

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

**Wednesday, April 28, 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.	Portia Trass Scurlock

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Mr.	Josh Whitehead, Secretary
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Other Staff Present:

Mr.	Brett Ragsdale, DPD
Mr.	Jeffrey Penzes, DPD
Mr.	Brett Davis, DPD
Mr.	Lucas Skinner, DPD
Mr.	John Zeanah, DPD Director

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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 previous Board Meeting; **Board Member Claybrook** 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, Zoning Administrator or City or County Engineer 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.

**AGENDA ITEM:** 3  
**DOCKET:** BOA 2021-0020 (City)  
**LOCATION:** 1038/1040 S. Willett Street  
**APPLICANT:** Mas Properties, Inc.  
 (Representative: Matthew Wallace)  
**USE DISTRICT:** Residential 6 (R-6) within the Rozelle-Annesdale Historic Overlay (H)  
**REQUEST:** Use variance from Section 2.5.2 to allow the continued use of an existing principal structure as a duplex  
**STAFF PLANNER:** Jeffrey Penzes  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** Approval with Conditions

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)  
 RECUSED: ..... 0

**AGENDA ITEM:** 4  
**DOCKET:** [BOA 2021-0032 \(City\)](#)  
**LOCATION:** 4515 Aldersgate Road  
**APPLICANT:** Glenn Chambers  
 (Representative: Cindy Reaves)  
**USE DISTRICT:** Residential Urban 1 (RU-1)  
**REQUEST:** Use variance from Section 2.5.2 to allow a triplex  
**STAFF PLANNER:** Lucas Skinner  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

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Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0

**AGENDA ITEM:** 5  
**DOCKET:** [BOA 2021-0033 \(City\)](#)  
**LOCATION:** 1769 Overton Park Avenue  
**APPLICANT:** Laura and Dean Osier  
 (Representative: Cory Brady)  
**USE DISTRICT:** Residential 6 (R-6) within a Historic Overlay (H)  
**REQUEST:** Variance from Paragraph 2.7.2A(4) to allow an accessory structure to be located closer to the road than the principal structure  
**STAFF PLANNER:** Lucas Skinner  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

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Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0

**AGENDA ITEM:** 6  
**DOCKET:** [BOA 2021-0034 \(City\)](#)  
**LOCATION:** 267 Barry Road  
**APPLICANT:** Courtney Munson  
 (Representative: David Bray)  
**USE DISTRICT:** Residential 10 (R-10)  
**REQUEST:** Variance pursuant Sub-Section 3.2.9F to allow an attached garage to encroach into a platted front yard setback pursuant to Sub-Section 3.9.1C to allow a front facing garage to be in front of the front wall plane.  
**STAFF PLANNER:** Teresa Shelton  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:.....0  
 FOR MOTION:.....7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: .....0

**AGENDA ITEM:** 8  
**DOCKET:** [BOA 2021-0037 \(City\)](#)  
**LOCATION:** 125 East Goodwyn Street  
**APPLICANT:** William A. Geary, Jr.  
**USE DISTRICT:** Residential 6 (R-6)  
**REQUEST:** Variance from Paragraph 2.7.2B(2) to allow a detached garage to encroach into the rear and side yard setbacks  
**STAFF PLANNER:** Teresa Shelton  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)  
 RECUSED: ..... 0

**AGENDA ITEM:** 10  
**DOCKET:** [BOA 2021-0039 \(City\)](#)  
**LOCATION:** 501 Tillman Street  
*Southwest corner of Sam Cooper and Tillman*  
**APPLICANT:** Collage Dance Collective, Inc.  
 (Representative: Penni Walker)  
**USE DISTRICT:** Residential (R-6) with approved Use Variance (Docket BOA 19-72)  
**REQUEST:** Variance from Paragraph 4.9.7B(2) to allow signs that exceed the district's limitations  
**STAFF PLANNER:** Teresa Shelton  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

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Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0

**AGENDA ITEM:** 11  
**DOCKET:** [BOA 2021-0040 \(City\)](#)  
**LOCATION:** 2089 Winchester Road  
**APPLICANT:** Glenn Wilson  
 (Representative: Delinor Smith of Smith Building Design and Associates, Inc.)  
**USE DISTRICT:** Residential Work (RW)  
**REQUEST:** Use variance from Section 2.5.2 to permit the manufacture, distribution, and sale of food products  
**STAFF PLANNER:** Brett Davis  
**STAFF RECOMMENDATION:** Approval with one Condition  
**ACTION BY THE BOARD:** **Approval with one Conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0



**AGENDA ITEM:** 12  
**DOCKET:** [BOA 2021-0041 \(City\)](#)  
**LOCATION:** 1789 Faxon Avenue  
**APPLICANT:** Kathrin R. Woodruff  
**USE DISTRICT:** Residential 6 (R-6)  
**REQUEST:** Variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit  
**STAFF PLANNER:** Seth Thomas  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none.**

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0

**AGENDA ITEM:** 13  
**DOCKET:** [BOA 2021-0042 \(City\)](#)  
**LOCATION:** 325 South G.E. Patterson Avenue  
**APPLICANT:** One4Nine0, LLC  
 (Representative: Eric Criswell)  
**USE DISTRICT:** South Downtown Residential (R-SD)  
**REQUEST:** Use variance from Sub-Section 7.2.3C to allow self-storage facility and art studio space  
**STAFF PLANNER:** Jeffrey Penzes  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

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Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 **(Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
 RECUSED: ..... 0

**AGENDA ITEM:** 14  
**DOCKET:** [BOA 2021-0043 \(City\)](#)  
**LOCATION:** 4918 William Arnold Road  
**APPLICANT:** Pax Memphis Recovery, LLC  
 (Representative: Cindy Reaves)  
**USE DISTRICT:** Residential Work (RW)  
**REQUEST:** Use variance from Section 2.5.2 to allow inpatient care services at an existing (outpatient) rehabilitation clinic and counseling center  
**STAFF PLANNER:** Clarke Shupe-Diggs  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Hold for one month**

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)  
 RECUSED: ..... 0

**AGENDA ITEM:** 15  
**DOCKET:** [BOA 2021-0044 \(City\)](#)  
**LOCATION:** Southwest corner of Jefferson and Manassas  
**APPLICANT:** University of Tennessee  
 (Representative: Alex Turley)  
**USE DISTRICTS:** Residential Urban 4 (RU-4) and Campus Master Plan 1 (CMP-1)  
**REQUEST:** Variances from Sections 2.5.2, 8.2.5, 8.2.6 and 8.2.7 to permit a mixed-use, multifamily development  
**STAFF PLANNER:** Clarke Shupe-Diggs  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... **0**  
FOR MOTION:..... **7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
RECUSED: ..... **0**

**AGENDA ITEM:** **2**  
**DOCKET:** [BOA 2021-0014 \(County\)](#)  
**LOCATION:** 12701 United States Highway 64  
**APPLICANT:** Design Team Sign Company, LLC  
(Representative: David Baker of Fisher Arnold, Inc.)  
**USE DISTRICT:** Conservation Agriculture (CA) within a Special Use Permit (SUP 19-35)  
**REQUEST:** 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  
**STAFF PLANNER:** Brett Davis  
**STAFF RECOMMENDATION:** Approval with Conditions  
*This matter was held in abeyance by the Board for a period of one month during its March 24, 2021, meeting.*  
**ACTION BY THE BOARD:** **Hold for one month**

AGAINST MOTION:..... **0**  
FOR MOTION:..... **7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
RECUSED: ..... **0**

**AGENDA ITEM:** 9  
**DOCKET:** [BOA 2021-0038 \(City\)](#)  
**LOCATION:** 4048 Minden Road  
**APPLICANT:** Taylor, Timothy R. & Christine W.  
 (Representative: Don Conway)  
**USE DISTRICT:** Residential Single Family (R-10) District  
**REQUEST:** Variances from Paragraph 2.7.2B(1) to allow an accessory garage/work shop structure to exceed the height of the principal structure and from Paragraph 2.7.2B(2) to allow the height within twenty (20) feet of the east side yard property line  
**STAFF PLANNER:** Brian Bacchus  
**STAFF RECOMMENDATION:** Approval with Conditions  
**ACTION BY THE BOARD:** **Hold for one month**

AGAINST MOTION:..... 0  
 FOR MOTION:..... 7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)  
 RECUSED: ..... 0

**\*\*PUBLIC HEARINGS\*\***

**AGENDA ITEM:** 7  
**DOCKET:** [BOA 2021-0035 \(City\)](#)  
**LOCATION:** 3822 Summer Avenue  
**APPLICANT:** Marshall Gordon of J. D. Marks, Inc., Realtors  
 (Representative: David Bray of the Bray Firm)  
**USE DISTRICT:** Residential Work (RW)  
**REQUEST:** Retroactively permit two nonconforming signs (one ground sign and one roof sign), requiring variances from:  
 - Sub-Section 4.9.6C to permit the ground sign to encroach into its 10' minimum front and side setbacks;  
 - Paragraph 4.9.6F(2) to permit the ground sign to encroach into the clear sight triangle;  
 - Paragraph 4.9.6M(2) so as not to require a landscape area at the base of the ground sign;  
 - Paragraph 4.9.7B(1) to permit a roof sign, whereas the Residential Work district does not permit that sign type;  
 - Paragraph 4.9.7B(2) to permit both signs to exceed their maximum gross surface areas of 12 square feet;  
 - Item 4.9.7B(4)(b) so as not to limit the roof sign to the name of the establishment only; and  
 - Paragraph 4.9.7B(5) to permit the ground sign to exceed its 5' maximum height.  
**STAFF PLANNER:** Brett Davis  
**STAFF RECOMMENDATION:** Rejection  
**TESTIMONY PROVIDED BY:** **David Bray (for applicant)**  
**Marshall Gordon (for applicant)**  
**ACTION BY THE BOARD:** **Rejection**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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 **not being met**; and

WHEREAS, The Board has determined that said variance 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **rejected**.

AGAINST MOTION:..... **2 (Baker, Jackson)**  
FOR MOTION:..... **4 (Claybrook, Malasri, Rainey and Scurlock)**  
RECUSED: ..... **0**

**AGENDA ITEM:** **1**  
**DOCKET:** [BOA 2021-0006 \(City\)](#)  
**LOCATION:** 3896 Lamar Avenue  
**APPLICANT:** CitySigns  
(Representative: Abdel Kareem Taha)  
**USE DISTRICT:** Commercial Mixed Use 3 (CMU-3) with an approved variance (BOA 71-57)  
**REQUEST:** 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  
**STAFF PLANNER:** Lucas Skinner  
**STAFF RECOMMENDATION:** Approval with Conditions  
*This matter was held in abeyance by the Board for a period of one month during its February 24, 2021, and March 24, 2021, meetings.*  
**TESTIMONY PROVIDED BY:** **Abdel Taha (for applicant)**  
**ACTION BY THE BOARD:** **Approval with Conditions**

THE RESOLUTION:

WHEREAS, an application was filed with the Board of Adjustment by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 28, 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.

NOW THEREFORE, Be it resolved that the application be and is hereby **granted**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. 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 the Unified Development Code, and other City or 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 within two (2) years.

Amendments made by the Board to the conditions as presented by staff and included in the staff report: **none**.

AGAINST MOTION:..... **0**  
FOR MOTION:..... **7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)**  
RECUSED: ..... **0**

ADJOURNMENT:

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

MINUTES APPROVED: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY