation and tie-downs.
4. The home is skirted with a durable material that encloses the area between the chassis and the ground. Durable material includes but is not limited to vinyl or masonry.
5. The moving hitch, wheels, and axles, and transporting lights are removed.

THE RESOLUTION:

WHEREAS, LaShelle Melton filed an application with the Board of Adjustment for a use variance from Section 2.5.2 and variance from Sub-Section 3.1.4A to allow a mobile home on a lot with a pre-existing home; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 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. 21-0011 (City)
- APPLICANT(S):** Tillman Redevelopment, LP
- PREMISES AFFECTED:** 244 Tillman Street (formerly 2998 Tillman Cove) and 3057 McAdoo Avenue
- USE DISTRICT:** Residential Single Family (R-6) & Residential Urban (RU-3)
- REQUESTING:** Variance from Section 2.5.2 to allow ground floor commercial space with upper-story residential in RU-3 District and variances from Sub- Sections 2.7.1B and 2.7.1G to allow a garage/maintenance building and private drive emergency access in R-6 District
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. A Use Variance to allow ground floor retail commercial spaces within buildings fronting Tillman Street shall be permitted in accordance with the CMU-1 District. Non-use variances shall be allowed for a garage/maintenance building and a private emergency access drive to be located in the R-6 District as illustrated on the site and landscape plans.
2. The final site plan shall be subject to review and approval by the staff and any change or deviation to 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 Office of Planning and Development.

THE RESOLUTION:

WHEREAS, Tillman Redevelopment, LP filed an application with the Board of Adjustment for a variance from Section 2.5.2 to allow ground floor commercial space with upper-story residential in RU-3 District and variances from Sub- Sections 2.7.1B and 2.7.1G to allow a garage/maintenance building and private drive emergency access in R-6 District; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 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:.....7 (Baker, Claybrook, Doss, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:1 (Jackson)

- 9. **DOCKET:** **B.O.A. 21-0012 (City)**
- APPLICANT(S):** Wolf River Harbor Holdings, LLC
- PREMISES AFFECTED:** 700 North Front Street
- USE DISTRICT:** Moderate Density Residential (MDR) within the Uptown Special Purpose

REQUESTING:

Change in nonconforming use permit pursuant to Sub-Section 10.2.5A to allow the existing warehouse building's conversion to a parking garage and self-storage for the general public as well as the apartment and office users of the adjacent Conwood development in the American Snuff Company Historic District (national 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 parking garage and self-storage for the general public as well as the apartment and office users of the adjacent Conwood development in the American Snuff Company Historic District (national district) are permitted uses.

THE RESOLUTION:

WHEREAS, Wolf River Harbor Holdings, LLC filed an application with the Board of Adjustment for a change in nonconforming use permit pursuant to Sub-Section 10.2.5A to allow the existing warehouse building's conversion to a parking garage and self-storage for the general public as well as the apartment and office users of the adjacent Conwood development in the American Snuff Company Historic District (national district); and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 2021**, after due notice; and

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

WHEREAS, The Board has determined that said change in nonconforming use 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 change in nonconforming use. Provided, however, that the change in nonconforming

use permit 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

- 3. **DOCKET:** **B.O.A. 21-0003 (City)**

 APPLICANT: Gita Brister Corp.

 PREMISES AFFECTED: 3520 Walker Avenue

 USE DISTRICT: Commercial Mixed Use 3 (CMU-2) within the University District Overlay (UDO)

 REQUESTING: Variance from Paragraph 8.3.10B(2) to permit a trash collection service area in front of a principal structure.

 ACTION OF THE BOARD: Hold for one (1) month

- 4. **DOCKET:** **B.O.A. 21-0006 (City)**

 APPLICANT: Mohemandali Janul

 PREMISES AFFECTED: 3896 Lamar Avenue

 USE DISTRICT: Commercial Mixed Use 3 (CMU-3) with an approved variance (BOA 71-57)

 REQUESTING: Variance from Sub-Section 4.9.15E to allow the digitization of a non- conforming sign.

 ACTION OF THE BOARD: Hold for one (1) month

- 1. **DOCKET:** **B.O.A. 21-0001 (City)**

 APPLICANT(S): Apple Seven Hospitality, Inc.

PREMISES AFFECTED: 5839 Poplar Avenue

USE DISTRICT: Commercial Mixed Use 3 (CMU-3) within a Planned Development (PD 81-308)

REQUESTING: Use variance from Section 2.5.2 to allow multi-family uses

ACTION OF THE BOARD: Approval with Conditions

APPEARANCES: Support: None
Opposition: None

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, Apple Seven Hospitality filed an application with the Board of Adjustment for Use variance from Section 2.5.2 to allow multi-family uses; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 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:.....7 (Baker, Claybrook, Doss, Jackson, Malasri, Savage-Townes, and Scurlock)

RECUSED:1 (Rainey)

- 5. **DOCKET:** **B.O.A. 21-0008 (City)**
- APPLICANT(S):** Star Memphis, LLC
- PREMISES AFFECTED:** Southwest corner of Winchester and Ridgeway Roads
- USE DISTRICT:** Commercial Mixed Use 2 and 3 (CMU-2 and CMU-3)
- REQUESTING:** Use variance from Section 2.5.2 to allow single-story mini-storage
- ACTION OF THE BOARD:** Approval with Conditions, as amended
- APPEARANCES:**
 - Support: Matthew Parrinello
Scott Cresswell
 - Opposition: None

Conditions:

1. No detached signage shall be permitted.
2. No chain link fencing shall be permitted. All existing chain link fencing shall be removed. (Please note any new fencing shall require a fence permit.)
3. All storage units shall be accessed internally. External doors to individual units shall not be permitted.
4. All storage of boats, recreational vehicles, and similar vehicles shall be indoors.
5. The final plan shall be re-recorded.
6. The parking lot and streetscape shall be brought to code within 30 months.

THE RESOLUTION:

WHEREAS, Star Memphis, LLC filed an application with the Board of Adjustment for Use variance from Section 2.5.2 to allow single-story mini-storage; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 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

6. **DOCKET:** **B.O.A. 21-0009 (City)**
- APPLICANT(S):** Dr. Errol Thomas and Janette Sta Ana
- PREMISES AFFECTED:** 1107 East Raines Road
- USE DISTRICT:** Residential Single Family 10 (R-10) with an approved variance (BOA 87-66)
- REQUESTING:** Use variance from Section 2.5.2 for a flexible loan plan establishment
- ACTION OF THE BOARD:** Rejection
- APPEARANCES:** Support: Janette Sta Ana
Delinor Smith

Opposition: Dr. Yvonne Nelson

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 applicant shall implement and maintain the Class III, Type B landscape buffer shown on the site plan.

THE RESOLUTION:

WHEREAS, Dr. Errol Thomas and Janette Sta Ana filed an application with the Board of Adjustment for Use variance from Section 2.5.2 to a flexible loan plan establishment; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 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 not being met; and

WHEREAS, The Board has determined that said variances would 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 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 rejected.

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

FOR MOTION:.....0

RECUSED:0

7. **DOCKET:** **B.O.A. 21-0010 (City)**

APPLICANT(S): Laksh Nandrajog

PREMISES AFFECTED: 770 Echles Street
USE DISTRICT: Residential Single-Family – 6 (R-6)

REQUESTING: Variance from Sub-Section 3.6.1A to allow a lot

width reduction for two lots and a lot size reduction for one lot

ACTION OF THE BOARD: Approval with Conditions

APPEARANCES: Support: None

Opposition: None

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 final lot widths and square footages shall be set by the Land Use Control Board through the subdivision process and subsequently the final plat process.

THE RESOLUTION:

WHEREAS, Laksh Nandrajog filed an application with the Board of Adjustment for variance from Sub-Section 3.6.1A to allow a lot width reduction for two lots and a lot size reduction for one lot; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 24, 2021,** after due notice; and

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for 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:.....1 (Baker)

FOR MOTION:.....7 (Claybrook, Doss, Jackson, Malasri, Rainey,
Savage-Townes, and Scurlock)

RECUSED:0

ADJOURMENT:

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

MINUTES APPROVED:_____

CHAIRMAN

SECRETARY