

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

January 28, 2015

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, January 28, 2015.

Present:

Mr.	Daniel Dow
Mr.	Frank Colvett Jr. (Chairman)
Mr.	John Jackson, III
Mr.	Aaron Petree
Ms.	Lynda Raiford
Mr.	Timothy Rainey (Vice Chairman)
Ms.	Madeleine Savage-Townes

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

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 CASE:

1. **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 indoor storage of rolling stock to include, boats, trailers, recreational vehicles, etc.
- ACTION OF THE BOARD:** Approve with conditions
- APPEARANCES:** For Applicant: Adam Cutler
- For Opposition: None

THE RESOLUTION:

WHEREAS, Adams & Washington Properties Inc. filed an application with the Board of Adjustment on **October 10, 2014**, requesting a Use Variance from UDC Sub-Section 2.5.2 to indoor storage of rolling stock to include, boats, trailers, recreational vehicles, etc.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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.

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 SEVEN (7) CONDITIONS

AGAINST MOTION:	.....	0
FOR MOTION:	.....	7
		Chairman Colvett, Dow, Jackson, Petree, Raiford, Rainey and Savage-Townes
NOT VOTING:	.....	0

CONDITIONS:

1. The applicant shall comply with the site plan and elevations as approved by OPD, prior to receiving a building permit and comply with site plan as approved by OPD any major modification shall be heard by the Board of Adjustments.
2. The site shall not permit public parking in any capacity. The only exceptions are patrons and employees to the site.
3. The site shall not allow storage of any capacity outside of the building.
4. The applicant shall not allow vehicles larger than full sized noncommercial passenger vehicles to be stored at the site.
5. The applicant shall not allow vehicles with a turning radius exceeding 24-feet.
6. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
7. 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 and all repairs shall be completed within 365 days from the Board of Adjustments approval date.

PART II:

MOTION FOR AMENDMENT ONLY

AGAINST MOTION:	.....	2	Jackson and Savage-Townes
FOR MOTION:	.....	5	Chairman Colvett, Dow, Petree, Raiford, and Rainey and
NOT VOTING:	.....	0	

The Board moved to amend conditions number 4, 5, and 7. Condition number 4 was amended to reduce the size of vehicles that may access the subject site; Condition number 5 was amended to address the possible circulation issues that may ingress/egress the subject site and finally; condition number 7 was amended in order to quantify the time limit the applicant shall have to resolve all issues pertaining to the infrastructure to the site.

HELD CASE:

2. **DOCKET:** **B.O.A. 14-57 (CITY)**

APPLICANT: Laura & 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: A Variance from Sub-Section 4.6.7 C and D regarding the location and height of fences in the front and side yards

ACTION OF THE BOARD: Approve with conditions

APPEARANCES: For Applicant: Marley Fields
Brian Boswell

For Opposition: Mike Simpson 696 St. Augustine

Nancy Jane Baker, Manager, Memphis Landmarks Commission

THE RESOLUTION:

WHEREAS, Laura and Brian Boswell filed an application with the Board of Adjustment on **November 20, 2014** for a Variance from Sub-Section 4.6.7 C and D regarding the location and height of fences in the front and side yards; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015** after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witnesses 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. 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 APPROVE WITH (3) CONDITIONS:

CONDITIONS:

1. The applicant shall modify the site plan to list the variance granted for the fences/walls as approved by the Memphis and Shelby County Board of Adjustment; provide the fence detail and elevations; graphically locate and specify the plant material around the fences/walls; and list the Memphis Landmarks Commission's conditions of approval.
2. The submitted site 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 site plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon the surrounding properties.
3. Any change or deviation from this site 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.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

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 (1) condition.

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 APPROVE WITH (1) CONDITION:

CONDITION:

1. The Final Site Plan is subject to approval from the Memphis Landmarks Commission.

AGAINST MOTION:1
Chairman Colvett

FOR MOTION:6
Dow, Jackson, Petree, Raiford,
Rainey, and Savage-Townes

NOT VOTING0

NEW CASE:

5. **DOCKET:** **B.O.A. 14-63 (CITY)**

APPLICANT: Filament, LLC

PREMISES AFFECTED: 705 S. Main St.
(Southwest corner of South Main Street and Carolina Avenue)

USE DISTRICT: Bluffview Residential (BR) District

REQUESTING: Variances from the Bluffview Residential District (7.2.5) and the SCBID Site Plan Review Requirements (7.2.9); **1.** 7.2.5B(3)(b) Purpose and intent of the district; **2.** 7.2.5D(4) Minimum height for new buildings, **3.** 7.2.5F(2) Parking requirements for parking lots (screening), **4.** 7.2.9H Screening and irrigation, **5.** 7.2.9 I. Interior Landscaping, **6.** 7.2.9 J. Pavement, **7.** 7.2.9L Parking lot striping, **8.** 4.3.4E Exceptions to Streetscapes, **9.** 4.5.5C (2) Non-surface parking, and **10.** 3.2.9E(4)(a) Location of patios

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Barry Youven
Todd Walker

Opposition: None

THE RESOLUTION:

WHEREAS, Filament, LLC filed an application with the Board of Adjustment on **December 20, 2014** requesting variances from the Bluffview Residential District (7.2.5) and the SCBID Site Plan Review Requirements (7.2.9); **1.** 7.2.5B(3)(b) Purpose and intent of the district; **2.** 7.2.5D(4) Minimum height for new buildings, **3.** 7.2.5F(2) Parking requirements for parking lots (screening), **4.** 7.2.9H Screening and irrigation, **5.** 7.2.9 I. Interior Landscaping, **6.** 7.2.9 J. Pavement, **7.** 7.2.9L Parking lot striping, **8.** 4.3.4E Exceptions to Streetscapes, **9.** 4.5.5C (2) Non-surface parking, and **10.** 3.2.9E(4)(a) Location of patios

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015** 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 (4) 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 APPROVE WITH (4) CONDITIONS

CONDITIONS:

1. The approved Final Site Plan shall include both graphic and written references to the approved variances. Any change to the site plan that affects anyone of the approved variances will require a review by the Office of Planning and Development.
2. The applicant/property owner shall be responsible for maintaining the surface parking lot material in a smooth and well graded manner.
3. The final site plan will show parking stalls and a drive aisle consistent with the geometric requirements of the UDC.
4. For installation purposes, a concrete or asphalt surface shall only be required for the drive aisle and the ADA compliant parking space.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

7. **DOCKET:** **B.O.A. 14-65 (CITY)**

APPLICANT: Alice M. Shands

PREMISES AFFECTED: 3697 Shirlwood Ave.
(South of Shirlwood Ave., +/-167 feet west of High Point Rd.)

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

REQUESTING: Variances from the 3.6.1A required 5' side yard to permit an existing carport to extend to 2.5 from the side property line

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: David Shuermann
Valentina Puppione

For Opposition: None

THE RESOLUTION:

WHEREAS, Alice M. Shands filed an application with the Board of Adjustment on **December 29, 2014** Variances from the 3.6.1A required 5' side yard to permit an existing carport to extend to 2.5 from the side property line; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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 (2) 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 APPROVE WITH TWO (2) CONDITIONS (AS AMENDED)

CONDITIONS:

- 1.) Applicant shall ensure drainage system does not flow onto neighboring property
- 2.) Due to concerns for maintenance, no further encroachment into the side yard setback is permitted

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

application is approved subject to (1) condition.

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 APPROVE WITH ONE (1) CONDITION

CONDITION:

- 1.) If the carport is either modified or replaced it shall be a structure that is integrated architecturally with the design and colors of the house

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

10. **DOCKET:** **B.O.A. 14-68 (CITY)**

APPLICANT: Kinder Morgan

PREMISES AFFECTED: 1701 Dock Street
(Southeast corner of Harbor Avenue and Dock Street)

USE DISTRICT: Heavy Industrial (IH)

REQUESTING: Variance from Paragraph 3.1.1F (2) to permit front yard setback encroachment for an office addition and a part of the existing office at Harbor Avenue and Dock Street on President's Island

ACTION OF THE BOARD: Approve with 1 condition

APPEARANCES: For Applicant: Robert Estes

For Opposition: None

THE RESOLUTION:

WHEREAS, Kinder Morgan filed an application with the Board of Adjustment on **December 22, 2014** for variance from Paragraph 3.1.1F (2) to permit front yard setback encroachment for an office addition and a part of the existing office at Harbor Avenue and Dock Street on President's Island; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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 with one (1) condition.

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 APPROVE WITH (1) CONDITION

CONDITION

- 1.) The applicant shall re-record the final subdivision plat for the Resubdivision of Lots 155 Through 181 Of The Memphis and Shelby County Port Commission's Industrial Subdivision to graphically show a 30 foot front yard setback along Dock Street for Lot 171.

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

NEW CASE:

11. **DOCKET:** **B.O.A. 14-69 (CITY)**

APPLICANT: Joseph Houlihan

PREMISES AFFECTED: 4230 Raleigh-Millington
(615 feet south of Egypt Central Road)

USE DISTRICT: Residential-8 (R-8)

REQUESTING: Variance from UDC Sub-Section 2.7.2A (Accessory Structures-Setbacks) and Sub-Section 2.7.4B (Home Occupations-Standards) to allow accessory structures

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Joseph Houlihan
Trisha Houlihan

For Opposition: None

THE RESOLUTION:

WHEREAS, Joseph Houlihan filed an application with the Board of Adjustment on **December 27, 2014** for variances from UDC Section 2.7.2 (Accessory Structures) to allow accessory structures in the front setback and to allow more than 75% of the principal structure square footage in accessory structures; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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 (2) 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 APPROVE TWO VARIANCES WITH CONDITIONS AS AMENDED

Variance from Sub-Section 2.7.2A (3) (Accessory Structures-Setbacks) to allow accessory structures in the front setback with the following condition:

The carport either be removed or replaced with a structure that is integrated architecturally with the design and colors of the house.

Variance from Sub-Section 2.7.2C. (Number of accessory structures) to allow more that 75% of the principal structure square footage in accessory structures is approved with the following conditions:

1. A fence is to be maintained around the rear yard. A portion of the fencing shall be sight proof to screen the rear yard from the public right-of-way.
2. No business equipment or materials are allowed to be stored.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

12. **DOCKET:** **B.O.A. 14-70 (CITY)**

APPLICANT: Thomas Szymanek

PREMISES AFFECTED: 1288 Dovecrest Rd.
(East of Dovecrest Rd.; 731.5 feet south of Macon Rd.)

USE DISTRICT: Office General-OG

REQUESTING: Use Variance from Section 2.5.2 to allow contractor storage

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Forrest Owens
For Opposition: Nick Crafton

MOTION TO HOLD FOR 30 DAYS

AGAINST MOTION:0

FOR MOTION:6
Chairman Colvett, Dow, Jackson, Petree, Rainey,
and Savage-Townes

NOT VOTING0

NEW CASE:

13. **DOCKET:** **B.O.A. 14-71 (CITY)**
- APPLICANT:** 908 Development Group
- PREMISES AFFECTED:** *(South of Shirlwood Ave., +/-167 feet west of High Point Rd.)*
- USE DISTRICT:** Commercial Mixed Use (CMU-1) University District
- REQUESTING:** Six variances from Section 8.3.6 and one variance from Section 8.3.9 of the UDC for a 3-story apartment building with parking garage
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Jennifer Peregoy
- For Opposition: None

THE RESOLUTION:

WHEREAS, 908 Development Group filed an application with the Board of Adjustment on **December 29, 2014** Six variances from Section 8.3.6 and one variance from Section 8.3.9 of the UDC for a 3-story apartment building with parking garage; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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 Sub-Section 9.22.6.B 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 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 APPROVE WITH NINE (9) CONDITIONS

CONDITIONS:

1. A building permit shall not be issued until an MOC is issued for this site and plans are approved by the City Engineer's office. The City Engineer will require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee.
2. These variances are conditioned upon the site plan and building elevations submitted with this application. 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.
3. The north and west elevations must be similar to the previously approved elevations of BOA 14-29. OPD will give the final approval of these elevations before a MOC will be granted. No EIFS will be used on either building.
4. A streetscape Type S-1 will be installed along Mynders and a modified streetscape Type S-1 will be installed along Brister Street. The final modified streetscape along Brister must be approved by OPD. Type C trees will be planted 30 feet apart on average in street grates.
5. A three foot landscaping strip between the sidewalk and building will be installed along the Mynders Avenue and planted with Type-A Shrubs.
6. A detailed landscape plan shall be submitted and approved by OPD prior to issuance of a building permit.
7. Minimum floor-to-ceiling height shall be 9 feet as measured from finished floor to interior finished ceiling on the upper floors.

8. All mechanicals on the property must be shielded from sight as viewed from abutting properties.
9. Elevations and plans for the sky bridge will be submitted to OPD prior to receiving an MOC.

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

NEW CASE:

14. **DOCKET:** **B.O.A. 14-72 (CITY)**

APPLICANT: Chicken and Checks, LLC

PREMISES AFFECTED: 5411 Elvis Presley Blvd.

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

REQUESTING: Variance to allow a payday loan establishment within 1,320-feet of residential district and within 1,000 feet of an existing payday loan establishment (UDC Subsection 2.6.3M(1&2))

ACTION OF THE BOARD: Reject

APPEARANCES: For Applicant: David Shuermann
Valentina Puppione

For Opposition: None

THE RESOLUTION:

WHEREAS, Chicken and Checks, LLC filed an application with the Board of Adjustment on **December 29, 2014** Variance to allow a payday loan establishment within 1,320-feet of residential district and within 1,000 feet of an existing payday loan establishment (UDC Subsection 2.6.3M(1&2)); and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, after due notice; and

WHEREAS, The Board has determined that said Variance 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 City of Memphis and County of Shelby; and, therefore, this application is not approved.

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

MOTION TO REJECT

AGAINST MOTION:6
Chairman Colvett, Dow, Jackson, Petree, Rainey,
and Savage-Townes

FOR MOTION:0

NOT VOTING0

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, 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 and alternative landscaping compliance 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 and alternative landscaping compliance 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 Provided, however, that the Variance and alternative landscaping compliance 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, Petree, Rainey,
and Savage-Townes

NOT VOTING0

NEW CASE:

16. **DOCKET:** **B.O.A. 14-74 (CITY)**

APPLICANT: Ronald Poe

PREMISES AFFECTED: 294 Pandora St.
(East side of Pandora St; +/-125 feet south Peg Ln.)

USE DISTRICT: Residential-10 (R-10) District

REQUESTING: Variance from Sub-Section 3.6.1A to allow side yard setback encroachment

ACTION OF THE BOARD: Held

APPEARANCES: For Applicant: None
For Opposition: None

MOTION TO HOLD FOR 30 DAYS

AGAINST MOTION:0

FOR MOTION:6
Chairman Colvett, Dow, Jackson, Petree, Rainey,
and Savage-Townes

NOT VOTING0

NEW CASE:

17. **DOCKET:** **B.O.A. 14-75 (CITY)**
- APPLICANT:** 1427 N. Germantown Parkway, LLC
- PREMISES AFFECTED:** 1427 Germantown Pkwy.
(East side of Germantown Parkway, 150 feet south of Shallow Glen Trail)
- USE DISTRICT:** Currently governed by PD 04-309
- REQUESTING:** Appeal the Administrative Decision of the Planning Director's interpretation that an expired planned development is not eligible for a time extension in reference to the expiration of PD 07-335 (the Avanti North Planned Development, 2nd Amendment) based on UDC Sub-Section 9.6.14B and UDC Chapter 9.16
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Corey Brady

For Opposition: None

THE RESOLUTION:

WHEREAS, 1427 N. Germantown Parkway, LLC filed an application with the Board of Adjustment on **December 29, 2014** to appeal the Administrative Decision of the Planning Director's interpretation that an expired planned development is not eligible for a time extension in reference to the expiration of PD 07-335 (the Avanti North Planned Development, 2nd Amendment) based on UDC Sub-Section 9.6.14B and UDC Chapter 9.16; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **January 28, 2015**, after due notice; and

WHEREAS, The Board has determined that approving said appeal 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.

NOW, THEREFORE, Be it resolved that said appeal is hereby approved subject to a Final Plat under the requirements of PD 07-335 (Avant; North Planned Development, 2nd Amendment) be recorded within two years the vote of the Board's action. 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 APPROVE

AGAINST MOTION:0


FOR MOTION:5
Chairman Colvett, Dow, Jackson, Petree,
and Savage-Townes

NOT VOTING1
Rainey

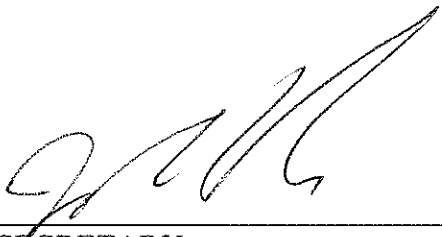
ADJOURNMENT:

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

MINUTES APPROVED: Feb 25, 2015



CHAIRMAN



SECRETARY