

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

AUGUST 24, 2011

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 1:30 p.m., Wednesday, August 24, 2011.

Present:

Mr.	Raymond Brown
Mr.	Andre Jones
Ms.	Lynda Raiford
Mr.	Timothy Rainey
Ms.	Mary Sharp
Mr.	Andrew Trippel

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Donald Jones, OPD
Mr.	Gregory Love, OPD
Mr.	Nate Taylor, City Engineer
Mr.	Robert Rolwing, County Attorney
Ms.	Sheila Pounder
Mr.	Josh Whitehead

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous July 27, 2011 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 CASE:

1. **DOCKET:** **BOA 11-14 (CITY)**

APPLICANT: Jenny Yeates

PREMISES AFFECTED: **4475 Shady Grove Road**
(Southwest corner of Shady Grove Road and Colonial Road)

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

REQUESTING: A variance to approve a rear yard setback reduction from 20 feet to 11 feet and a side yard setback reduction from 5 feet to 4.8 feet

ACTION OF THE BOARD: Approved

APPEARANCES: For Applicant: Jenny Yeates
For Opposition: Joseph Kirkland

THE RESOLUTION:

WHEREAS, Jenny Yeates filed an application with the Board of Adjustment on June 2, 2011 requesting a variance to expand the existing two (2) car garage to a three (3) car garage, add office and shop space, and one (1) parking space for guest parking; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011; 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 Article 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: 1
Sharp

FOR MOTION: Chairman Raiford, Brown, Jones, Rainey, and
Trippel

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NOT VOTING 0

ACTION IS TO APPROVE WITH THE FOLLOWING CONDITIONS:

1. The proposed addition shall be composed of material similar to that of the existing structure. All proposed material shall be specifically identified and shall meet the approval of OPD.
2. The addition shall match the roofline of the existing structure.

NEW CASE:

2. **DOCKET:**

BOA 11-17 (CITY)

APPLICANT:

Justin & Selena Hulbert

PREMISES AFFECTED:

6643 Monmouth Drive
(South side of Monmouth Drive, +/-509.99 feet west Kirby Parkway)

USE DISTRICT:

Residential Single Family-15 (RS-15) District

REQUESTING:

A variance from Section 3.6.1 of the Unified Development Code, (Rear Yard Setback in the R-15 District), to allow an attached, two-car, garage to encroach 16 feet into the required 25 foot rear yard setback

ACTION OF THE BOARD:

Approval

APPEARANCES:

For Applicant: Selena Hulbert

For Opposition: None

THE RESOLUTION:

WHEREAS, Selena Hulbert filed an application with the Board of Adjustment on August 1, 2011 requesting a variance from Section 3.6.1 of the Unified Development Code, (Rear Yard Setback in the R-15 District), to allow an attached, two-car, garage to encroach 16 feet into the required 25 foot rear yard setback ; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011; 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 Article 9.22 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 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

AGAINST MOTION:0

FOR MOTION: Chairman Raiford, Brown, Jones, Rainey, Sharp, and
Trippel

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NOT VOTING0

ACTION IS TO APPROVE

NEW CASE:

3. DOCKET: 11-18 (City)

APPLICANT: Indian Cultural Center & Temple, Inc.

PREMISES AFFECTED: 12005 Highway 64
(South side of Highway 64, +/-1,500 feet west of S.R. 385)

USE DISTRICT: Conservation Agriculture (CA) District

REQUESTING: A variance to allow construction of an accessory structure in the required front yard setback and in front of the principal structure

ACTION OF THE BOARD: Hold for a month

APPEARANCES: For Applicant: John Leake, Mr. Ruduloph, Trustee of Temple speaking for Chairman, Mr. Duggirala

THE RESOLUTION:

WHEREAS, Indian Cultural Center & Temple, Inc. filed an application with the Board of Adjustment on August 2, 2011 requesting a variance to Section 2.7.2.A.2 of the Memphis and Shelby County Unified Development Code to allow construction of an accessory structure in the required front yard setback and in front of the principal structure; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011 after due notice; and

WHEREAS, The Board felt that additional information is required from the applicant with respect to the proposed accessory structure to be placed within the front yard of the subject property to include a current survey, exterior building paint color, proposed landscape materials and consideration of moving the building out of the 60' front setback from Highway 64 and that in the absence of that information the Board feels that this item should be continued for 30 days.

MOTION TO HOLD FOR 30 DAYS

AGAINST MOTION:0

FOR MOTION: Chairman Raiford, Brown, Jones, Rainey, Sharp and Trippel
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NOT VOTING0

ACTION IS TO HOLD 30 DAYS

NEW CASE:

4. **DOCKET:**

11-19 (City)

APPLICANT:

Loyce C. Smith

PREMISES AFFECTED:

4461 Palm Avenue
(Northeast corner of Palm Avenue and Watterker Road)

USE DISTRICT:

Conservation Agriculture (CA) District

REQUESTING:

A variance to allow two principal structures on one lot and a reduction in the required 60 foot front yard setback to 30 feet along Palm Avenue and Watterker Avenue

ACTION OF THE BOARD:

Approved

APPEARANCES:

For Applicant: Paul Bray, Representative

For Opposition: None

THE RESOLUTION:

WHEREAS, Loyce C. Smith filed an application with the Board of Adjustment on August 3, 2011 requesting a variance to Section 3.1.4.A of the Memphis and Shelby County Unified Development Code to allow two principal structures on one lot and to Section 3.6.1 to allow a reduction in the required 60 foot front yard setback to 30 feet along Palm Avenue and Watterker Road; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011 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 Article 9.22 of the Memphis and Shelby County 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) year from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION: 0

FOR MOTION: Chairman Raiford, Brown, Jones, Rainey, Sharp, and
Trippel

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NOT VOTING 0

ACTION IS TO APPROVE WITH THE FOLLOWING CONDITION:

1. The renting or selling of either structure is prohibited until such time as a final subdivision plat is recorded with the Shelby County Registers Office for this property that separates this site into two legal lots of records.

NEW CASE:

5. **DOCKET:**

11-20 (City)

APPLICANT:

Catholic Diocese of Memphis

PREMISES AFFECTED:

2100 N. Germantown Parkway
(Northeast side of N. Germantown Parkway and
Chimneyrock Boulevard)

USE DISTRICT:

Residential Single Family--8 (RS-8) and Residential
Urban-2 (RU-2) Districts

REQUESTING:

Site Plan Approval for a lighted baseball field for
the location of a dugout, maintenance and storage
buildings, including a modification of conditions

ACTION OF THE BOARD:

Approval

APPEARANCES:

For Applicant: Brenda Solomito

For Opposition: None

THE RESOLUTION:

WHEREAS, The Memphis and Shelby County Building Official rejected an application on Tuesday, July 26, 2011 requesting the location of a dugout, maintenance and storage buildings on a revised site plan; and

WHEREAS, Catholic Diocese of Memphis filed an application with the Board of Adjustment on Wednesday, August 3, 2011 requesting approval of a revised site plan as required by Docket No. BOA 97-05 for the location of a dugout, maintenance and storage buildings; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011 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 Article 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: Chairman Raiford, Brown, Jones, Rainey, Sharp, and
Trippel

NOT VOTING 6
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ACTION IS TO APPROVE

NEW CASE:

6. DOCKET: 11-21 (City)

APPLICANT: Barnyard Chicken, Inc.

PREMISES AFFECTED: 730 S. Mendenhall Road
(East side of Mendenhall Road @ intersection with Mount Moriah Road)

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

REQUESTING: Variation to allow an encroachment of 3'-11" into the required front yard setback of twenty (20) feet to allow a building addition for take-out orders

ACTION OF THE BOARD: Approval

APPEARANCES: For Applicant: Tripp Carter
For Opposition: None

THE RESOLUTION:

WHEREAS, Barn Yard Chicken, Inc. filed an application with the Board of Adjustment on Thursday, August 4, 2011 requesting a variation to allow an encroachment of 3'-11" into the required front yard setback of twenty (20) feet to allow a building addition for take-out orders; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 24, 2011 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 Article 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.

ADJOURNMENT:

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

MINUTES APPROVED: Sigst 28, 2011

Sydney Reedford
CHAIRMAN

[Signature]
SECRETARY