

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

September 24, 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, September 24, 2014

Present:

Mr.	Frank Colvett Jr. (Chairman)
Mr.	Dan Dow
Mr.	John Jackson III
Ms.	Lynda Raiford
Mr.	Timothy Rainey (Vice Chairman)
Mrs.	Madeleine Savage-Townes

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Troy Frasier, OPD
Mr.	Calvin Abram, OPD
Mr.	Terry Langlois, OPD
Mr.	Nate Taylor, City Engineer
Mr.	John Walpole, CCE

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous August 27, 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.

NEW CASES:

1. **DOCKET:** **B.O.A. 14-37 (CITY)**
- APPLICANT:** Avery Park Apartments Utah, LLC
- PREMISES AFFECTED:** 4865 Raleigh-LaGrange Road
- USE DISTRICT:** R-10, RU-3
- REQUESTING:** Relief from the UDC Section 2.2.2.C for a Use
Variance and
 an encroachment into a platted setback
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Brian Smith
- For Opposition: None

THE RESOLUTION:

WHEREAS, Avery Park Apartments Utah, LLC filed an application with the Board of Adjustment on **August 21, 2014**, by requesting relief from the UDC Section 2.2.2.C for a Use Variance and an encroachment into a platted setback; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **September 24, 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 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. 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 CONDITIONS

AGAINST MOTION:	0
FOR MOTION:	5
		Chairman Colvett, Dow, Jackson III, Raiford, and Savage-Townes
NOT VOTING:	1
		Rainey

CONDITIONS:

1. The applicant shall comply with the site plan and front yard setback as submitted.
2. The applicant shall continue to conform to the conditions as established with Plat Book 55, Page 42, with the exception of the front yard setback. The applicant shall rerecord the plat to memorialize the newly approved BOA decision.
3. The front yard setback shall be no less than 27 feet.

2. **DOCKET:** **B.O.A. 14-38 (CITY)**

APPLICANT: Pelham Circle, LLC

PREMISES AFFECTED: **2600 S. Mendenhall Rd.**
(Southeast corner of S. Mendenhall and Mt. Moriah Road)

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

REQUESTING: Variance from UDC Sub-Section 3.1.4A (Number of Buildings Per Tract of Lot) to allow two principal structures on one lot

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Harvey Marcom

For Opposition: None

THE RESOLUTION:

WHEREAS, Pelham Circle, LLC filed an application with the Board of Adjustment on **August 28, 2014**, for a variance from UDC Sub-Section 3.1.4A (Number of Buildings Per Tract of Lot) to allow two principal structures on one lot; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **September 24, 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 appeal standards in Section 9.23 of the Unified Development Code are being met; and

WHEREAS, The Board has determined that the site plan 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, the appeal is approved subject to the site plan and two conditions.

NOW, THEREFORE, Be it resolved that the appeal 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, 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 appeal.

MOTION TO APPROVE WITH CONDITIONS

AGAINST MOTION:0

FOR MOTION:

.....6

Chairman Colvett, Dow, Jackson, Raiford, Rainey,
and Savage-Townes

NOT VOTING 0

CONDITIONS:

1. The existing non-conforming off-premise advertising sign is permitted no build-back rights with the variation to Article 3.1.4A 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.
2. The applicant agrees, subject to the conditions of the existing off-premise advertising sign lease, that the granting of approval by the Board of Adjustment does not allow any additional privileges for the existing off-premise advertising sign than those currently provided in the Unified Development Code.
3. A modified streetscape shall be used that includes type "C" street trees with auto display between plantings.
4. Exterior lighting shall be designed to minimize adverse offsite impacts such as light trespass and obtrusive light.
5. 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.
6. Only one attached and one detached sign are allowed for the auto sales business.

NEW CASE:

3. **DOCKET:** **B.O.A. 14-40 (CITY)**
- APPLICANT:** Michael Edward Floyd
- PREMISES AFFECTED:** 3755 Swan Ridge Circle South
 (Southeast corner of Swan Ridge Circle South & Highland Terrace)
- USE DISTRICT:** Residential Single Family (R-6) District
- REQUESTING:** A variance for the existing house that encroaches 13.3 feet into the platted 25 feet front yard setback
- APPEARANCES:** For Applicant: Cindy Reaves
- For Opposition: None

THE RESOLUTION:

WHEREAS, Michael Edward Floyd filed an application with the Board of Adjustment on **August 28, 2014** for a variance for the existing house that encroaches 13.3 feet into the platted 25 feet front yard setback; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **September 24, 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 Use Variance in Sub-Section 9.22.6.B of the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said Use 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 City of Memphis and County of Shelby; and, therefore, this application is approved with five (5) site plan conditions.

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 Use Variance 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:6

Chairman Colvett, Dow, Jackson, Raiford, Rainey,
and Savage-Townes

NOT VOTING0

ACTION IS TO APPROVE WITH ONE (1) CONDITION

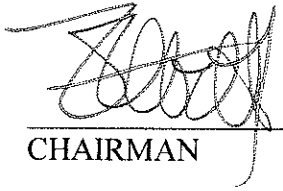
CONDITIONS:

1. This approval is conditioned upon the submitted site plan. Any modifications in the encroached area must be submitted to the Office of Planning and Development for review and possible action by the Board of Adjustment

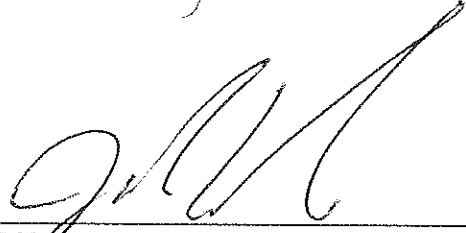
ADJOURNMENT:

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

MINUTES APPROVED: Oct 22, 2014



CHAIRMAN



SECRETARY