

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

Wednesday, January 22, 2014

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 2:00 p.m., Wednesday, January 22, 2014.

Present:

Mr.	Jimmy Burditt
Mr.	Frank Colvett, Jr., Chairman
Mr.	Daniel Dow
Mr.	Timothy Rainey, Vice Chairman
Ms.	Lynda Raiford
Ms.	Madeline Savage-Townes
Mr.	James Toles (Alternate)

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Calvin Abram, OPD
Mr.	Brian Bacchus, OPD
Mr.	Don Jones, OPD
Mr.	Greg Love, OPD
Mr.	Terry Langlois, OPD
Mr.	Chip Saliba, OPD
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 December 18, 2013.

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.

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

AGAINST MOTION: 0

FOR MOTION: 6
Burditt, Dow, Raiford, Rainey, Toles and Savage-Townes

NOT VOTING: 1
Chairman Colvett

ACTION IS TO APPROVE WITH CONDITIONS:

SITE PLAN CONDITIONS

1. Final plans for the development including the new building, parking, driveways and streetscape shall be subject to the administrative site plan review process according to the Section 8.4.4 Site Plan Review in the UDC.
2. The driveway access for exiting on Cooper Street is limited to a right turn only.
3. A final landscape plan must be approved by the planning director.
4. The existing non-conforming off-premise advertising sign is permitted no build-back rights with the variation to Article 3.1.4.A of the Unified Development Code. Its build-back rights shall be governed by Article 4.9.15 (Non-conforming Signs) of the Unified Development Code.
5. The applicant agrees, and in doing so commits their successors, transferees, or assignees, that the lease for the off-premise advertising sign shall not be renewed or extended once it has met its expiration date.
6. Removal of the billboard, including any required permit for demolition, shall be performed as described in the Unified Development Code.
7. Final landscape plans must be designed and certified by a registered Landscape Architect.
8. No signs, graphics or advertising displays are allowed on the structure above the third floor roof deck or on the tower.
9. The building colors shall not be “blaze” orange, reflective or other bright, flashy colors.

NOW, THEREFORE, Be it resolved that the requested conditional use permit is hereby approved, subject to conditions.

MAIN MOTION

AGAINST MOTION: 0

FOR MOTION: 6
Burditt, Dow, Rainey, Raiford, Toles and Savage-Townes

NOT VOTING: 1
Chairman Colvett

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The approved variances run with the land and are conditioned upon their compliance with the approved site plan. The approved site plan shall be marked as such and presented to the Office of Construction Code Enforcement for the required permits. Deviations from the approved plan, may, at the discretion of the Planning Director, be addressed administratively or resubmitted to the Board of Adjustment for their review and approval.
2. An alternative to irrigation that includes amendments to the soil and the use of a watering product, a.k.a. “gator bags”, may be used.
3. The approved final site plan, shall indicate the composition of the soil amendment and a nurseryman’s 1-year guarantee of the plants.

4. **DOCKET:** **B.O.A 13-57 (CITY)**
- APPLICANT:** **Village Werks**
- PREMISES AFFECTED:** **653 Jefferson Ave.**
(South side, 100 feet east of Neely Street, 280 feet; west of Hamlin Street)
- USE DISTRICT:** Residential Use-1(RU-1) District
- REQUESTING:** To allow a single family subdivision in CBD, variance from UDC for front yard setback, side yard setback, transparency, first floor height and substitute front yard trees for street trees on an urban frontage
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Scott Blake, (671 Jefferson Ave.)
- For Opposition: None

THE RESOLUTION:

WHEREAS, Village Werks filed an application with the Board of Adjustment on Thursday, December 26, 2013, for Variation to allow a single family subdivision in CBD, variance from UDC for front yard setback, side yard setback, transparency, first floor height and substitute front yard trees for street trees on an urban frontage; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, January 22, 2014, 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 a conditional use permit in Chapter 9.22 of the Unified Development Code are being met; and

WHEREAS, The Board has determined that said conditional use permit would not be unduly detrimental to 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 with conditions; and

NOW, THEREFORE, Be it resolved that the requested conditional use permit is hereby approved, subject to conditions.

AGAINST MOTION: 0

FOR MOTION: 7
Chairman Colvett, Burditt, Dow, Rainey, Raiford, Toles and
Savage-Townes

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The applicant shall develop the proposed Lots 1 through 8 in the Planters Row, Second Addition Subdivision as single family homes.
2. Other uses permitted by the CBD Central Business District zoning of Planters Row, Second Addition, Lots 1 through 8 are no longer allowed on these lots with the exception that an accessory dwelling may be developed on each of the lots subject to the requirements of Section 2.7.2 A, B and C of the Unified Development Code.
3. Variances to the lot size and width requirements of Unified Development Code affecting Lots 2 and 8 of the proposed Planters Row Subdivision, Second Addition. These variances allow a lot size at a minimum of 3,700-square-feet for Lot 2 and a lot width of 34 feet for Lot 8.
4. Variances to the requirements of the Medical Center Overlay as follows:
5. A variance permitting a maximum building setback of 18 feet on Lots 1 through 8 in the Planters Row Second Addition Subdivision.
6. A variance to the side setback/building separation requirements in Medical Center Overlay to permit 3.5 foot wide side setbacks and 7 foot separation between buildings subject to conformance to the requirements of the Memphis and Shelby County Building Code.
7. A variance to the requirements in the Medical Center Overlay to permits a total of 20% transparency on the first (to include the front door) and 15% on the second floors of the proposed residential buildings in the Planters Row, Second Addition Subdivision Lots 1 through 8.
8. A variance permitting the ground floor to ceiling height to be reduced to 10 feet on the ground floor of proposed residential buildings in the Planters Row, Second Addition Subdivision Lots 1 through 8.

9. A variance to the required streetscape to allow the existing varied width of the tree lawn to remain in place.
10. The applicant shall improve existing public alley to the rear of the subject site in order to enable access to the residential lots.
11. The HOA created (existing) for this subdivision shall maintain the portion of the public alley providing access to the development.
12. The applicant shall provide a landscape plan for Planters Row II development.
13. The applicant shall construct the foundation of the residential homes at a minimum foundation height of 12-inches.
14. The City Engineer will require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee on this project once the S/D plat is issued a Memorandum of Conformance (MOC).
15. Standard Subdivision Contract may be required per Article 5.5.5 of the Unified Development Code.
16. City sanitary sewers are available at developer's expense. Each individual lot is required to have an independent connection.
17. Dedication and Improvements may be required by the City Engineer.
18. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
19. The City Engineer shall approve the design, number and location of curb cuts.

NOW, THEREFORE, be it resolved that said appeal is hereby approved.

MAIN MOTION

AGAINST MOTION: 0

FOR MOTION: 7
Chairman Colvett, Burditt, Dow, Rainey, Raiford, Toles
and Savage-Townes

NOT VOTING: 0

ACTION IS TO APPROVE

6. **DOCKET:** B.O.A 13-59 (CITY)

APPLICANT: Castalia Baptist Church

PREMISES AFFECTED: **2180 Airways Boulevard**
(East side of Airways Boulevard; +/-223 feet north of Dwight Road)

USE DISTRICT: Commercial Mixed Use (CMU-3) District

REQUESTING: Variances from Sub-sections 2.9.F to allow an encroachment into the required front yard setback, and; 2.7.5B for construction of a new church/family life center building

ACTION OF THE BOARD: Approve with one (1) condition

APPEARANCES: For Applicant: James H. Murray, AIA

For Opposition: None

THE RESOLUTION:

WHEREAS, Castalia Baptist Church filed an application with the Board of Adjustment on Thursday, December 26, 2013 for variances from Sub-Sections 2.9.F to allow an encroachment into the required front yard setback; and from 2.7.5B for construction of a new church/family life center building; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, January 22, 2014, 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 granting variances from Section 9.22 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 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; and

NOW, THEREFORE, Be it resolved that the requested variances be and are hereby approved with one (1) condition.

MAIN MOTION

AGAINST MOTION: 0

FOR MOTION: 6
Burditt, Dow, Rainey, Raiford and Savage-Townes, and
Chairman Colvett

NOT VOTING: 1
Toles (Recused)

ACTION IS TO APPROVE WITH ONE (1) CONDITION

CONDITION:

1. One (1) right-in/right-out curb-cut shall be permitted at the north property line and one full-movement curb-cut shall be permitted at the south property line subject to review and approval by the City Engineer.

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY