

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

December 17, 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, December 17, 2014

Present:

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

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Troy Frasier, OPD
Mr.	Calvin Abram, OPD
Mrs.	Marion Jones, OPD
Mr.	Don Jones, OPD
Mr.	Terry Langlois, OPD
Mr.	Jerry Caldwell, City Engineering
Mr.	John Walpole, CCE
Mr.	Chip Saliba, OPD

A quorum being present, the Board proceeded to consideration of the days 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.

HELD CASES:

1. **DOCKET:** **B.O.A. 14-46 (CITY)**
- APPLICANT:** George Karkatsugas
- PREMISES AFFECTED:** 3030 Summer Ave.
- USE DISTRICT:** Commercial Mixed Use-3 (CMU-3) District
- REQUESTING:** Permit an existing non-conforming detached sign to remain subject to setback and height variations from Unified Development Code
- ACTION OF THE BOARD:** Approve with conditions
- APPEARANCES:** For Applicant: George Karkatsugas
- For Opposition: None

THE RESOLUTION:

WHEREAS, George Karkatsugas filed an application with the Board of Adjustment on **September 29, 2014**, requesting to permit an existing non-conforming detached sign to remain subject to setback and height variations from Unified Development Code; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **December 17, 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 subject to conditions and variances.

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 FOUR (4) CONDITIONS AND TWO (2) VARIANCES

AGAINST MOTION:	0
FOR MOTION:	7
		Chairman Colvett, Burditt, Jackson, Jones, Raiford, Rainey and Savage-Townes
NOT VOTING:	0

CONDITIONS:

1. Record a lot consolidation plat making the sign "On Premise" and conforming to required minimum sign setbacks with the exception of the sign setback along Summer Avenue.
2. The sign height and size will be governed by the graphic attached to the OPD Staff Report with the exception that the maximum sign height shall be 15.70 feet.
3. The sign can remain "vacated" until there is a need to advertise on the sign, but an open sign frame cabinet will not be permitted, but rather the sign frame cabinet shall be maintained with a white sign panel or the sign panel may contain information pertaining to the sale or lease of the site (a.k.a. "Real Estate Sign").
4. At the time a sign permit is applied for to erect a sign with an actual store tenant or store owner copy on it, the applicant will be required to improve the sign by installing a pole cover or jacket over the existing sign support poles. The colors and materials of the pole cover or jacket shall be complementary to the principal structure.

VARIANCES APPROVED:

Sign Setback – Variance to UDC Sub-Section 4.9.6C which requires detached signs greater than 6 square feet in area to be no closer than 10 feet to any lot line to allow the existing sign to be 1 foot, 5 inches from the Summer Avenue right-of-way.

Sign Height – Variance to UDC Sub-Item 4.9.7D(3)(b)(2) that allows detached signs 10 feet in height or less to have no required minimum setback from the right-of-way which fronts the property to allow the existing sign to be 15.70 feet in height according to the survey note on the attached Plat of Survey.

2. **DOCKET:** B.O.A. 14-54 (CITY)
APPLICANT: Adams & Washington Properties Inc.
PREMISES AFFECTED: 275 Washington Ave.
USE DISTRICT: CBD
REQUESTING: A Use Variance from UDC Sub-Section 2.5.2 to allow indoor storage of rolling stock include, boats, trailers, recreational vehicle, etc.
ACTION OF THE BOARD: Hold
APPEARANCES: For Applicant: Adams & Washington Properties Inc.
Opposition: None

MOTION WAS TO HOLD

AGAINST MOTION:0

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

NOT VOTING0

NEW CASE:

3. **DOCKET:** **B.O.A. 14-56 (CITY)**
- APPLICANT:** Tom Edwards DBA Olympic Industries
- PREMISES AFFECTED:** 8596 Macon Road
- USE DISTRICT:** Commercial Mixed Use (CMU-1) District
- REQUESTING:** A Use Variance from UDC Sub-Section 2.5.2 to
 allow from the expansion of Olympic Industries
- ACTION OF THE BOARD:** None (Applicant Withdrew Case)
- APPEARANCES:** For Applicant: None
- For Opposition: None

****This case was withdrawn by the applicant prior to the meeting.****

NEW CASE:

4. **DOCKET:**

B.O.A. 14-57 (CITY)

APPLICANT:

Marley Fields, Fields Landscape Architecture
Brian Boswell

PREMISES AFFECTED:

591 Melrose St.
(Southwest corner of Melrose Street and Vinton Ave.)

USE DISTRICT:

Residential Single-Family Historic [R-6 (H)]
District

REQUESTING:

Variance to Section 2.7.6 and Paragraph 2.7.2A (2&3) to permit an accessory structure (swimming pool) to be located in the front yard and to extend forward of the house; and Sub-Section 4.6.7C regarding the location and height of fences in the front and side yards

ACTION OF THE BOARD:

Held

APPEARANCES:

For Applicant: Marley Fields, Fields Landscape
Architecture
Brian Boswell
Jane Baker
Mike Simpson

For Opposition:

MOTION TO HOLD

AGAINST MOTION:0

FOR MOTION:7

Chairman Colvett, Burditt, Jackson, Rainey, Raiford,
Jones and Savage-Townes

NOT VOTING0

NEW CASE:

5. **DOCKET:** **B.O.A. 14-59 (CITY)**

APPLICANT: J. T. & Jena Travis

PREMISES AFFECTED: 646 S. McLean Blvd.
 *(Northeast corner of S. McLean Boulevard and
 Cowden Ave.)*

USE DISTRICT: Residential Single Family-8 (R-8) District

REQUESTING: A Variance from Sub-Section 3.9.2 D, E, F, H & I
 and Paragraph 4.5.2 C (1) to allow the new
 construction of Single Family Residence

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: J. T. Travis

 Opposition: Mike Simpson, Central Gardens

MOTION WAS TO HOLD

AGAINST MOTION: 0

FOR MOTION: 6
 Chairman Colvett, Burditt, Jackson, Raiford,
 Rainey, and Savage-Townes

NOT VOTING 0

NEW CASE:

6. **DOCKET:** **B.O.A. 14-60 (CITY)**

APPLICANT: Century Management-McDonald's

PREMISES AFFECTED: 3149 Thomas Street

USE DISTRICT: Commercial Mixed Use-1 (CMU-1) District

REQUESTING: A Variance from UDC item 4.9.7D (4) (b) and to allow an additional sign to be located on property

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Cindy Reaves

For Opposition: None

THE RESOLUTION:

WHEREAS, Century Management-McDonald's filed an application with the Board of Adjustment on **November 18, 2014** for a Variance from UDC item 4.9.7D (4) (b) and to allow an additional sign to be located on property; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **December 17, 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 Sub-Section 9.22.6.B of the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said 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 subject to (3) 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 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 WITH THREE (3) CONDITIONS

AGAINST MOTION:0

FOR MOTION:6
Chairman Colvett, Burditt, Jackson, Rainey, Raiford,
and Savage-Townes

NOT VOTING0

CONDITIONS:

1. The applicant shall comply with the site plan and landscape plans as approved by OPD. Any changes shall be submitted to OPD and minor alterations may be approved by OPD; although, major alterations may necessitate further approval by the Board of Adjustment.
2. The applicant's sign luminance shall not extend 10-feet further than the immediate radius of the base.
3. The applicant shall comply with all conditions, dedications and street improvements as agreed upon with the Engineering Department.

NEW CASE:

7. **DOCKET:** **B.O.A. 14-61 (CITY)**
- APPLICANT:** Chuck Halford
- PREMISES AFFECTED:** 2959 Walnut Grove Road
(Tillman Street and Walnut Grove Road)
- USE DISTRICT:** Commercial Mixed Use-1 (CMU-1) District
- REQUESTING:** A variance UDC Sub-Section 3.1.4A (Number of Buildings Per Tract or Lot) to allow expansion of an existing building/commercial use
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Forrest Owens
- For Opposition: None

THE RESOLUTION:

WHEREAS, Chuck Halford filed an application with the Board of Adjustment on **November 18, 2014** a variance UDC Sub-Section 3.1.4A (Number of Buildings Per Tract or Lot) to allow expansion of an existing building/commercial use; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **December 17, 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 Sub-Section 9.22.6.B of the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said 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 subject to (9) conditions.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted Provided, however, that the 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 WITH NINE (9) CONDITIONS

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

CONDITIONS:

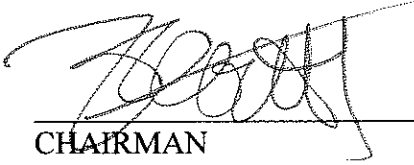
1. The business expansion shall conform to the submitted site plan.
2. A modified streetscape similar to Type S-5 shall be used in accordance with the submitted plan.
3. The developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
4. 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.
5. The applicant agrees, subject to the conditions of the existing off-premise advertising sign agreement 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.
6. Exterior lighting shall be designed to minimize adverse offsite impacts such as light trespass and obtrusive light.

7. Only one detached sign is allowed for the business.
8. Only one attached sign per frontage is allowed for the business.
9. Signs shall be in conformance with the UDC Sub-Section 4.9.7D (Standards for Signs in the Mixed Use Districts (excluding OG and RW) and Industrial Districts).

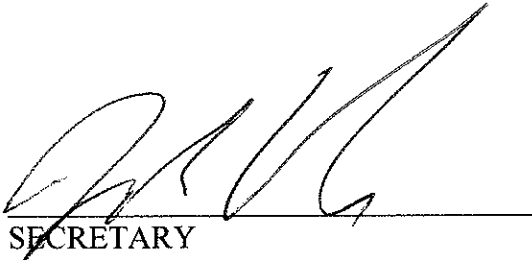
ADJOURNMENT:

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

MINUTES APPROVED: 1-28-15



CHAIRMAN



SECRETARY