

AGENDA ITEM: 2

**CASE NUMBER:** BOA 21-13 (City) **B.O.A. MEETING:** July 28, 2021

**LOCATION:** 651 North McLean Blvd.

**OWNER:** Oussama Terrab

**REQUEST:** Present monthly sales receipts reflecting the percentage of sales that are comprised of 1) tobacco and 2) vapor and electronic cigarettes, pursuant to condition of approval of this case by the Board on March 24, 2021

**AREA:** 0.32 acres

**EXISTING ZONING:** Commercial Mixed Use – 1 (CMU-1)

## CONCLUSIONS

1. The applicant is returning before the Board of Adjustment to present receipts showing 3 months of sales of his smoke shop.
2. The applicant is returning per a condition that was added to the appeal case that was heard on March 24, 2021.
3. The applicant will have receipts showing the break-down of sales between tobacco sales, and vapor and electronic cigarette products.
4. The Board will ensure that the use is in fact a smoke shop and not a vapor shop. Per the UDC regulations of the definition of “vapor shop”, a vapor shop sells more than 50% of its monthly sales comprised of e-cigarettes.

## RECOMMENDATION

*Take whatever action the Board deems advisable*

LETTERS RECEIVED

Three letters were received and attached below for viewing.



MEMPHIS CITY COUNCIL  
DR. JEFF WARREN – SUPER DISTRICT 9-3

July 23, 2021

To: Memphis and Shelby County Board of Adjustment  
From: Councilman Jeff Warren, M.D., Memphis City Council, Super District 9-3  
Subject: BOA 2021-0013

Members:

I write again to lend my full support to the Vollintine Evergreen Community Association (VECA) as their appeal (BOA 2021-0013) is revisited three months following the board's approval with conditions. While disheartened Mystery Smoke Shop at 651 North McLean Boulevard was allowed to open, I am encouraged that the board will have another opportunity to review this case. I fully support a decision from the board to vacate the permit provided to Mr. Oussama Terrab, owner of Mystery Smoke Shop, if he cannot demonstrate less than 50% of his monthly sales derive from vape materials.

In the event Mr. Terrab does present monthly sales records demonstrating less than 50% of sales derived from vape materials, I implore the board to use their discretion in determining if those sales records are accurate, adequate, and verifiable. Of specific interest will be whether the board agrees with the owner's classification of what constitutes a vape item vs. a tobacco item – a distinction that would undoubtedly impact monthly sales percentages.

Additionally, I believe there is still reason for community members and the board to be skeptical of Mystery Smoke Shop's planned business activities. In a letter to the Memphis and Shelby County Division of Planning and Development, and included in the original staff report for this case, Mr. Terrab stated the shop's "vape merchandise" would not "exceed 15% of our sale."<sup>1</sup> Then during the March 24, 2021 Board of Adjustment hearing, Mr. Terrab told the board "My sales will never exceed 30% of vape products."<sup>2</sup> While allowable under the UDC, this conflicting language highlights a major concern raised by VECA in their original appeal that "sales percentages may significantly increase over time..."<sup>3</sup>

I appreciate the board's thoughtful work thus far and share your sentiments about this case. I ask the board to use their full discretion in determining if Mr. Terrab's sales records allow him tobacco shop designation. As a Representative for this district, a homeowner in the neighborhood, and proud father whose children attended Snowden Elementary and Middle School, I implore the board to practice due diligence and ensure a full and detailed review of this case.

Respectfully,

A handwritten signature in black ink that reads "Jeff Warren MD".

Councilman Jeff Warren, M.D.  
125 N. Main Street  
Suite 514  
Memphis TN 38103  
(901) 636-6784

<sup>1</sup> <https://shelbycountyttn.gov/ArchiveCenter/ViewFile/Item/10145> pg. 19

<sup>2</sup> <https://dailymemphian.com/article/20889/midtown-smoke-shop-allowed-conditional-open>

<sup>3</sup> <https://shelbycountyttn.gov/ArchiveCenter/ViewFile/Item/10145> pg. 18



N. Strong <mlc.nstrong@gmail.com>  
Fri 7/23/2021 7:40 AM  
To: Skinner, Lucas



**CAUTION:** This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Board of Adjustment Commissioners & Staff,

I live in the VECA community and supported VECA's request at the hearing on March 24, for an appeal of BOA 2021-0013. An administrative decision finding that a proposed tobacco sales establishment at 651 N. McLean is not a vapor shop.

A vaping shop, located approximately 200 feet from Snowden School where more than 1300 students (Elementary-- Pre-K-5th grade and Middle School-- 6th-8th) attend daily in non-pandemic times, is not a proper location for such a business and is of great concern and alarm for parents, school administrators, health professionals and residents of this neighborhood.

Sincerely,  
Natasha Strong



Elisabeth Eickhoff <eli\_1172@yahoo.com>  
Mon 7/19/2021 8:37 AM  
To: Skinner, Lucas



**CAUTION:** This email originated outside of the City of Memphis organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Mr Skinner,  
I'm a homeowner in VECA and live very close to this smoke shop on McLean. While I do not wish any harm on anyone's local business venture, I do not feel this business is appropriate for that location. It's too close to a school with impressionable kids, for starters, and also not the kind of business that benefits the whole community surrounding. We need more small businesses opening in that shopping area, no doubt, but perhaps something a bit more appropriate.

Thank you for your time and consideration,  
Elisabeth Eickhoff  
924 N Barksdale St.

[Reply](#) | [Forward](#)