

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

June 25, 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 1:30 p.m., Wednesday, June 25, 2014

Present:

| | |
|-----|-------------------------|
| Mr. | Jimmy Burditt |
| Mr. | Frank Colvett |
| Mr. | Daniel Dow |
| Mr. | John Jackson III |
| Mr. | Andre D. Jones |
| Ms. | Lynda Raiford |
| Mr. | Timothy Rainey |
| Ms. | Madeleine Savage-Townes |

| | |
|-----|---------------------------|
| Mr. | Josh Whitehead, Secretary |
|-----|---------------------------|

Also Present:

| | |
|-----|----------------------------|
| Mr. | Troy Frasier, OPD |
| Mr. | Donald Jones, OPD |
| Mr. | Calvin Abram, OPD |
| Mr. | Terry Langlois, OPD |
| Mr. | Brian Bacchus, OPD |
| Mr. | Nate Taylor, City Engineer |

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous May 28, 2014, 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.

HELD CASE:

1. **DOCKET:** **B.O.A. 12-14 (CITY)**

APPLICANT: Ahmed Saffarini

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

USE DISTRICT: Residential Single Family-6 (R-6) District

REQUESTING: A Use Variance from Chapter 2.5 of the UDC to allow 4 apartments units in the Residential Single Family-6 District

ACTION OF THE BOARD: Hold for 30 days

APPEARANCES: For Applicant: Patrick Bensinger (3675 Somerset Cv.)

For Opposition: None

MOTION TO HOLD

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Burditt, Dow, Jackson, Jones,
Railford, Rainey, and Savage-Townes

NOT VOTING:0

ACTION IS TO HOLD

HELD CASE:

2. **DOCKET:** **B.O.A. 12-19 (CITY)**

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

PREMISES AFFECTED: Northwest corner of North Second Street and Commerce Avenue

USE DISTRICT: Mixed Use (MU) in Uptown District

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

APPEARANCES: For Applicant: Bridget McCall
For Opposition: None

MOTION TO HOLD

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Burditt, Dow, Jackson, Jones, Railford, Rainey, and Savage-Townes

NOT VOTING 0

ACTION IS TO HOLD

HELD CASE:

3. **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:

APPEARANCES: For Applicant: Alele Ayanru
Bob Browne

For Opposition: None

THE RESOLUTION:

WHEREAS, Alele Ayanru filed an application with the Board of Adjustment on **April 24, 2014**, by requesting a 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, **June 25, 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 Section 9 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 as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. 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, City/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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Burditt, Dow, Jackson, Jones,
Railford, Rainey, and Savage-Townes

NOT VOTING 0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. The applicant shall comply with the site plan and elevations as approved by OPD.
2. The applicant shall provide a landscape plan to OPD prior to receiving a building permit and comply with the site plan as approved by OPD.
3. The applicant shall not install windows facing the apartment's northern, eastern or western sides. Sky lights shall be allowed above the second story of the apartment.
4. The applicant shall improve the existing driveway to be used for loading and unloading for the apartment building only. At no time shall overnight parking be allowed in the loading/unloading area for vehicles or storage.
5. The applicant shall install a modified class III type "B" buffer at the sites north, east and west property line. The buffer shall include a six-foot-height shadow boxed wooden fence (fencing shall not encroach into front yard), a six-foot-wide planting buffer on the sites western boundary, a seven-foot wide planting buffer on the eastern and northern boundaries. Each buffer shall be planted with more trees than the UDC calls for. The additional trees shall consist of trees which maintain year round foliage and a height that will afford abutting properties to maintain privacy.
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.
6. No building permit shall be granted until a full set of engineered plans are approved by the City Engineer.
7. The City Engineer shall approve the design, number and location of curb cuts.
8. Standard Subdivision Contract may be required per Article 5.5.5 of the Unified Development Code.
9. City sanitary sewers are available at developer's expense.
10. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

11. 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.
12. The width of all existing public off-street easements shall be widened to meet current city standards.
13. Required landscaping shall not be placed on sewer or drainage easements.
14. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
15. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
16. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the site plan.

NEW CASE:

4. **DOCKET:** **B.O.A. 12-23 (CITY)**

APPLICANT: George Shea Flinn III

PREMISES AFFECTED: Arawata Lane (Part of lots 206 and 207 of
 Chickasaw Gardens Subdivision)
 *(South side of Arawata Lane; 125 feet west of
 Lombardy)*

USE DISTRICT: Residential Single Family (R-6) District

REQUESTING: Encroach 6 foot into the recorded 40 foot front yard
 setback

APPEARANCES: For Applicant: Charles Shipp

 For Opposition: None

THE RESOLUTION:

WHEREAS, George Shea Flinn III filed an application with the Board of Adjustment on **May 28, 2014**, by requesting to encroach 6 feet into the recorded 40 foot front yard setback; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 25, 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 Section 9 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 as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. 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, City/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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Burditt, Dow, Jackson, Jones,
Railford, Rainey, and Savage-Townes

NOT VOTING0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. The front yard encroachment shall adhere to the site plan as submitted with this application.
2. There shall be no encroachment into the easements along the south property line unless they are properly abandoned by the appropriate authorities.

NEW CASE:

5. **DOCKET:** **B.O.A. 14-24 (CITY)**

APPLICANT: William & Jessica Ganus

PREMISES AFFECTED: 1955 Young Ave.
(South side of Young Ave.; 450 feet east of Barksdale)

USE DISTRICT: Residential Single Family-6 (R-6) District

REQUESTING: Addition on back of house that encroaches 2 feet in to the 5 foot side setback (U.D.C. Article 3.6.1)

APPEARANCES: For Applicant: Bill Ganus (1955 Young)
For Opposition: None

THE RESOLUTION:

WHEREAS, William & Jessica Ganus filed an application with the Board of Adjustment on **May 29, 2014**, by requesting for an addition on back of house that encroaches 2 feet in to the 5 foot side setback (U.D.C. Article 3.6.1) and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 25, 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 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 as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. 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, City/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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:0

FOR MOTION:

.....8
NOT VOTING Chairman Colvett, Burditt, Dow, Jackson, Jones,
Railford, Rainey, and Savage-Townes

.....0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

- 1. The subject site shall comply with the site plan as submitted.**

NEW CASE:

6. **DOCKET:** **B.O.A. 14-25 (CITY)**

APPLICANT: Belz Investco, GP

PREMISES AFFECTED: 7230 & 7358 Appling Farms Parkway
(Northwest side of Interstate 40; +/-210 and +/-275 feet southeast of Appling Farms Parkway)

USE DISTRICT: Appling Farms Business Park P.D. 04-385

REQUESTING: Variance from Sub-section 3.10.2B to allow two (2) permanent off-premise advertising signs (billboards) on lots less than the required minimum of 20,000 sq. ft. in area

APPEARANCES: For Applicant: SR Consulting, LLC (Cindy Reaves)

For Opposition: None

THE RESOLUTION:

WHEREAS, Belz Investco GP filed an application with the Board of Adjustment on **Thursday, May 29, 2014**, by requesting a variance from Sub-Section 3.10.2B to allow two (2) permanent off-premise advertising signs (billboards) on lots less than the required minimum of 20,000 sq. ft. in area; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, June 25, 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 Section 9 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 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 application be and it hereby is granted and the decision of the Memphis and Shelby County Building Official be and hereby is overruled. 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, City/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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE WITH TWO (2) CONDITIONS

AGAINST MOTION:0

FOR MOTION:8
Chairman Colvett, Burditt, Dow, Jackson, Jones,
Railford, Rainey, and Savage-Townes

NOT VOTING0

ACTION IS TO APPROVE WITH TWO (2) CONDITIONS

1. The two (2) outdoor advertising signs shall remain as Nonconforming Off-Premise Signs in accordance with Section 4.9.15 of the zoning code.
2. A final plan shall be recorded reflecting the lot area, sign location, set backs and sign area for each sign structure.

ADJOURNMENT:

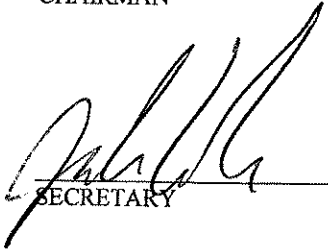
There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: _____

July 23, 2014



CHAIRMAN



SECRETARY

