

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

May 27, 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, May 27, 2015.

Present:

Mr.	Daniel Dow
Mr.	Frank Colvett Jr. (Chairman)
Mr.	Andre Jones
Mr.	Aaron Petree
Mr.	Timothy Rainey (Vice Chairman)
Ms.	Madeleine Savage-Townes
Ms.	Lynda Raiford

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Troy Frasier, OPD
Mr.	Calvin Abram, OPD
Mr.	Don Jones, 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.

MOTION TO HOLD

AGAINST MOTION:0

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

NOT VOTING0

NEW CASE:

2. **DOCKET:** **B.O.A. 15-19 (CITY)**

APPLICANT: St. Luke’s United Methodist

PREMISES AFFECTED: 472 Highland

USE DISTRICT: Residential Urban-3 (RU-3)

REQUESTING: A variance request to allow digital messages at a frequency of less than eight seconds at St. Luke’s United Methodist

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: David Turner

 Opposition: None

THE RESOLUTION:

WHEREAS, St. Luke’s United Methodist filed an application with the Board of Adjustment on **April 15, 2015**, a variance request to allow digital messages at a frequency of less than eight seconds at St. Luke’s United Methodist; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **May 27, 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 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

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is approved with (1) one 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) ONE CONDITION

CONDITIONS:

1. A minimum front yard building setback of 400 feet shall be provided for any principal and structures to provide an unobstructed area for any public road that may be needed to be constructed on the property in the future as part of a public street network.

AGAINST MOTION:0

FOR MOTION:7

Chairman Colvett, Dow, Petree, Jones, Raiford,
Rainy and Savage-Townes

NOT VOTING0

application is approved subject to (4) 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 FOUR (4) CONDITIONS

CONDITIONS:

1. The applicant shall continue to comply with the recorded plat (plat book 11; page 57) with the exception of the 30-foot front yard encroachment.
2. The property owner to the site shall maintain a minimum of a 45-foot front yard setback.
3. The property owner shall provide a site plan with the appropriate setback to the Office of Planning and Development prior to receiving a building permit allowing any encroachment of the home into the front yard setback.
4. 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:6

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

NOT VOTING0

******Amended to 45 feet******

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 (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) THREE CONDITIONS

CONDITIONS:

1. Any lighting or electrical service shall require an electrical permit.
2. Any temporary structure shall not be erected without a building permit.
3. The approved site plan shall be stamped as the official copy. Any change to the site plan, including the addition of any structure that is less than 1,000 square feet in area may, at the discretion of the Planning Director be presented to the Board of Adjustment for their re-approval. Any addition to the site plan that contains a structure that is 1,000 square feet in area or greater shall require the submittal of a correspondence application with notice to abutting property owners for the review and approval of the Board of Adjustment.

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING0

NEW CASE:

6. **DOCKET:** **B.O.A. 15-23 (CITY)**

APPLICANT: Troika, LLC

PREMISES AFFECTED: 813 Ridge Lake Blvd.

USE DISTRICT: Office General (OG)

REQUESTING: Relief from Section 10.4.2 of the UDC to a
 modified streetscape

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Mathew Wolfe

 For Opposition: None

THE RESOLUTION:

WHEREAS, Troika, LLC filed an application with the Board of Adjustment on **April 22, 2015** for relief from Section 10.4.2 of the UDC to a modified streetscape; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **May 27, 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) ONE CONDITION

CONDITION:

1. Any modification to the proposed landscape plan must be approved by the Office of Planning and Development.

AGAINST MOTION:0

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

NOT VOTING1
Rainey

NEW CASE:

7. **DOCKET:** **B.O.A. 15-24 (CITY)**

APPLICANT: Mike Harris

PREMISES AFFECTED: 4788 Whitehall Cove

USE DISTRICT: Residential-10 (R-10)

REQUESTING: Variance to allow an encroachment of a structure into the front yard setback (UDC Section 3.6.1)

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Brenda Solomito

 For Opposition: Michael Moore

THE RESOLUTION:

WHEREAS Mike Harris filed an application with the Board of Adjustment on **April 21, 2015** for Variance to allow an encroachment of a structure into the front yard setback (UDC Section 3.6.1); and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **May 27, 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 (7) seven 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 (7) SEVEN CONDITIONS

CONDITIONS:

1. The property owner of the site shall be allowed to encroach up to 6.9-feet into the front yard setback, in order to construct an open carport.
2. The open carport shall be of the same color and a comparable building material of the existing home.
3. The applicant shall plant Evergreen trees along the northern and western fence line adjacent to the carport; the trees shall be comparable to the Crypto Mavia and a minimum height of eight-feet when planted and four-feet on center for the entire length of the new addition of the home.
4. The applicant shall provide a site plan for the open carport to the Office of Planning and Development and the site plan must be approved by OPD prior to receiving any building permit to begin construction.
5. The applicant shall continue to enjoy the use of the 10-foot height that is currently on the property along the northern and western property line
6. Any changes to the site plan that affects 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:6

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

NOT VOTING0

ADJOURNMENT:

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY