

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

March 27, 2013

The regular meeting of the Memphis & Shelby County Board of Adjustment was held in the City Council Chambers, City Hall, 125 North Main Street, at 1:30 p.m., Wednesday, March 27, 2013.

Present:

Mr.	Jimmy Burditt
Mr.	Frank Colvett, Jr., Chairman
Mr.	Dan Dow
Mr.	John Jackson III,
Mr.	Andre Jones
Ms.	Lynda Raiford
Mr.	Timothy Rainey, Vice Chairman
Ms.	Madeline Savage-Townes

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Calvin Abram, OPD
Mr.	Gregory Love, OPD
Mr.	Bob Evans, County Engineering
Mr.	Nate Taylor, City Engineering

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous meeting were approved.

In some of the following cases, the application for a special exception, building permit, or sign permit was rejected by the Memphis and Shelby County Building Official or Office of Planning and Development 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. The Board approved the minutes from February 27, 2013.

NEW CASE:

1. **DOCKET:** **B.O.A 13-07 (CITY)**
APPLICANT: **RS-UG Group**
PREMISES AFFECTED: **320 Dudley Street**
(Northeast corner of Dudley Street and Vance Avenue)
USE DISTRICT: Residential Urban-3 (RU-3) District
REQUESTING: A variance to Item 2.6.2B (3)(A) of the Unified Development Code allowing a decrease from the required 20,000sqft.
14,670 Sqft. form a Child Care Center

ACTION OF THE BOARD: *(Withdrawn by applicant)*
APPEARANCES: For Applicant: None

For Opposition: None

2. **DOCKET:** **B.O.A 13-08 (CITY)**
- APPLICANT:** **Hanz Oil Inc. DBA**
- PREMISES AFFECTED:** **4461 Elvis Presley Blvd**
 (Southwest corner of Elvis Presley Blvd)
- USE DISTRICT:** Commercial Mixed Use-1 (CMU-1) District
- REQUESTING:** To allow a variance from the UDC Item 2.6.3J(1)(f) to allow Gas sales at a primary arterial and local street
- ACTION OF THE BOARD:** Rejection
- APPEARANCES:** For Applicant: Haitham Alyousef
 David Porter (4821 American Way)
- For Opposition: Councilman Harold Collins
 (Memphis Children’s Clinic) Van Snider

THE RESOLUTION:

WHEREAS, Hanz Oil Inc. DBA filed an application with the Board of Adjustment on, February 4, 2013 requesting to allow a variance from the UDC Item 2.6.3J(1)(F) to allow gas sales at a primary arterial and local street; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, March 27, 2013 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances in Chapter 9.22 of 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 this 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 impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is rejected.

NOW, THEREFORE, Be it resolved that the requested variation be and it hereby is denied.

AGAINST MOTION:

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Chairman Colvett, Jr., Burditt,
Dow, Jackson III, Jones, Raiford, Rainey, and Savage-Townes

FOR MOTION:

.....0

NOT VOTING:

..... 0

ACTION IS TO REJECT

NEW CASE:

3. **DOCKET:** **B.O.A 13-09 (CITY)**
- APPLICANT:** **Chip Brown**
- PREMISES AFFECTED:** **426 S. Germantown Parkway
(Southeast side of Walnut Bend Road +/-618.72
feet)**
- USE DISTRICT:** Commercial Mixed Use-2 (CMU-2) District
- REQUESTING:** Variance to Sub-Section 2.6.3H to allow an accessory use for outdoor play and run areas to a doggy day care facility
- ACTION OF THE BOARD:** Approved with four (4) conditions
- APPEARANCES:** For Applicant: Brenda Solomito
- For Opposition: None

THE RESOLUTION:

WHEREAS, Mr. Chip Brown filed an application on February 23, 2013 requesting a variance to Sub-Section 2.6.2H to allow an accessory use for outdoor play and run areas to a doggy day care facility; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, March 27, 2013 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances in Chapter 9.22 of 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 this 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 impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is approved as submitted with four (4) conditions.

NOW, THEREFORE, Be it resolved that the requested variation be and it hereby is granted. Provided, however, that the variation 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 or State law applicable to these premises nor to any future use or development of said property further that a building permit and/or Certificate of Occupancy permit in conformity herewith be obtained from the Memphis and Shelby County

Office of Construction Code Enforcement within two (2) years from the granting of the Application.

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Jr., Burditt, Jones,
Dow, Jackson III, Rainey, Raiford, and Savage-Townes,

NOT VOTING:0

ACTION IS TO APPROVE WITH FOUR (4) CONDITIONS

CONDITIONS:

1. An Outdoor Play and Run Areas shall be permitted as an accessory use limited to the area as illustrated on the Site/Landscape Plan.
2. No walking of dogs shall be permitted on the site before 6 a.m. or after 8 p.m.
3. Fencing along the northwest property line and the northeast property line may be either sight proof cedar or galvanized, coated chain link with evergreen shrubs as described in UDC Item 4.6.5J(3)(c).
4. The variance for an outdoor play and run area as an accessory use to a doggy day care shall be allowed for issuance of a Certificate of Occupancy.

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY