

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

October 22, 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, October 22, 2014

Present:

Mr.	Jimmy Burditt
Mr.	Frank Colvett Jr. (Chairman)
Mr.	Dan Dow
Mrs.	Margaret Pritchard (Alternate)
Mr.	Andre Jones
Mr.	Timothy Rainey (Vice Chairman)
Ms.	Madeleine Savage-Townes

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Troy Frasier, OPD
Mr.	Calvin Abram, OPD
Mrs.	Marion Jones, OPD
Mr.	Don Jones, 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 September 24, 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. 14-41 (CITY)**
- APPLICANT:** Charles Shoffner
- PREMISES AFFECTED:** 211 & 217 Exchange Ave.; South side of Exchange Avenue; +/-340.74 feet west of N. Third Street
- USE DISTRICT:** Mixed Use (MU) – Uptown Special District
- REQUESTING:** Variance from Paragraph 7.3.7F(2) to allow accessory parking along the side of the principle structure
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Diane Baldi
Charles Shoffner
- For Opposition: None

THE RESOLUTION:

WHEREAS, Charles Shoffner filed an application with the Board of Adjustment on **September 23, 2014**, requesting a variance from Paragraph 7.3.7F(2) to allow accessory parking along the side of the principle structure; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **October 22, 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:	1 Dow
FOR MOTION:	6 Chairman Colvett, Burditt, Jones, Pritchard, Rainey, and Savage-Townes
NOT VOTING:	0

CONDITIONS:

1. Revise the site plan to show the location of a gate at either end of the site and demonstrate that the gate opens into the site and not into either right-of-way.
2. Said gates in number 1 above shall remain open during normal business hours. The gates shall include an attached sign to indicate that the business is closed.
3. The variances to 7.3.8F(2) and 4.4.8(B) shall run with the land and are subject to the approved conditions and a Final Site Plan.
4. Any changes to the site plan, shall be reviewed by the Planning Director or his/her designee, who shall in turn determine whether or not any changes can be approved administratively or sent back to the Board of Adjustment for their review.
5. All landscaping shown on the site plan shall be irrigated.

2. **DOCKET:** **B.O.A. 14-42 (CITY)**

APPLICANT: Louis E Haynes

PREMISES AFFECTED: 2731 Enterprise Avenue
(160 feet south of Pendleton)

USE DISTRICT: Residential (R-6) District

REQUESTING: Appeal of OPD's interpretation of the UDC as it applies to the subject site

ACTION OF THE BOARD: Reject

APPEARANCES: For Applicant: Louis E. Haynes
Barbara Haynes

For Opposition: None

THE RESOLUTION:

WHEREAS, Louis Haynes filed an application with the Board of Adjustment on **September 23, 2014**, for an appeal of OPD'S interpretation of the UDC as it applies to the subject site; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **October 22, 2014**, after due notice; and

WHEREAS, The Board has determined that the site plan would be unduly detrimental to the other properties in the vicinity of the subject premises; and

WHEREAS, The Board is further of the opinion that this request will 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 not approved.

NOW, THEREFORE, Be it resolved that the appeal be and is hereby is denied.

MOTION TO REJECT

AGAINST MOTION:0

FOR MOTION:6

Chairman Colvett, Burditt, Jones, Rainey, Pritchard
and Savage-Townes

NOT VOTING 1
Dow

NEW CASE:

3. **DOCKET:** **B.O.A. 14-43 (CITY)**
- APPLICANT:** Ben T. Duke
- PREMISES AFFECTED:** 1588 Vinton
 (350' east of Willett)
- USE DISTRICT:** Residential – (R-6) (H)
- REQUESTING:** Variance from UDC Section 3.6.1 (Regulations for Permitted Types) for side and rear setbacks for a garage
- APPEARANCES:** For Applicant: Ben Duke
- For Opposition: None

THE RESOLUTION:

WHEREAS, Ben T Duke filed an application with the Board of Adjustment on **September 23, 2014** for a variance from the UDC Section 3.6.1 (Regulations for Permitted Types) for side and rear setbacks for a garage; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **October 22, 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 three (3) 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:7

Chairman Colvett, Burditt, Dow, Jones, Pritchard,
Rainey, and Savage-Townes

NOT VOTING0

ACTION IS TO APPROVE WITH THREE (3) CONDITION

CONDITIONS:

1. The garage shall be built in accordance with the submitted site plan.
2. The garage design shall be compatible with the architectural character of the principal structure.
3. The garage structure shall not be more than 20 feet in height.

NEW CASE:

4. **DOCKET:**

B.O.A. 14-44 (CITY)

APPLICANT:

Jackson National Hospital, Inc. (Hal C. Stanley, Representative)

PREMISES AFFECTED:

4400 Yale Rd.;
(Northeast corner of Yale Rd. and Coleman Rd.)

USE DISTRICT:

Residential Single-Family (R-8) District

REQUESTING:

A variance to Sub-Section 4.9.7B to permit a 35 square foot, illuminated attached sign on property zoned Residential Single-Family (R-8) District, but contained in P.U.C. 0-32A and a variance to condition #1 of P.U.D. 0-32A to permit an illuminated sign

APPEARANCES:

For Applicant: Jackson National Hospital, Inc.
Tim Rainey

For Opposition: None

MOTION TO HOLD

AGAINST MOTION:0

FOR MOTION:6

Chairman Colvett, Burditt, Dow, Pritchard, Jones, and
Savage-Townes

NOT VOTING1

Rainey

NEW CASE:

5. **DOCKET:** **B.O.A. 14-45 (CITY)**

APPLICANT: John & Amy Abbott DBA American Cash Advance

PREMISES AFFECTED: 3750 Hacks Cross Rd.

USE DISTRICT: Urban Residential (RU-6) District

REQUESTING: An appeal to an administrative decision to relocate a non-conforming business (payday loan establishment) on the same property

APPEARANCES: For Applicant: Brenda Solomito
Michael Gilroy
Edward Warren

For Opposition: None

THE RESOLUTION:

WHEREAS, John & Amy Abbott filed an application with the Board of Adjustment on **September 26, 2014** appealing an administrative decision to relocate a non-conforming business (payday loan establishment) on the same property; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **October 22, 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.

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:7

Chairman Colvett, Burditt, Dow, Pritchard, Jones,
Rainey, and Savage-Townes

NOT VOTING0

NEW CASE:

6. **DOCKET:** B.O.A. 14-46 (CITY)

APPLICANT: George Karkatsugas

PREMISES AFFECTED: 3030 Summer Ave.

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

REQUESTING: Permit an existing non-conforming detached sign to remain subject to setback variations from the Unified Development Code

APPEARANCES: For Applicant: Brenda Solomito

For Opposition: None

MOTION TO HOLD

AGAINST MOTION:0


FOR MOTION:7
Chairman Colvett, Burditt, Dow, Pritchard, Rainey,
Jones, and Savage-Townes

NOT VOTING0

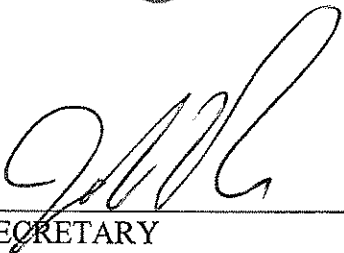
ADJOURNMENT:

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

MINUTES APPROVED: 11-19-14



CHAIRMAN



SECRETARY