

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.	Jimmy Burditt
Mr.	Andre Jones
Mrs.	Margaret Pritchard (Alternate)
Ms.	Lynda Raiford
Mr.	Timothy D. Rainey, Chairman
Mrs.	Madeleine Savage-Townes
Ms.	Mary Sharp (Alternate)
Mr.	Mark Yates (Alternate)

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Troy Frasier, OPD
Mrs.	Marion Jones, OPD
Mr.	Donald Jones, OPD
Mr.	Calvin Abram, OPD
Mr.	Chip Saliba, OPD
Mr.	Terry Langlois, OPD
Mr.	Brian Bacchus, 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.

HELD CASE:

1. **DOCKET:** **B.O.A. 14-18 (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 a duplex structure (2 attached dwelling units on an undivided tract of land) in the Residential Single Family-6 (R-6) District and multiple bulk variances from the Unified Development Code
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Patrick Bensinger (3675 Somerset Cv.)

For Opposition: Dr. Bill Lloyd (1914 Nelson Avenue)

THE RESOLUTION:

WHEREAS, Ahmed Saffarini filed an application with the Board of Adjustment on **April 24, 2014**, by requesting A Use Variance from Chapter 2.5 of the UDC to allow a duplex structure (2 attached dwelling units on an undivided tract of land) in the Residential Single Family-6 (R-6) District and multiple bulk variances from the Unified Development Code; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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. 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 WITH CONDITIONS

AGAINST MOTION:	1
		Jones
FOR MOTION:	7
		Burditt, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates
NOT VOTING:	0

Conditions

1. The approved variance runs with the land and is conditioned upon its compliance with the approved site plan and elevations.
2. 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.
3. The curb cut on Nelson Avenue shall be revised from a commercial curb cut to a residential curb cut per, no wider than 12 feet in width. The unused portion of the curb cut shall be closed with curb, gutter and sidewalk. Continuation of the existing sidewalk and grass strip is acceptable and shall be reflected on the Approved Site Plan.

4. Provide a brick course, minimum 24" in height around the base of the building where the building is visible from the public right of way.
5. Provide a typical porch on either side or both sides of the entry features. The porch will be framed with a with a brick knee wall or other material suitable to the OPD surrounding the front porch. The minimum height of the knee wall shall be 4 feet.
6. The elevation and floor plan shall reflect a front porch that is a minimum of 6 feet in depth.
7. All windows shall be double hung windows, unless such window is not permitted by the Building Official for the west elevation..
8. The elevations shall reflect a minimum 12" overhang from the edge of the roof, except for the west elevation where no overhang is required. The use of gutters and downspouts shall be limited to the west elevation only.
- 9.. The treatment of the front door way may contain a pitched roof. The doors shall contain sidelights and a mix of solid wood and windows in the actual door.
11. The site plan, elevations, and floor plan will reflect that the garage facing Nelson Avenue has been relocated closer to the west property line.
12. Windows in the garage door must up 15 percent of the door's façade.
13. The windows in the west elevation shall reflect the decision of the Building Official with respect to size and transparency.

2. **DOCKET:** **B.O.A. 14-31 (CITY)**

APPLICANT: Jeff Stamm

PREMISES AFFECTED: *(Northeast corner of GE Patterson Avenue and Mulberry Street)*

USE DISTRICT: South Main (SM)

REQUESTING: Appeal an administrative decision by the Planning Director rejecting the site plan for the Double J Smokehouse and Saloon pursuant to Chapter 9.13 (Special District Administrative Site Plan Review) for a development within the SCBID Special Purpose District

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: James Harris

For Opposition: David Ambrosia (137 GE Patterson #103)
Rebecca Beaty

THE RESOLUTION:

WHEREAS, Jeff Stamm filed an application with the Board of Adjustment on **July 2, 2014**, appealing an administrative decision by the Planning Director rejecting the site plan for the Double J Smokehouse and Saloon pursuant to Chapter 9.13 (Special District Administrative Site Plan Review) for a development within the SCBID Special Purpose District; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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 and that the decision of the Memphis and Shelby County Planning Director 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 appeal.

MOTION TO APPROVE

AGAINST MOTION:0

FOR MOTION:
.....8
Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates

NOT VOTING 0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. Any change or deviation from the site plan shall, upon the determination of the Planning Director, be resubmitted to the Board of Adjustment for its review and reaffirmation of addressed administratively by the Office of Planning and Development.
2. The "Mutual Agreement" dated August 20, 2014 between the Double J Owners/Manager and the Neighbors and Community Leaders of South Main shall be executed and recorded by separate instrument at the Shelby County Register's Office. A copy of the recorded agreement shall be placed in the case file for BOA 14-31.

NEW CASE:

3. **DOCKET:** **B.O.A. 14-32 (CITY)**
- APPLICANT:** Binghamton Development Corporation
- PREMISES AFFECTED:** 3005 McAdoo Avenue
 *(South side of McAdoo Avenue; +/-107.80 feet east of
 Tillman Street)*
- USE DISTRICT:** Residential Single Family (R-6) District
- REQUESTING:** Use Variance to allow a new surface parking lot in the
 Residential Single Family (R-6) District zoning to the rear
 of a commercial building fronting Tillman Street
- APPEARANCES:** For Applicant: Robert Montague, Executive Director
- For Opposition: None

THE RESOLUTION:

WHEREAS, Binghamton Development Corporation filed an application with the Board of Adjustment on **July 21, 2014** for a Use Variance to allow a new surface parking lot in the Residential Single Family (R-6) District zoning to the rear of a commercial building fronting Tillman Street; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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:8

Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates

NOT VOTING0

ACTION IS TO APPROVE WITH FIVE (5) SITE PLAN CONDITIONS

CONDITIONS:

1. A residential curb-cut permit shall be subject to review and approval by the City Engineer.
2. The sidewalk along the front of this parking lot shall meet ADA compliance and at least one (1) handicap space shall be provided in the parking area.
3. The landscaping and screening shall be as illustrated on the Site Plan, including shrub and tree types.
4. The site shall be used only as accessory use for a surface parking lot for 280 Tillman Street.
5. Any 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.

NEW CASE:

4. **DOCKET:** **B.O.A. 14-33 (CITY)**
- APPLICANT:** Gregg Webb
- PREMISES AFFECTED:** 45 N. Grove Park Road
- USE DISTRICT:** Residential Single Family (R-10) District
- REQUESTING:** To request relief from the UDC Subsection 3.2.9F to allow an accessory structure to be erected in the side yard setback
- APPEARANCES:** For Applicant: Gregg Webb
- For Opposition: None

THE RESOLUTION:

WHEREAS, Greg Webb filed an application with the Board of Adjustment on **July 23, 2014**, to request relief from the UDC Subsection 3.2.9F to allow an accessory structure to be erected in the side yard setback;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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:

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Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates

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ACTION IS TO APPROVE WITH CONDITIONS:

CONDITIONS

1. The applicant shall comply with the site plan as submitted.
2. The accessory structure shall not exceed 14-feet-height and the chimney shall not exceed two (2) feet above the accessory structures' roof line.
3. The building materials of the accessory structure shall be comparable to the primary structure on the subject site.
4. The accessory structure shall be of comparable colors as the primary structure on the property.
5. The accessory structure shall be constructed a minimum of 10-feet away from the southern property line within the side yard setback.
6. The applicant fence shall not be constructed to exceed eight (8) feet in height.

NEW CASE:

5. **DOCKET:** **B.O.A. 14-34 (CITY)**

APPLICANT: McDonald’s

PREMISES AFFECTED: *(Southeast corner of Highland St. and Southern Ave.)*

USE DISTRICT: Commercial Mixed Use – 2 (CMU-2) in University District

REQUESTING: Variances from Article 8.3 (University District Overlay) related to 8.3.6D (Building Regulations) setback, building frontage and transparency on a Shopfront Street and 8.3.11E (Parking) for additional impervious surfacing

APPEARANCES: For Applicant: Carson Claybrook
 Cecil Humphreys

 For Opposition: None

THE RESOLUTION:

WHEREAS, McDonald’s filed an application with the Board of Adjustment on **July 23, 2014**, requesting Variances from Article 8.3 (University District Overlay) related to 8.3.6D (Building Regulations) setback, building frontage and transparency on a Shopfront Street and 8.3.11E (Parking) for additional impervious surfacing ;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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 the subdivision plat shall be recorded within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:

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FOR MOTION:

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Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates

NOT VOTING

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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.

- I. The Office of Planning and Development shall review the final plans for this project through the Memorandum of Conformance (MOC) process. 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. No building permit shall be granted until a full set of engineered plans are approved by the City Engineer. The final plans shall adhere to the site plans approved by the Board of Adjustment. Minor modifications may be reviewed and approved by the Planning Director.

II. Building Envelope Standards shall be in accordance with the Frontage Map for Shopfront designation with the following exceptions:

- A. The maximum front setback along Southern Avenue shall be twenty-seven (27) feet;
- B. The minimum building frontage along Highland Street shall be forty-six (46) percent;
- C. The minimum building frontage along Southern Avenue shall be thirty-one (31) percent;

III. Access and Circulation:

- A. The proposed curb cut on Highland shall be located so that the entirety of the curb cut will be on the applicant's property and not encroach on to the adjacent property.
- B. Dedicate a 5 foot property line at the intersection of Highland Street and Southern Avenue and improve with ADA compatible access ramp(s) in accordance with the requirements of the MPO-LRTP and the Unified Development Code.
- C. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
- D. 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.
- E. All existing sidewalks and curb openings along the frontage of this site shall be removed and replaced with new sidewalks inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
- F. Any existing nonconforming curb-cuts shall be removed and replaced with new curb-cuts to meet current City of Memphis standards and closed with new curb, gutter and sidewalk.

IV. Streetscape Standards shall be in accordance with Section 8.3.9 of the University District Overlay (UDO).

- A. A detailed landscape plan shall be submitted subject to review and approval by the Office of Planning & Development and incorporated in the final plan for recording.
- B. All garbage, refuse containers and loading facilities shall be completed screened from view from all adjacent properties and the public roads.
- C. All outdoor lighting shall be directed downward to the extent possible and shall not glare into public right-of-ways or onto adjacent properties.

V. Site Development Standards shall be in accordance with Section 8.3.10 of the University District Overlay (UDO).

- A. Banners, streamers, florescent or balloon signs or similar advertising devices, including LED, changeable copy or reader board signs shall be prohibited.
- B. Temporary, roof, portable or graphic signs, including window graphic

signs shall not be permitted.

- C. The Site Plan modifications recommended by staff shall be incorporated into the final plan of development.
- D. The "Big-M" vintage sign may be relocated to this site to be incorporated into a university theme subject to review and approval by staff and the University Neighborhoods District Council.
- E. The legal non-conforming billboard sign and buildings shall be removed from this site.
- F. Required landscaping shall not be placed on sewer or drainage easements.

VI. Other Site Development Standards:

- A. 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.
- B. Standard Subdivision Contract may be required per Article 5.5.5 of the Unified Development Code.
- C. City sanitary sewers are available at developer's expense.
- D. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.
- E. The width of all existing off-street sewer easements shall be widened to meet current city standards.
- F. 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 final plan.

VII. Any requested changes to the bulk, access, parking, landscaping and sign requirements if equivalent alternatives are presented must be approved by the Board of Adjustment.

VIII. A final plan suitable for recording shall be filed within two (2) years of approval by the Memphis/Shelby County Board of Adjustment.

- A. 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.
- B. No building permit shall be granted until a full set of engineered plans are approved by the City Engineer.
- C. Any final plan shall include the following:
 - 1. The Plan Conditions;
 - 2. A Standard Subdivision Contract as required in Section 5.5 of Unified Development Code for any public improvements;
 - 3. The exact location and dimensions, including height of all buildings or buildable areas, parking areas, drives and identification of plant materials for required landscaping and screening;
 - 4. The number of required parking, bicycle racks and employee parking spaces;
 - 5. The location and ownership, whether public or private of any

easement(s);

6. The one-hundred (100) year flood elevation;
7. All commons, open areas, 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 final plan.
8. 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.

NEW CASE:

6. **DOCKET:** **B.O.A. 14-35 (CITY)**
- APPLICANT:** Harry Smith
- PREMISES AFFECTED:** 440 Vance Avenue
(Beginning at the southwest corner of Pontotoc Avenue and Danny Thomas Boulevard, extending west along Pontotoc Avenue 266 feet, then south to Vance Avenue)
- USE DISTRICT:** South Downtown Residential (R-SD)
- REQUESTING:**
1. A variance from Paragraph 7.2.3D(4) to allow two structures in excess of 4,000 square feet.
 2. A variance to 7.2.3D(5) to allow parking between the principal buildings and the public right of way.
 3. A variance to 2.7.2A(2) to allow an accessory use or structure to extend into the required front yard of Vance Avenue
- APPEARANCES:** For Applicant: Delinor Smith
- For Opposition: Horce Clay

THE RESOLUTION:

WHEREAS, Harry Smith filed an application with the Board of Adjustment on **July 23, 2014**, by requesting a variance from Paragraph 7.2.3D(4) to allow two structures in excess of 4,000 square feet. A variance to 7.2.3D(5) to allow parking between the principal buildings and the public right of way. A variance to 2.7.2A(2) to allow an accessory use of structure to extend into the required front yard of Vance Avenue;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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 the subdivision plat shall be recorded within two (2) years from the granting of the application.

MOTION TO APPROVE WITH CONDITIONS

AGAINST MOTION:

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FOR MOTION:

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Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, Sharp, and Yates

NOT VOTING

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ACTION IS TO APPROVE

CONDITIONS:

1. The specific variances discussed in the report are the only ones granted by this approval. The final site plan is subject to the review and approval of the Memphis and Shelby County Land Use Control Board in relation to Case Number SE 14-04 which is companion to this Board of Adjustment Variations Request.
2. The Final Site Plan for the companion case, SE 14-01, shall reflect the approved variances and conditions approved by the Memphis and Shelby County Board of Adjustment. These variances are subject to requirements for variances found in the UDC at 9.22.

NEW CASE:

7. **DOCKET:** **B.O.A. 14-36 (CITY)**
- APPLICANT:** Amerco Real Estate
- PREMISES AFFECTED:** 400 Union Avenue
(North side of Union Ave.; 300 feet west of S. Lauderdale St.)
- USE DISTRICT:** Sports and Entertainment (SE) District
- REQUESTING:** A use variance to expand a U-Haul business. The use variance will allow for indoor multi-story storage and moving truck rental only
- APPEARANCES:** For Applicant: Carol George (Applicant)
Judy Brantly (Owner)
- For Opposition: None

THE RESOLUTION:

WHEREAS, Amerco Real Estate filed an application with the Board of Adjustment on **July 23, 2014**, by requesting a use variance to expand a U-Haul business. The use variance will allow for indoor multi-story storage and moving truck rental only;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 27, 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 the subdivision plat shall be recorded within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:

.....0

FOR MOTION:

.....7

Burditt, Jones, Pritchard, Raiford, Rainey, Savage-Townes, and Yates

NOT VOTING

.....1

Sharp

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. The storage use variance is limited to interior multi-story storage only. No mini-storage is allowed on the site or any other kind of storage outside of the existing building.
2. No additional storage structures shall be built on the site.
3. The vehicle rental use variance is limited to moving truck rental only.
4. The existing trees in the existing interior parking strip will be kept.
5. A final landscape plan for the existing U-Haul parcel and the subject site will be submitted to OPD for final approval.


6. No outside storage on the site is allowed. Any items left by customers must be stored inside a screened area until being properly disposed of.
7. Site lighting shall be installed in the parking areas according to the requirements of Sub-section 7.2.10K.
8. No additional detached signage is allowed on the subject parcel.
9. 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.

ADJOURNMENT:

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

MINUTES APPROVED: Sept. 24 2014



CHAIRMAN



SECRETARY