

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

Wednesday, March 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

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, DPD
Mr.	Jeffrey Penzes, DPD
Mr.	Brett Davis, DPD
Mr.	Lucas Skinner, DPD
Ms.	Clarke Shupe-Diggs, 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 Zoning Administrator because the request was prohibited by the Unified Development Code. The interested party subsequently filed an appeal or other application within the time provided by statute, and notice of public hearing was mailed to the property owners in the vicinity.

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. 78.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

6. **DOCKET:** **B.O.A. 2021-0017 (City)**
APPLICANT(S): Lauren Edmonds
PREMISES AFFECTED: 1927 Vinton Avenue
USE DISTRICT: Residential Single Family 6 (R-6) within the Central Gardens Historic Overlay (H)
REQUESTING: Variance from Paragraph 2.7.2B(2) to allow an accessory structure to encroach into the required side yard
ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. The required 5-foot side setback shall allow an encroachment of +/-3 feet for the accessory structure, as shown on the site plan.
2. The submitted site plan is contingent upon receiving final approval and a Certificate of Appropriateness (COA) from the Memphis Landmarks Commission.
3. 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, Lauren Edmonds filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2B(2) to allow an accessory structure to encroach into the required side yard; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

- 7. **DOCKET:** **B.O.A. 2021-0018 (City)**
- APPLICANT(S):** Michael, Jr. & Kenya Hooks
- PREMISES AFFECTED:** 108 Harbor Town Boulevard
- USE DISTRICT:** Harbor Town Planned Development (PD 88-347)
- REQUESTING:** Variances from Paragraph 2.7.2A(3) and Section 2.7.6 to allow an inground swimming pool to encroach required front yard setback along Steet ‘E’
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Non-use variance shall be allowed for a an inground swimming pool to encroach the front yard setback as illustrated on the site plan. The existing fence along Harbor Isle Circle-West shall not be removed or altered in any manner, unless approved by the Zoning Administrator.
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, Michael, Jr. & Kenya Hooks filed an application with the Board of Adjustment for variances from Paragraph 2.7.2A(3) and Section 2.7.6 to allow an inground swimming pool to encroach the required front yard setback along Street ‘E’; and

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

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

WHEREAS, The Board has determined 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 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 public health, safety, comfort, morals or welfare of inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved on the consent agenda with conditions.

NOW THEREFORE, Be it resolved the application be and hereby granted for the requested variances. Provided, however, 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 a building permit and/or Certificate of Occupancy in conformity herewith shall be obtained from Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

8. **DOCKET:** **B.O.A. 2021-0019 (City)**

APPLICANT(S): Midtown Apartment Holding, LLC

PREMISES AFFECTED: 45 South Idlewild Street

USE DISTRICT: Residential Urban 4 (RU-4) within the Midtown District Overlay (MD)

REQUESTING: Variance from Paragraph 4.9.7B(2) to allow a sign larger than the permitted size

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, Midtown Apartment Holding, LLC filed an application with the Board of Adjustment for a variance from Paragraph 4.9.7B(2) to allow a sign larger than the permitted size; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

9. **DOCKET:** **B.O.A. 2021-0021 (City) (Corres. to BOA 20-20)**

APPLICANT(S): Octopharma Plasma

PREMISES AFFECTED: 7124 Winchester Road

USE DISTRICT: Conservation Agriculture (CA), PD 97-311 with an underlying referenced zoning of the Planned Commercial (C-P), and BOA 20-20

REQUESTING: Modification to the conditions of approval of Docket BOA 20-20 to allow an additional wall sign

ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
2. No window signs, banner signs, roof signs, feather signs, reader board signs, changeable copy signs, portable signs, or temporary signs shall be permitted.
3. No detached signs shall be permitted; except for the use of one tenant slot, east and west facing, in the existing on-site integrated center sign located along Winchester Road shall be permitted.
4. A maximum of two wall, awning, canopy, or marquee signs shall be permitted—one on the south façade and one on the north façade.

5. The Market of Riverdale Bend PD Phase 1 Part of Area A Final Plat shall be rerecorded to reflect this action.

THE RESOLUTION:

WHEREAS, Octopharma Plasma filed an application with the Board of Adjustment for a modification to the conditions of approval of Docket BOA 20-20 to allow an additional wall sign; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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 conditional use permit in the Unified Development Code are being met; and

WHEREAS, The Board has determined that said conditional use permit 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 conditional use permit. Provided, however, that the conditional 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

10. **DOCKET:** **B.O.A. 2021-0022 (City)**

APPLICANT(S): Will and Hayley Hudson

PREMISES AFFECTED: 1475 Vinton Avenue

USE DISTRICT: Residential 6 (R-6) within the Central Gardens
Historic Overlay (H)

REQUESTING: Variance from Paragraph 2.7.2B(2) to allow an
addition to an accessory structure to encroach into
the required side yard

ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. The required 5-foot side setback shall allow an encroachment of +/-3 feet for the accessory structure, as shown on the site plan.
2. The submitted site plan is contingent upon receiving final approval and a Certificate of Appropriateness (COA) from the Memphis Landmarks Commission.
3. 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, Will and Haley Hudson filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2B(2) to allow an addition to an accessory structure to encroach into the required side yard; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

- 11. **DOCKET:** **B.O.A. 2021-0023 (City)**
- APPLICANT(S):** Walter Stokes
- PREMISES AFFECTED:** 1647 Forest Avenue
- USE DISTRICT:** Residential 6 (R-6) within the Evergreen Historic Overlay (H)
- REQUESTING:** Variances from Item 2.7.2D(1)(a) and Paragraph 2.7.2B(2) to allow the reconstruction of an accessory dwelling on a lot of less than 10,000 sq. ft. in size and to allow the accessory dwelling to encroach into the required side and rear yards
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. The total floor area of the approved accessory dwelling unit shall not exceed 720 square feet.
2. The required 5-foot side and rear setbacks shall allow an encroachment of +/-2 feet for the accessory structure, as shown on the site plan.

3. No windows besides clerestory windows shall be permitted along any portion of the west or south facing elevations, as shown on the site plan.
4. The submitted site plan is contingent upon receiving final approval and a Certificate of Appropriateness (COA) from the Memphis Landmarks Commission.
5. 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, Walter Stokes filed an application with the Board of Adjustment for a variance from Item 2.7.2D(1)(a) and Paragraph 2.7.2B(2) to allow the reconstruction of an accessory dwelling on a lot of less than 10,000 sq. ft. in size and to allow the accessory dwelling to encroach into the required side and rear yards; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

12. **DOCKET:** **B.O.A. 2021-0024 (City)**

APPLICANT(S): Thompson, Andrew A. & Brian E. Jones
PREMISES AFFECTED: 3831 Cardinal Avenue
USE DISTRICT: Residential Single-Family (R-6) District
REQUESTING: Variance from Sub-Section 3.6.1 to allow a carport addition to encroach the required side yard setback of the principal structure
ACTION OF THE BOARD: Approval with Conditions

Conditions:

1. Non-use variances shall be allowed for a side yard setback and to allow required parking spaces to be located within the required front yard setback line. The carport shall not be part of the enclosed principal structure.
2. The final site plan shall be subject to review and approval by 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, Andrew A. Thompson and Brian E. Jones filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1 to allow a carport addition to encroach the required side yard setback; and

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

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

WHEREAS, The Board has determined 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 to allow the request will not unreasonably increase congestion in public streets, or increase danger of fire or endanger 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 inhabitants of the City of Memphis and County of Shelby; and, therefore, this application was hereby approved on the consent agenda with conditions.

NOW THEREFORE, Be it resolved the application be and hereby granted for the requested variances. Provided, however, 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 a building permit and/or Certificate of Occupancy in conformity herewith shall be obtained from Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

- 13. **DOCKET:** **B.O.A. 2021-0025 (City)**
- APPLICANT(S):** Paul Hughes
- PREMISES AFFECTED:** 3283 Gallery Drive
- USE DISTRICT:** Employment (EMP) within a Planned Development (PD 94-326)
- REQUESTING:** Variance pursuant to Sub-Section 3.2.9F to allow an encroachment into the platted required rear yard
- 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, Paul Hughes filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow an encroachment into the platted required rear yard; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

14. **DOCKET:** **B.O.A. 2021-0026 (City)**
- APPLICANT(S):** Shelby County Schools
- PREMISES AFFECTED:** 995 S. Lauderdale Street
- USE DISTRICT:** Residential Urban – 3 (RU-3) with an approved variance (Docket BOA 81-105)
- REQUESTING:** Variances from UDC Paragraphs 4.9.6E(2) to permit a sign that uses a video message board within 100 feet of a residential use; and 4.9.7B(1) to permit a pole sign in a residential zoning district
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Any change to the approved site plan, landscape plan, and/or elevations shall be subject to the approval of the Zoning Administrator.
2. This variance shall permit a reduction in the five-foot sign setback, as necessary. However, the applicant shall provide evidence that the sign is located fully on the school property and does not protrude into the right-of-way.

THE RESOLUTION:

WHEREAS, Shelby County Schools filed an application with the Board of Adjustment for variances from UDC Paragraphs 4.9.6E(2) to permit a sign that uses a video message board within 100 feet of a residential use; and 4.9.7B(1) to permit a pole sign in a residential zoning district; and

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

NOW THEREFORE, Be it resolved that the application be and hereby is granted for the requested variances, subject to conditons, provided 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 the relevant sign permit in conformity herewith shall be obtained from the Memphis and Shelby County Department of Construction Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

16. **DOCKET:** **B.O.A. 2021-0029 (County)**
APPLICANT(S): Viola Hunt
PREMISES AFFECTED: 7207 Bridgewater Church Road
USE DISTRICT: Residential 6 (R-6)
REQUESTING: Use variance from Section 2.5.2, Paragraph 2.6.1D(3), and Paragraph 2.6.1D(9) to allow the replacement of a mobile 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.

THE RESOLUTION:

WHEREAS, Viola Hunt filed an application with the Board of Adjustment for a use variance from Section 2.5.2, Paragraph 2.6.1D(3), and Paragraph 2.6.1D(9) to allow the replacement of a mobile home; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

5. **DOCKET:** **B.O.A. 2021-0014 (City)**

APPLICANT: Design Team Sign Company, LLC

PREMISES AFFECTED: 12701 United States Highway 64

USE DISTRICT: Conservation Agriculture (CA) within a Special Use Permit (SUP 19-35)

REQUESTING: Variances from Paragraph 4.9.6L(1) to permit a supplemental wayfinding sign with an area of 40 square feet – whereas a maximum area of 16 square feet is permitted; and Section 4.9.7 to permit a pole sign with a height of 29 feet and area of 67 square feet, as well as two wall signs each with an area of 137 square feet – whereas the agricultural zoning district does not permit pole signs, and permits a maximum height of 12 feet for detached signs and a maximum area of 32 square feet for both attached and detached signs

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

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

APPLICANT: Gita Brister Corporation

PREMISES AFFECTED: 3520 Walker Avenue

USE DISTRICT: Commercial Mixed Use – 2 (CMU-2) within 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: Approval with Conditions (as amended)

APPEARANCES: Support: David Bray
Neal Patel

Opposition: Cody Fletcher

Conditions:

1. The trash collection service area shall have a minimum front setback of 25 feet. (No reduction in the number of parking spaces effected as a direct result of an effort to comply with this condition shall be construed as bringing this site into violation of Unified Development Code parking standards.)
2. A brick enclosure with a height of eight feet and self-closing access doors shall screen the dumpster.
3. The existing concrete dumpster pad shall be replaced with a curbed landscape area that includes a native canopy street tree.
4. A revised plan set – including site plan, landscape plan, and dumpster enclosure elevations – shall be submitted, subject to administrative approval.
5. The dumpster has to be rolled out and put back up by the waste disposal service.

THE RESOLUTION:

WHEREAS, Gita Brister Corporation filed an application with the Board of Adjustment for variance from Paragraph 8.3.10B(2) to permit a trash collection service area in front of a principal structure; and

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

NOW THEREFORE, Be it resolved that the application be and hereby is granted for the requested variance, subject to amended conditions, provided 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 relevant building permit in conformity herewith shall be obtained from the Memphis and Shelby County Department of Construction Enforcement within 24 months.

AGAINST MOTION:.....0

FOR MOTION:.....5 (Baker, Claybrook, Doss, Jackson, and Rainey)

RECUSED:1 (Malasri)

3. **DOCKET:** **B.O.A. 21-0006 (City)**
- APPLICANT(S):** Mohemandali Janul
- PREMISES AFFECTED:** 3896 Lamar Avenue
- USE DISTRICT:** Commercial Mixed Use 3 (CMU-3) with an approved variance (BOA 71-57)
- REQUESTING:** Variances from Sub-Section 4.9.15E and Sub-Item 4.9.7D(2)(b)(2) to allow the digitization of a non-conforming sign
- ACTION OF THE BOARD:** Hold for One (1) Month
- APPEARANCES:** Support: Kareem Taha
Opposition: None

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

4. **DOCKET:** **B.O.A. 21-0013 (City)**
- APPLICANT(S):** Vollintine Evergreen Community Association
- PREMISES AFFECTED:** 651 N. Mclean Ave
- USE DISTRICT:** Commercial Mixed Use 1 (CMU-1)
- REQUESTING:** Appeal of an administrative decision finding a proposed tobacco sales establishment is not a vapor shop
- ACTION OF THE BOARD:** Approve with Conditions (as amended)
- APPEARANCES:** Support: Lilly Gilkey
Councilman Jeffery Warren
Kelly Jansen Fulkerson
Bryce Ashby
Michelle McKissack
- Opposition: Oussama Tarrab

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.
3. The applicant may open, but three (3) months after opening, the applicant shall return to the Board of Adjustments with monthly sales receipts reflecting the percentage of sales that constitute that of ¹tobacco, and ²vapor + electronic cigarettes.

THE RESOLUTION:

WHEREAS, Vollintine Evergreen Community Association 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, March 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:.....0

FOR MOTION:.....6 (Baker, Claybrook, Doss, Jackson, Malasri, and Rainey)

RECUSED:0

15. **DOCKET:** **B.O.A. 2021-0027 (City)**

APPLICANT(S): Aman Devji/Florida Street, LLC

PREMISES AFFECTED: 327 Florida Street

USE DISTRICT: Gateway Commercial (CG)

REQUESTING: Variances from Paragraphs 4.4.3B(1), 7.2.7G(1) and 7.2.9E(1) related to a convenience store with gas pumps

ACTION OF THE BOARD: Approval with Conditions (as amended)

APPEARANCES: Support: Neeraj Kumar
John Buenke

Opposition: John Shepard
Frank Smith
Amy Carkuff

Conditions:

1. A final site plan shall be submitted to the OPD staff for review for conformance with the Site Plan Review Section of the SCBID Special District, Gateway Commercial zoning district requirements, and the UDC and the approved conditions. Said plan shall be stamped as the approved copy. Deviations from the approved site plan must be approved by the Planning Director or his/her designee or forwarded to the Board of Adjustment for their approval.

2. A modified 15-foot streetscape (as shown on the site plan) shall be utilized along E.H. Crump and Florida. All required landscaping shall be irrigated. The landscaping shall model that of the property to the east
3. The streetscape shall include a minimum 10-foot-wide sidewalk abutting the curb.
4. All sidewalks will be inspected for compliance with ADA requirements.
5. The location of any unused curb cuts will be indicated on the site plan and accompanied by a note that indicates the curb cut will be closed and replaced with curb, gutter and sidewalk.
6. Screening along the north property line shall be composed of a six-foot-tall, brick wall. The wall may be permitted to taper as it approaches the east property line so as to afford adequate sight lines for vehicles exiting the site onto Florida Street. The brick wall shall match the color of the brick on the building.
7. The maximum height of the canopy shall be 20 feet or the height of the roof line of the building whichever is lower.
8. The support poles of the canopy shall be wrapped in brick or stone that matches the building. The canopy shall be of consistent materials and colors as the building.
9. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens.
10. Signs shall be approved by the Downtown Memphis Commission.
11. Site lighting shall be indirect or incorporate full shield cut-offs where lighting is visible from adjacent properties or public right of ways to avoid spill-over to adjacent properties.
12. 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, Aman Devji/Florida Street, LLC filed an application with the Board of Adjustment for Variances from Paragraphs 4.4.3B(1), 7.2.7G(1) and 7.2.9E(1) related to a convenience store with gas pumps; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, March 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:.....0

FOR MOTION:.....5 (Baker, Claybrook, Doss, Malasri, and Rainey)

RECUSED:1 (Jackson)

ADJOURNMENT:

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY