

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

Wednesday, May 28, 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, May 28th, 2014.

Present:

Mr.	Frank Colvett, Jr., Chairman
Mr.	Jimmy Burditt
Mr.	John Jackson III
Mr.	Andre Jones
Ms.	Lynda Raiford
Mr.	Timothy Rainey, Vice Chairman
Ms.	James Toles, Alternate
Ms.	Madeleine Savage-Townes

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Troy Frasier, OPD
Mr.	Brian Bacchus, OPD
Mr.	Calvin Abram, OPD
Mr.	Don Jones, OPD
Mr.	Terry Langlois, OPD
Mrs.	Marion Jones, OPD
Mr.	Nate Taylor, City Engineering
Mr.	Gregory Love, OPD

A quorum being present, the Board proceeded to consideration of the day's 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 April 26th, 2013.

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

AGAINST MOTION:	0
FOR MOTION:	6 Burditt, Jones, Jackson, Rainey, Savage-Townes and Toles
NOT VOTING:	2 Colvett and Raiford

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The three parcels shown on the Site Plan may be used for parking for the Highlands of Memphis facility only.
2. This parking lot will remain as an accessory use to the nursing home that is located adjacent to the south side of the parcel across Norriswood Avenue.
3. Landscape screen, including a 6 foot high cedar fence, as shown on the site plan shall be installed and maintained along north line of this site or alternative equivalent (acceptable to the Office of Planning and Development).
4. The applicant shall provide and maintain a "Class III Type B" landscape buffer along the northern property line and provide and maintain the propose landscaping along Norriswood Avenue.
5. The only signage permitted on this site are directional (way finding) signs as identified and regulated in the sign section of the Unified Development Code.
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.
10. The parking lot lighting post will not exceed 15 feet in height.

NEW CASES:

2. **DOCKET:** **B.O.A 14-16 (CITY)**

APPLICANT: **Memphis Pool Supply**

PREMISES AFFECTED: **2762 Getwell Rd**
 (1,117 feet south of American Way)

USE DISTRICT: CMU-1

REQUESTING: Bulk variances for setback, height and square footage for
 an accessory structure (Sub-Sections 2.7.2A, 2.7.2B,
 2.7.2C)

ACTION OF THE BOARD: Approved

APPEARANCES: For Applicant: Mark Reed

 For Opposition: None

THE RESOLUTION:

WHEREAS, Memphis Pool Supply filed an application with the Board of Adjustment on Monday April 21, 2014 requesting bulk variances for setback, height and square footage for an accessory structure (Sub-Sections 2.7.2A, 2.7.2b, 2.7.2C); and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 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; 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.

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

AGAINST MOTION: 0

FOR MOTION: 8
Burditt, Colvett, Jackson, Jones, Raiford, Rainey,
Savage-Townes and Toles

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

A variation for an accessory structure that exceeds the size allowed is granted, subject to the following conditions and to the observance of the approved site plan.

1. The applicant shall provide and maintain a "Class II" landscape buffer along the eastern property line and the easternmost 125 feet of the southern property line, provided the screen shall be modified as necessary for compatibility with overhead utilities and available space, subject to the approval of the Office of Planning and Development.
2. The applicant shall provide and maintain an eight-foot high sight proof fence along its eastern and southern property lines.
3. On its eastern and southern elevations, the new storage building exterior treatment shall be a dark color.
4. The applicant shall enter into an agreement with the City of Memphis, satisfactory to the City Engineer, with respect to the existing encroachment upon a drainage easement.

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

MAIN MOTION

AGAINST MOTION: 0

FOR MOTION: 8
Burditt, Colvett, Jackson, Jones, Raiford, Rainey,
Savage-Townes and Toles

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. The proposed addition (garage shall be no more than 1 story and be composed of material within the character of the existing structure. All proposed material shall be specifically identified and shall meet the approval of OPD.
2. The rear yard encroachment shall adhere to the site plan as submitted with this application.
3. No improvements shall be made upon existing sewer or drainage easements.

4. **DOCKET:** **B.O.A 14-18 (CITY)**

APPLICANT: **Ahmed Saffarni**

PREMISES AFFECTED: **883 Barksdale St.**
(Southwest corner of Barksdale St. and Nelson Ave.)

USE DISTRICT: R-6

REQUESTING: A use variance from Section 8.4.7 Midtown Overlay to allow the conversion of a former grocery store to 4 apartment (condominium) units

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Patrick Bensinger (Attorney)
3675 Somerset Cove, Memphis, TN.

For Opposition: No opposition to request for hold

THE RESOLUTION:

WHEREAS, Ahmed Saffarni filed an application with the Board of Adjustment on Wednesday, April 23, 2014 requesting a Use Variance from Section 2.5.2 (Use Table); and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 2014, after due notice; and

WHEREAS, the representative of the applicant requested that the Board consider continuing this item for 30 days.

NOW, THEREFORE, Be it resolved that the requested variance is hereby held for 30 days.

AGAINST MOTION:	0
FOR MOTION:	8 Burditt, Colvett, Jackson, Jones, Raiford, Rainey, Savage-Townes and Toles
NOT VOTING:	0

ACTION IS TO HOLD

5. **DOCKET:** **B.O.A 14-19 (CITY)**

APPLICANT: **Clear Channel Outdoor, Inc. /Courtesy Outdoor Finance, LLC**

PREMISES AFFECTED: *(Northwest corner of Commerce Ave. and North Second St.)*

USE DISTRICT: Mixed Use (MU) in Uptown District

REQUESTING: Variance from Paragraph 4.9.8M(3) (Alteration, Expansion or Moving of an Off-Premise Sign)

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Brenda Solomito

For Opposition: None

THE RESOLUTION:

WHEREAS, Clear Channel Outdoor, Inc. / Courtesy Outdoor Finance, LLC filed an application with the Board of Adjustment on Wednesday, April 23, 2014 a variance from Paragraph 4.9.8M(3) (Alteration, Expansion or Moving of an Off-Premise Sign; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 2014, after due notice.

NOW, THEREFORE, Be it resolved that the requested variance is hereby held.

AGAINST MOTION:	0
FOR MOTION:	8 Burditt, Colvett, Jackson, Jones, Raiford, Rainey, Savage-Townes and Toles
NOT VOTING:	0

ACTION IS TO HOLD

6. **DOCKET:** **B.O.A 14-20 (CITY)**

APPLICANT: **Alele Ayanru**

PREMISES AFFECTED: **3664 Spottswood Ave.**
(North side of Spottswood Ave; +/-50 feet west of Houston St.)

USE DISTRICT: CMU-1

REQUESTING: Variance to allow apartments within the CMU-1 zoning district which do not meet Section 3.10.2B (minimum lot size), 8.3.10 E (2) (previous surface), 3.10.2 (side setback) and 4.5.2C (parking in front yard setback)

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Alele Ayann
Bob Browne

For Opposition: None

THE RESOLUTION:

WHEREAS, Alele Ayanru filed an application with the Board of Adjustment on Wednesday, April 23, 2014 Variance to allow apartments within the CMU-1 zoning district which do not meet Section 3.10.2B (minimum lot size), 8.3.10 E (2) (previous surface), 3.10.2 (side setback) and 4.5.2C (parking in front yard setback); and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 2014, after due notice.

NOW, THEREFORE, Be it resolved that the requested variance is hereby held.

AGAINST MOTION:	0
FOR MOTION:	8 Burditt, Colvett, Jackson, Jones, Raiford, Rainey, Savage-Townes and Toles
NOT VOTING:	0

ACTION IS TO HOLD

7. **DOCKET:** **B.O.A 14-21 (CITY)**

APPLICANT: **Iberia Bank**

PREMISES AFFECTED: *(Northeast corner of Union Avenue and Claybrook Street)*

USE DISTRICT: CMU-3

REQUESTING: A variance from Sub-Section 8.25.5C to allow the front door of the bank to face the secondary street and not the primary street

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Jason Weeks, LRK

For Opposition: None

THE RESOLUTION:

WHEREAS, Iberia Bank filed an application with the Board of Adjustment on Wednesday, April 23, 2014 a variance from Sub-Section 8.25.5C to allow the front door of the bank to face the secondary street and not the primary street; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 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 not 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.

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

AGAINST MOTION: 0

FOR MOTION: 8
Burditt, Colvett, Jackson, Jones, Raiford, Rainey,
Savage-Townes and Toles

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS:

1. 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.

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.

8. **DOCKET:** **B.O.A 14-22 (CITY)**
- APPLICANT:** City of Memphis
General Services-Property Maintenance
- PREMISES AFFECTED:** 590 Washington Avenue
(Northeast corner of Washington Ave. & High St.)
- REQUESTING:** Variances from Sub-sections 4.3.5 B (1) (a); 4.5.5 D (2) (3); 4.6.7 D & E; and 8.2.8 B & C to allow construction of a wrought-iron fence ten (10) feet in height along the street in the Medical Overlay (MO) District
- ACTION OF THE BOARD:** Approval with six (6) conditions
- APPEARANCES:** For Applicant: Cindy Reaves (SR Consulting, LLC)

For Opposition: Scott Blake – 671 Jefferson Avenue

THE RESOLUTION:

WHEREAS, City of Memphis Division of General Services filed an application with the Board of Adjustment on Friday, May 2, 2014 for variances from Sub-sections 4.3.5 B (1) (a); 4.5.5 D (2) (3); 4.6.7 D & E; and 8.2.8 B & C to allow construction of a wrought-iron fence ten (10) feet in height along the street in the Medical Overlay (MO) District; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, May 28, 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 variances in Chapter 9.22 of the Unified Development Code are not being met; and

WHEREAS, The Board has determined that said variances 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.

NOW, THEREFORE, Be it resolved that the requested variances are hereby approved, subject to six (6) conditions.

AGAINST MOTION: 1
Colvett

FOR MOTION: 7
Burditt, Jackson, Jones, Raiford, Rainey,
Savage-Townes and Toles

NOT VOTING: 0

ACTION IS TO APPROVE WITH SIX (6) CONDITIONS:

CONDITIONS:

1. The gates at the east end of the property shall be meet requirements of Section 4.4.8 of the zoning code.
2. All existing and new parking spaces and areas shall meet requirements of Section 4.5.5 of zoning code.
3. The fences shall be built as illustrated on the Site Plan and Fence Detail cross-section.
4. A Landscape Plan shall be submitted in accordance with Section 4.6.3 of the zoning code.
5. If necessary, a Site Plan shall be submitted for review and approval for any off-site parking.
6. Deviations from the approved plan, may, at the discretion of the Planning Director, be addressed administratively or resubmitted to the Board of Adjustment for review and approval.

9. **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: Approve

APPEARANCES: For Applicant: Josh Whitehead

For Opposition: None

AGAINST MOTION: 0

FOR MOTION: 8
Burditt, Colvett, Jackson, Jones, Raiford,
Rainey, Savage-Townes and Toles

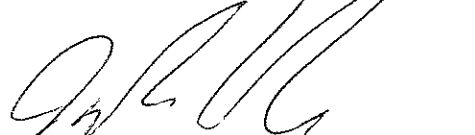
NOT VOTING: 0

ACTION IS TO APPROVE

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

MINUTES APPROVED: 6-25-14

CHAIRMAN



SECRETARY

