

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

March 25, 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, March 25, 2015.

Present:

Mr.	Daniel Dow
Mr.	Frank Colvett Jr. (Chairman)
Mr.	John Jackson, III
Mr.	Aaron Petree
Ms.	Debra 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
Mr.	Brian Bacchus, OPD
Mr.	Greg Love, OPD
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. 14-62 (CITY)**

APPLICANT: Community Choice Financial

PREMISES AFFECTED: 3288 Austin Peay Hwy

USE DISTRICT: Commercial Mixed Use-2 (CMU-2)

REQUESTING: Appeal of written interpretation by building official

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: None

For Opposition: None

MOTION TO HOLD

AGAINST MOTION:0

FOR MOTION:7
Chairman Colvett, Dow, Jackson, Petree, Raiford,
Rainey and Savage-Townes

NOT VOTING0

HELD CASE:

2. **DOCKET:** **B.O.A. 14-67 (CITY)**
- APPLICANT:** Elcan and Associates, Inc.
- PREMISES AFFECTED:** 995 East Parkway-South
(West side of East Parkway-South; +/-56 feet north of Walker Avenue)
- USE DISTRICT:** Residential Single-Family (R-6) & Commercial Mixed Use (CMU-1) Districts in Midtown Overlay (MD) District
- REQUESTING:** Site Plan Modification of a Use Variance (B.O.A. 78-12) granted for a parcel split by two (2) separate zoning districts to allow a new retail building in the Midtown Overlay (MD) Districts
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Forrest Owens

For Opposition: None

THE RESOLUTION:

WHEREAS, Elcan and Associates, Inc. filed an application with the Board of Adjustment on **December 29, 2014** for Site Plan Modification of a Use Variance (B.O.A. 78-12) granted for a parcel split by two (2) separate zoning districts to allow a new retail building in the Midtown Overlay (MD) Districts; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 (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 APPROVE WITH (3) CONDITIONS

CONDITIONS:

1. Any existing nonconforming curb-cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
2. 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.
3. The Use Variance is conditioned upon the approved site plan. Any modification shall be submitted to the Office of Planning & Development for review. Any major modification shall be approved by the Board of Adjustment.

AGAINST MOTION:7

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

FOR MOTION:0

NOT VOTING0

HELD CASE:

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

APPLICANT: Thomas Szymanek

PREMISES AFFECTED: 1288 Dovecrest Road
 *(East side of Dovecrest Road; 731.5' south of
 Macon Road.)*

USE DISTRICT: Office General-OG

REQUESTING: Use variance to allow contractor storage

ACTION OF THE BOARD: Reject

APPEARANCES: For Applicant: Forrest Owens
 Thomas Szymanek

 Opposition: Toni Mitchell Haas
 Nick Crafton

THE RESOLUTION:

WHEREAS, Thomas Szymanek filed an application with the Board of Adjustment on **December 20, 2014** for Use variance to allow contractor storage; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 2015**, 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.

Part 1

*****Motion to add condition prohibiting overnight parking or vehicles on the site*****

AGAINST MOTION:0

FOR MOTION:7 Chairman Colvett, Petree, Raiford,
Rainey, Dow, Jackson, and Savage-Townes

NOT VOTING0

Part 2

*****As Amended*****

AGAINST MOTION:4
Chairman Colvett, Petree, Raiford, and
Rainey

FOR MOTION:3
Dow, Jackson, and Savage-Townes

NOT VOTING0

NEW CASE:

4. **DOCKET:** **B.O.A. 15-12 (CITY)**
- APPLICANT:** 266 Developers, LLC
- PREMISES AFFECTED:** 266 S. Front Street
- USE DISTRICT:** South Main use district in the South Central Business Improvement District
- REQUESTING:** Variance from the density requirements of Item 7.2.2E(2)(b) of the Unified Development Code to establish an 185 residential unit mix use building
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Corey Brady
- Opposition: None

THE RESOLUTION:

WHEREAS, 266 Developers, LLC filed an application with the Board of Adjustment on **February 2, 2015** for Variance from the density requirements of Item 7.2.2E(2)(b) of the Unified Development Code to establish an 185 residential unit mix use building; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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. 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. A streetscape S-1 or a modified version of S-1 will be installed along Front Street, Pontotoc Street and Dr. M.L. King Jr. Avenue.
4. The agreement (to provide one parking space per one unit) between the parking garage owner and the 266 Developer, LLC should be submitted with each Final Plat of each phase of the development.

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

NEW CASE:

5. **DOCKET:** **B.O.A. 15-13 (CITY)**
- APPLICANT:** McDonald's Corporation
- PREMISES AFFECTED:** 2681 Frayser Blvd.
 *(South side of Frayser Boulevard; +/-218.47 feet
 east of Range Line Road)*
- USE DISTRICT:** Residential Single Family (R-6) District
- REQUESTING:** Modification to approved Site Plan to allow a
 private drive twenty-four (24) feet in width in
 Residential Single Family (R-6) District for internal
 circulation
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Armen Parker
- Opposition: None

THE RESOLUTION:

WHEREAS, Armen Parker filed an application with the Board of Adjustment on **January 19, 2015** for modification to approved Site Plan to allow a private drive twenty-four (24) feet in width in Residential Single Family (R-6) District for internal circulation; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 modification in Sub-Section 9.22.6.B of the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said modification 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 (5) five 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 (5) FIVE CONDITIONS

CONDITIONS:

1. A raised median shall be provided between the drive-thru lanes and drive aisles to begin at the first menu-board extending to the last pick-up window.
2. A Class III(modified) Landscape Buffer shall be installed, preserved and maintained along the east and south property lines with one (1) row of evergreen trees and a cypress sight-proof wood fence six(6) feet in height. Evergreen shrubs shall be installed to surround the trash enclosure and storage area on three (3) sides.
3. A Use Variance shall be applied to the Residential Single Family (R-6) District portion of this parcel to allow a Class III (modified) landscape buffer-only as reflected on the site plan.
4. A variance to Subsection 4.4.5 is granted to allow the use of residential property for internal access and circulation to an adjacent parcel as reflected on the site plan.
5. The City Engineer shall require Access Easements to be shown on the 2655 Frayser Blvd (Walgreens) plat and 2681 Frayser Blvd (McDonald's) plat. The easement plats shall be submitted to the City Engineer's office for processing.

AGAINST MOTION:1
Chairman Colvett,

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

NOT VOTING0

NEW CASE:

6. **DOCKET:** **B.O.A. 15-14 (CITY)**

APPLICANT: MEMI RE, LLC

PREMISES AFFECTED: 930 South White Station Road

USE DISTRICT: OG (General Office) District

REQUESTING: Variance from Paragraph 4.9.7C(2) and Sub-Item 4.9.7C(4)A of the Unified Development Code allowing two signs where only one sign is allowed, per ground floor establishment, within the OG (General Office) District and an increase in maximum sign size from 35sqft. to approximately 110 sqft. for both proposed signs

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: C. J. Johnson
Sam Mitchell

For Opposition: None

THE RESOLUTION:

WHEREAS, MEMI RE, LLC filed an application with the Board of Adjustment on **January 12, 2015** a Variance from Paragraph 4.9.7C(2) and Sub-Item 4.9.7C(4)A of the Unified Development Code allowing two signs where only one sign is allowed, per ground floor establishment, within the OG (General Office) District and an increase in maximum sign size from 35sqft. to approximately 110 sqft. for both proposed signs; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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. Two approved signs, one along the western frontage (White Station Road), and one along the southern frontage (Park Avenue) will be limited to 35sqft. each
2. Illustration of proposed attached signs shall be approved by OPD.

AGAINST MOTION:1
Petree

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

NOT VOTING0

NEW CASE:

7. **DOCKET:** **B.O.A. 15-15 (CITY)**

APPLICANT: Central Cooper Gateway, Inc.

PREMISES AFFECTED: 2159 Central Avenue
 (Intersection of Central Avenue and Cooper Street)

USE DISTRICT: EMP

REQUESTING: Variance from Sub-Section 4.9.6J of the Unified Development Code allowing a sign to project into the front yard setback

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Chris Haskins

 For Opposition: None

THE RESOLUTION:

WHEREAS Central Cooper Gateway, Inc. filed an application with the Board of Adjustment on **February 23, 2015** for Variance from Sub-Section 4.9.6J of the Unified Development Code allowing a sign to project into the front yard setback; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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.

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

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

8. **DOCKET:** **B.O.A. 15-16 (CITY)**

APPLICANT: Jeff & Julie Sawyer

PREMISES AFFECTED: 4486 Barfield Road

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

REQUESTING: To allow an encroachment of a structure into the
 side yard setback Variance from Section 3.6.1. of
 the Unified Development Code

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Alice Gilbert

 For Opposition: None

THE RESOLUTION:

WHEREAS Jeff & Julie Sawyer filed an application with the Board of Adjustment on **February 26, 2015** to allow an encroachment of a structure into the side yard setback Variance from Section 3.6.1. of the Unified Development Code; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 (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 THREE (3) CONDITIONS

CONDITIONS:

1. The applicant shall continue to comply with the Walnut Grove Subdivision Plat.
2. The property owner to the site shall continue to comply with all setback encroachments that have been identified within BOA15-16 variance application.
3. Any changes to the site plan that affect the setback encroachments shall be reviewed by the Office of Planning and Development and may require approval action by the Board of Adjustment.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

- 9. DOCKET:** **B.O.A. 15-17 (CITY)**
- APPLICANT:** Marlen Maritza Melendez
- PREMISES AFFECTED:** 1160 Bradbury Drive
- USE DISTRICT:** Residential-6 (R-6) District
- REQUESTING:** To allow an encroachment of a structure info the side yard setback Variance from Section 3.6.1. of the Unified Development Code
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Natalie Martinez (Interpreter)
 Marlen Melendez

 For Opposition: Carolyn Borden

THE RESOLUTION:

WHEREAS Marlen Melendez filed an application with the Board of Adjustment on **February 25, 2015** to allow an encroachment of a structure info the side yard setback Variance from Section 3.6.1. of the Unified Development Code; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 (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 THREE (3) CONDITIONS

CONDITIONS:

1. The applicant shall comply with the site plan as submitted.
2. The property owner shall be allowed to encroach up to 34 (thirty four) inches into the five (5) foot northern side yard setback and the existing carport shall remain as constructed with the encroachment into the front yard setback; however, at any time the carport needs repair to more than 50-percent of the structure, it shall be made to comply with the current UDC setback standards.

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

NEW CASE:

10. **DOCKET:** **B.O.A. 15-18 (CITY)**

APPLICANT: Ben Duke

PREMISES AFFECTED: 218 Cox Street

USE DISTRICT: Residential Urban-1 (RU-1) in the Midtown Overlay

REQUESTING: A variance from 3.7.2B to allow a 15.3 foot encroachment into the 20 foot rear yard setback for an existing duplex, a variance from Sub-Section 2.7.2 A to allow a 5 foot encroachment into the 5 foot rear yard setback and a 4.2 foot encroachment into a 5 foot side yard setback for an accessory.

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Ben Duke

For Opposition: Lucas Boe

THE RESOLUTION:

WHEREAS, Ben Duke filed an application with the Board of Adjustment on **February 25, 2014** for variance from 3.7.2B to allow a 15.3 foot encroachment into the 20 foot rear yard setback for an existing duplex, a variance from Sub-Section 2.7.2 A to allow a 5 foot encroachment into the 5 foot rear yard setback and a 4.2 foot encroachment into a 5 foot side yard setback for an accessory structure; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 (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. There will not be any further encroachments into the required setbacks.

AGAINST MOTION:0

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

NOT VOTING0

*******For the existing building*****
Part 1**

NEW CASE:

10. **DOCKET:** **B.O.A. 15-18 (CITY)**
- APPLICANT:** Ben Duke
- PREMISES AFFECTED:** 218 Cox Street
- USE DISTRICT:** Residential Urban-1 (RU-1) in the Midtown Overlay
- REQUESTING:** A variance from Sub-Section 3.1.4A to allow the applicant to build a second duplex on the subject site.
- ACTION OF THE BOARD:** Reject
- APPEARANCES:** For Applicant: Ben Duke
- For Opposition: Lucas Boe

THE RESOLUTION:

WHEREAS, Ben Duke filed an application with the Board of Adjustment on **February 25, 2014** for variance from Sub-Section 3.1.4A to allow the applicant to build a second duplex on the subject site; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **March 25, 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 not being met; 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 to allow 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 approved subject to (1) condition.

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

MOTION TO APPROVE WITH (1) CONDITION

CONDITION:

1. There will not be any further encroachments into the required setbacks.

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

FOR MOTION:0

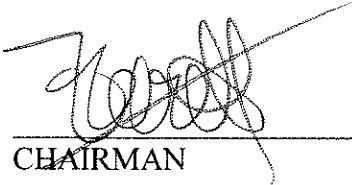
NOT VOTING0

*******For the proposed building*****
Part 2**

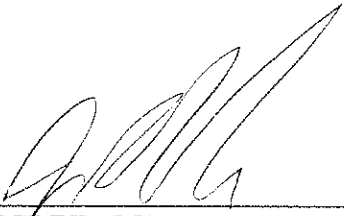
ADJOURNMENT:

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

MINUTES APPROVED: 4-22-15



CHAIRMAN



SECRETARY