

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

Wednesday, April 23, 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, March 26, 2014.

Present:

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| Mr. | Frank Colvett, Jr., Chairman |
| Mr. | Robert Norcross, Alternate |
| Ms. | Margaret Pritchard, Alternate |
| Ms. | Lynda Raiford |
| Mr. | Timothy Rainey, Vice Chairman |
| Ms. | Mary Sharp, Alternate |
| Ms. | Madeleine Savage-Townes |

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| Mr. | Josh Whitehead, Secretary |
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Also Present:

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| Mr. | Calvin Abram, OPD |
| Mr. | Don Jones, OPD |
| Mr. | Terry Langlois, OPD |
| Ms. | Marion Jones, 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 February 26, 2013.

NEW CASES:

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| 1. DOCKET: | <u>B.O.A 14-09 (CITY)</u> |
| APPLICANT: | Catholic Diocese of Memphis (Bill Hecht) |
| PREMISES AFFECTED: | 1663 Elvis Presley Boulevard <i>(Northwest corner of Elvis Presley Boulevard and Person Street)</i> |
| USE DISTRICT: | Residential Urban RU-1 |
| REQUESTING: | A variance to Chapter 2.5 to legitimize the existing cemetery and to permit the addition of a new mausoleum building |
| ACTION OF THE BOARD: | Approved |
| APPEARANCES: | For Applicant: Bill Kecht – Catholic Diocese Jay Easter – A2H For Opposition: None |

THE RESOLUTION:

WHEREAS, Catholic Diocese filed an application with the Board of Adjustment on Wednesday, March 25, 2014 requesting a variance to Chapter 2.5 to legitimize the existing cemetery and to permit the addition of a new mausoleum building; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, April 23, 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 variance in Chapter 9.22 of the Unified Development Code are being met; and

WHEREAS, The Board has determined that the submitted site plan is in keeping with the findings of fact as originally determined by the Board of Adjustment.

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

AGAINST MOTION: 0

FOR MOTION: 7
Colvett, Norcross, Pritchard, Raiford, Rainey, Savage-Townes and Sharp

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS

1. Approve a variance to Section 2.5, Use Table, to legitimize the existing Calvary Cemetery and Mausoleum in its entirety as identified as 1663 Elvis Presley Boulevard and to permit the construction of a new mausoleum building and road on a 13.09 acre site within the cemetery.
2. Approve a variance to Section 4.6.3, Landscape Plan, to exempt the applicant from this requirement.
3. Approve a variance to Paragraph 4.5.3C(5) Administrative Deviations to exempt the subject property from providing bicycle parking.
4. No building shall exceed 45 feet in height.
5. The new mausoleum building shall observe the same setback from Elvis Presley Boulevard as the existing mausoleum.
6. The new mausoleum building shall be complementary to the existing mausoleum in the colors and materials used.
7. The applicant shall submit a site plan that contains the following information:
 - Provides a distance from the proposed road to the channel-lined ditch on the west and the existing mausoleum on the east site to the proposed road.
 - Provide a numeric setback from Elvis Presley Boulevard for the new mausoleum building.

- Provide a numeric setback for the new mausoleum building from the proposed road.
 - Locate all mature trees to remain and identify trees to be removed on the 13.09 site.
8. The submitted concept plan is the approved plan and is to be marked and made part of the records of this case. Such approval is based in part upon the Board's evaluation and conclusion that the plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon the surrounding properties.
 9. Any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development.

NEW CASES:

2. **DOCKET:** **B.O.A 14-11 (CITY)**
- APPLICANT:** **Jerry West**
- PREMISES AFFECTED:** **1365 Channel Ave**
 (South side of Channel Avenue approximately 250 feet
 west of Port Street)
- USE DISTRICT:** Employment (EMP)
- REQUESTING:** Variance from Section 3.10.3 of the Unified Development
 Code to allow a reduction of the setback from 30 feet to 0
 feet. Variance from Section 4.3 to remove street scape re-
 quirements.
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant: Jerry West
 Wesley Woodridge
- For Opposition: None

THE RESOLUTION:

WHEREAS, Jerry West filed an application with the Board of Adjustment on Wednesday, March 26, 2014 requesting variance from Section 3.10.3 of the Unified Development Code to allow a reduction of the setback from 30 feet to 15 feet. Variance from Section 4.3. to remove street scape requirements; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, April 23, 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 variance in Chapter 9.22 of the Unified Development Code are being met; and

WHEREAS, The Board has determined that the submitted site plan is in keeping with the findings of fact as originally determined by the Board of Adjustment.

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

AGAINST MOTION: 0

FOR MOTION: 7
Colvett, Norcross, Pritchard, Raiford, Rainey, Savage-Townes and Sharp

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The proposed structure(s) shall be constructed within the boundaries of the existing easement; otherwise, an agreement to improve property outside of the existing easement shall be approved by the Memphis Port Commission.
2. If any monitoring wells or soil borings were installed as part of an environmental site assessment they must be filled as outlined in Section 6 of the Shelby County Well Construction Code.
3. Prior to any demolition a Demolition Questionnaire must be completed and all Shelby County Air Pollution Section (Asbestos Branch) requirements followed.
4. The submitted site plan is the approved plan and is to be marked and made part of the records of this case. Such approval is based in part upon the Board's evaluation and conclusion that the plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon surrounding properties.
5. Any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development.

NEW CASES:

3. **DOCKET:** **B.O.A 14-12 (CITY)**
- APPLICANT:** **LeBonheur Children’s Hospital**
- PREMISES AFFECTED:** **777 Washington Avenue**
 *(Northwest corner of Dunlap Street and Adams Avenue;
 Extending west to Manassas Street and then north to
 Washington Avenue)*
- USE DISTRICT:** Campus Master Plan – 1 (CMP-1) & Commercial Mixed
 Use -3 (CMU-3) Districts
- REQUESTING:** Variances from the requirements of the Medical Overlay
 (MO) District to include:
 1. Variance to the maximum permitted setback from a
 street (Dunlap) that is designated as an Urban frontage
 2. Ground floor transparency on Dunlap Street and
 Adams Avenue
 3. Ground floor height, Dunlap Street and Manassas
 Street
 4. Upper floor height for Office Building on Dunlap
 Street
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant: Richard Kelly, Methodist -LeBonheur
 Brett Ragsdale, brg3s architects
- For Opposition: None

THE RESOLUTION:

WHEREAS, LeBonheur Children’s Hospital filed an application with the Board of Adjustment on Thursday, March 27, 2014, requesting variances from the requirements of the Medical Overlay (MO) District to include:

1. Variance to the maximum permitted setback from a street (Dunlap) that is designated as an Urban frontage; and,
2. Ground floor transparency on Dunlap Street and Adams Avenue
3. Ground floor height, Dunlap Street and Manassas Street
4. Upper floor height from Office Building on Dunlap Street; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, April 23, 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 variance 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 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 variance is hereby approved, subject to conditions.

MAIN MOTION

AGAINST MOTION: 0

FOR MOTION: 6
Colvett, Norcross, Raiford, Rainey, Savage-Townes and Sharp

NOT VOTING: 1
Pritchard

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The submitted site plan is the approved plan and is to be marked and made part of the records of this case. Such approval is based in part upon the Board's evaluation and conclusion that the plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon surrounding properties.
2. Any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development.

4. **DOCKET:** **B.O.A 14-13 (CITY)**

APPLICANT: **RP Real Estate LLC**

PREMISES AFFECTED: **4334 Millington Rd**
 (905 feet northeast of Highway 51)

USE DISTRICT: Employment (EMP)

REQUESTING: Use Variance from Section 2.5.2 (Use Table) and 2.9.5
 (Industrial Use Category) for heavy industrial uses

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Brenda Solomito

 For Opposition: Charles Dunlap (9255 Davies Plantation)
 Melvin Brown

THE RESOLUTION:

WHEREAS, RP Real Estate, LLC filed an application with the Board of Adjustment on Thursday, March 27, 2014 Use Variance from Section 2.5.2 (Use Table) and 2.9.5 (Industrial Use Category) for heavy industrial uses; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, April 23, 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 variance 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 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 variance is hereby approved, subject to conditions.

AGAINST MOTION: 0

FOR MOTION: 7
Colvett, Norcross, Pritchard, Raiford, Rainey,
Savage-Townes and Sharp

NOT VOTING: 0

ACTION IS TO APPROVE CONDITIONS:

CONDITIONS:

1. Any outdoor storage of material shall be screened from Millington Road, either behind a building or a sight-proof fence.
2. All processes that result in noise, vibration or emission of particulate matter beyond the normal industrial levels shall be contained within a building.
3. The following uses, as listed in the UDC Chapter 2.5 Permitted Use Table and Chapter 2.9 Use Categories, are not allowed:

Asbestos, radioactive materials/waste

Animal processing, packing, treating, and storage, livestock or poultry slaughtering, concentrate plant, processing of food and related products

Automobile dismantlers and recyclers

Chemical, cosmetics, drug, soap, paints, fertilizers and abrasive products

Explosives

Petroleum, liquefied petroleum gas and coal products includes refining

Radioactive materials/waste

Rubber and plastic products, rubber manufacturing

Batch Plant

Bulk storage of flammable liquids

Commercial feed lot

Cotton gin

Explosives

Impound lot, wrecker service, auto storage

Leather and leather products includes tanning and finishing

Mulching facilities

Petroleum, liquefied petroleum gas and coal products and refining

Primary metal manufacturing

Pulp mills

Rubber and plastic products, rubber manufacturing
Tire recapping
Tobacco product

5. **DOCKET:** Amendment to Rules of Procedure

APPLICANT: Josh Whitehead, Secretary

REQUESTING: Amendments to the Memphis and Shelby County Board of Adjustment Rules of Procedure to provide general updates and overall compliance with the Memphis and Shelby County Unified Development Code

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Josh Whitehead

For Opposition: None

AGAINST MOTION: 0

FOR MOTION: 7
Colvett, Norcross, Pritchard, Raiford, Rainey,
Savage-Townes and Sharp

NOT VOTING: 0

ACTION IS TO HOLD

6. **DOCKET:** **RECOMMENDATION ON FEES SCHEDULE**

APPLICANT: **Josh Whitehead, Secretary**

REQUESTING: Recommendation to the Memphis City Council and Shelby County Board of Commissioners on the Board of Adjustment's portion of the Land Use Controls Fee Schedule

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Josh Whitehead
For Opposition: None

AGAINST MOTION: 0


FOR MOTION: 7
Colvett, Norcross, Pritchard, Raiford, Rainey, Savage-Townes and Sharp

NOT VOTING: 0

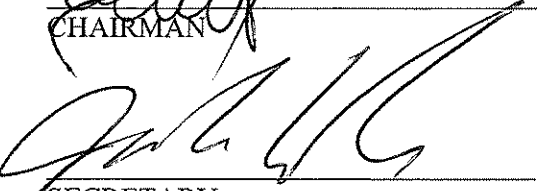
ACTION IS TO APPROVE

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

MINUTES APPROVED: May 28, 2014



CHAIRMAN



SECRETARY