

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

**Wednesday, September 22, 2021**

**Memphis City Hall  
125 N. Main Street  
City Council Chambers**

Present:

Ms.	Mary Baker
Ms.	Joy Doss
Mr.	John Jackson
Mr.	J.T. Malasri
Dr.	Margaret (“Libby”) Pritchard, substituting for Carson Claybrook
Mr.	Timothy D. Rainey, Chair
Ms.	Madeleine Savage-Townes, Vice Chair
Ms.	Portia Scurlock

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Mr. Josh Whitehead, Secretary

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Other Staff Present:

Mr.	Brian Bacchus, Division of Planning and Development (“DPD”)
Ms.	Mony Hooshyard, DPD
Mr.	Jeffrey Penzes, DPD
Mr.	Brett Ragsdale, DPD
Mr.	Robert Rolwing, County Attorney’s Office
Ms.	Clarke Shupe-Diggs, DPD
Mr.	Chris Simmons, DPD
Mr.	Lucas Skinner, DPD
Mr.	Seth Thomas, DPD

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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 Scurlock** 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:** 5  
**DOCKET:** [BOA 2021-104 \(City\)](#)  
**LOCATION:** 4661 Burbank Road  
**APPLICANT:** Jordan Aluminum Extrusion Company  
 (Representative: David Harper)  
**USE DISTRICT:** Employment (EMP)  
**REQUEST:** Variance from Section 3.10.2 to allow an encroachment into a rear yard setback  
**STAFF PLANNER:** Clarke Shupe-Diggs  
**STAFF RECOMMENDATION:** Approval with conditions  
**ACTION BY THE BOARD:** **Approval with conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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**.

Motion to **approve**.

**FOR MOTION:** 8 (**Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock**)  
**AGAINST MOTION:** 0  
**RECUSALS:** 0  
**ABSTENTIONS:** 0

Motion **passes**.

**AGENDA ITEM:** 6  
**DOCKET:** [BOA 2021-106 \(City\)](#)  
**LOCATION:** North side of Democrat Road, 300 feet west of Tchulahoma  
**APPLICANT:** Federal Express Corporation  
 (Representative: Jennifer Peregoy, Kimley-Horn)  
**USE DISTRICT:** Employment (EMP)  
**REQUEST:** Variance from Sub-Section 4.5.5D to allow a surface parking lot with reduced interior landscaping  
**STAFF PLANNER:** Jeffrey Penzes  
**STAFF RECOMMENDATION:** Approval with conditions  
**ACTION BY THE BOARD:** **Approval with conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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**.

Motion to **approve**.

FOR MOTION: 8 (**Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock**)  
 AGAINST MOTION: 0  
 RECUSALS: 0  
 ABSTENTIONS: 0

Motion **passes**.

**AGENDA ITEM:** 7  
**DOCKET:** [BOA 2021-109 \(County\)](#)  
**LOCATION:** 5884 U.S. Highway 51  
**APPLICANT:** Jeffrey McCoy  
 (Representative: David Bray)  
**USE DISTRICT:** Employment (EMP)  
**REQUEST:** Use variance from Section 2.5.2 to allow a single-family residence  
**STAFF PLANNER:** Teresa Shelton  
**STAFF RECOMMENDATION:** Approval with conditions  
**ACTION BY THE BOARD:** **Approval with conditions**

THE RESOLUTION:

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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**.

Motion to **approve**.

**FOR MOTION:** 8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)  
**AGAINST MOTION:** 0  
**RECUSALS:** 0  
**ABSTENTIONS:** 0

Motion **passes**.

**AGENDA ITEM:** 10  
**DOCKET:** [BOA 2021-112 \(City\)](#)  
**LOCATION:** North side of Highland Park Place, just east of Holmes  
**APPLICANT:** Ed Apple  
 (Representative: Charles Waters)  
**USE DISTRICT:** Residential 6 (R-6)  
**REQUEST:** Variance from Item 3.6.1 and Sub-Section 3.9.2H to allow a front facing garage and a reduction in the front yard setback  
**STAFF PLANNER:** Seth Thomas  
**STAFF RECOMMENDATION:** Approval with conditions  
**ACTION BY THE BOARD:** **Approval with conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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**.

Motion to **approve**.

FOR MOTION: 8 (**Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock**)  
 AGAINST MOTION: 0  
 RECUSALS: 0  
 ABSTENTIONS: 0

Motion **passes**.

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

**AGENDA ITEM:** 1  
**DOCKET:** [BOA 2021-89 \(City\)](#)  
**LOCATION:** 2100 Elvis Presley Boulevard  
(northeast corner of Elvis Presley and Elliston)  
**APPLICANT:** Robert McCormick  
**USE DISTRICT:** Commercial Mixed Use 3 (CMU-3)  
**REQUEST:** Variance from Section 4.8.3 to allow outdoor storage of tractor trailers and heavy trucks  
**STAFF PLANNER:** Clarke Shupe-Diggs  
**STAFF RECOMMENDATION:** Rejection  
*This matter is currently pending in Environmental Court. It was held in abeyance by the Board during its meeting on August 25, 2021.*  
**TESTIMONY PROVIDED BY:** **Delinor Smith (for applicant)**  
**Cassandra Dixon (for opposition)**  
**Frank Johnson (for opposition)**  
**Brenda Munger (for opposition)**  
**David Payne (for opposition)**  
**Regina Hill (for opposition)**  
**Kenneth Thornton (for opposition)**  
**ACTION BY THE BOARD:** Rejection

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for this request, as found in the Unified Development Code, are **not being met**; and

WHEREAS, The Board is further of the opinion that to allow the request would be unduly detrimental to the other properties in the vicinity of the subject premises and 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 **denied**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. Provided, however, that the request is **rejected** for the specific purpose herein specified.

**Motion to approve.**

**FOR MOTION:** 0  
**AGAINST MOTION:** 8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)  
**RECUSALS:** 0  
**ABSTENTIONS:** 0

Motion **fails**.

**AGENDA ITEM:** 2  
**DOCKET:** [BOA 2021-94 \(City\)](#)  
**LOCATION:** 1956 Dunn Avenue  
**APPLICANT:** Charles C. Shoaf, III  
**USE DISTRICT:** Residential Single Family (R-6) District  
**REQUEST:** Use Variance from Section 2.5.2 to legitimize an existing used commercial trucking business  
**STAFF PLANNER:** Brian Bacchus  
**STAFF RECOMMENDATION:** Rejection  
*This matter is currently pending in Environmental Court. It was previously heard by the Board as Docket BOA 2019-102 (City) on October 23, 2019. The six-month probation period during which re-filing the same request is prohibited, as outlined in Article VII, Sec. 2 of the Board's Rules of Procedure, has passed. The applicant was not present during the August 25, 2021, so it was re-docketed on this agenda.*  
**TESTIMONY PROVIDED BY:** Steven G. Roberts (for applicant)  
**ACTION BY THE BOARD:** Rejection

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for this request, as found in the Unified Development Code, are **not being met**; and

WHEREAS, The Board is further of the opinion that to allow the request would be unduly detrimental to the other properties in the vicinity of the subject premises and 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 **denied**, subject to the conditions provided for by staff and included in the staff report disseminated to the Board. Provided, however, that the request is **rejected** for the specific purpose herein specified.

**Motion to approve.**

**FOR MOTION:** 0  
**AGAINST MOTION:** 8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)  
**RECUSALS:** 0  
**ABSTENTIONS:** 0

Motion **fails**.

**AGENDA ITEM:** 3  
**DOCKET:** [BOA 2021-97 \(City\)](#)  
**LOCATION:** 386 S. Main Street  
**APPLICANT:** 18 Main, LLC  
 (Representative: John Halford)  
**USE DISTRICT:** South Main within the South Main Historic Overlay (SM[H])  
**REQUEST:** Variance from Paragraph 7.2.2E to allow 32 dwelling units in an apartment building  
**STAFF PLANNER:** Lucas Skinner  
**STAFF RECOMMENDATION:** Approval with conditions  
**TESTIMONY PROVIDED BY:** **Anthony DiNolfo (for applicant)**  
**Russell Walker (for opposition)**  
**ACTION BY THE BOARD:** **Approval with conditions**

**THE RESOLUTION:**

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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**.

Motion to **approve**.

FOR MOTION: **7 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey and Savage-Townes)**  
 AGAINST MOTION: **1 (Scurlock)**  
 RECUSALS: **0**  
 ABSTENTIONS: **0**

Motion **passes**.



**AGENDA ITEM:** 4  
**DOCKET:** [BOA 2021-101 \(City\)](#)  
**LOCATION:** 534 McLemore Avenue  
**APPLICANT:** Mark Namyad  
**USE DISTRICT:** Residential 6 (R-6)  
**REQUEST:** Use variance from Section 2.5.2 to allow a quadplex  
**STAFF PLANNER:** Lucas Skinner  
**STAFF RECOMMENDATION:** Approval with conditions  
**TESTIMONY PROVIDED BY:** **Mark Namyad (for applicant)**  
**ACTION BY THE BOARD:** **Approval with conditions**

THE RESOLUTION:

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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:

1. New Condition 1: **This approval is for three (3) units with the basement to be used exclusively as storage.**
2. Amend [Existing] Condition 3: The applicant shall submit a site plan, **including a floor plan**, to the Division of Planning and Development...
3. Insert a new Condition 6: **Each unit shall meet the definition of dwelling unit under the UDC.**

Motion to **approve**.

**FOR MOTION:** 8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)  
**AGAINST MOTION:** 0  
**RECUSALS:** 0  
**ABSTENTIONS:** 0

Motion **passes**.

**AGENDA ITEM:** 8  
**DOCKET:** [B.O.A. 2021-110 \(City\) \(Correspondence to B.O.A. 21-38 {City}\)](#)  
**LOCATION:** 4048 Minden Road  
**APPLICANT:** Timothy R. & Christine W. Taylor  
 (Representative: Don Conway)  
**USE DISTRICT:** Residential Single Family (R-10) District  
**REQUEST:** Modification to conditions of approval for Docket B.O.A. 21-38 (City) to not plant evergreen trees along the west/northwest property line  
**STAFF PLANNER:** Brian Bacchus  
**STAFF RECOMMENDATION:** Take whatever action the Board deems advisable  
**TESTIMONY PROVIDED BY:** **Tim Taylor (for applicant)**  
**ACTION BY THE BOARD:** **Approval**

THE RESOLUTION:

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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**.

Motion to **approve**.

FOR MOTION: **8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)**  
 AGAINST MOTION: **0**  
 RECUSALS: **0**  
 ABSTENTIONS: **0**

Motion **passes**.

**AGENDA ITEM:** 9  
**DOCKET:** [B.O.A. 2021-111 \(City\) \(Companion Case: S.U.P. 21-18\)](#)  
**LOCATION:** 3744 Sturgeon Avenue  
**APPLICANT:** Tonya Walker-Barnes  
**USE DISTRICT:** Residential Single Family (R-6) District  
**REQUEST:** Variance from Item 2.6.2B(2) to allow a group day care home on a minor local street not within 150 feet of an arterial street  
**STAFF PLANNER:** Brian Bacchus  
**STAFF RECOMMENDATION:** Approval with Conditions  
**TESTIMONY PROVIDED BY:** **Dr. Tonya Walker-Barnes (for applicant)**  
**ACTION BY THE BOARD:** **Approval with conditions**

THE RESOLUTION:

WHEREAS, an application was filed by the party listed above for the request listed above;

WHEREAS, a public hearing on this application was held by the Board; and

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

WHEREAS, The Board is further of the opinion that to allow the request would **not** be unduly detrimental to the other properties in the vicinity of the subject premises and 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 request 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: Insert a new Condition 3: **This variance shall expire in three (3) years, at which point the applicant may seek a renewal.**

Motion to **approve**.

FOR MOTION: **8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)**  
 AGAINST MOTION: **0**  
 RECUSALS: **0**  
 ABSTENTIONS: **0**

Motion **passes**.

**AGENDA ITEM:** 11  
**REQUESTS:** [Amend Articles VI and XI of the Board’s Rules of Procedure to explicitly spell out the process by which Board-initiated reconsiderations are processed and amend Article XII to state that Robert’s Rules of Order governs in instances where the Board’s Rules are silent](#)  
**STAFF PLANNER:** Josh Whitehead  
**STAFF RECOMMENDATION:** Approval  
**TESTIMONY PROVIDED BY:** Josh Whitehead (for applicant)  
**ACTION BY THE BOARD:** Approval

Motion to **approve**.  
FOR MOTION: 8 (Baker, Doss, Jackson, Malasri, Pritchard, Rainey, Savage-Townes and Scurlock)  
AGAINST MOTION: 0  
RECUSALS: 0  
ABSTENTIONS: 0  
Motion **passes**.

ADJOURNMENT:

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY