

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

June 24, 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, June 24, 2015.

**Present:**

|     |                                |
|-----|--------------------------------|
| Mr. | Frank Colvett Jr. (Chairman)   |
| Mr. | Aaron Petree                   |
| Mr. | Timothy Rainey (Vice Chairman) |
| Ms. | Madeleine Savage-Townes        |
| Mr. | John Jackson                   |

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|-----|---------------------------|
| 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   |
| Mr. | Jeff Hajek, OPD    |
| Mr. | Brian Bacchus, 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. 14-70 (CITY)**
- APPLICANT:** Thomas Szymanek (Forrest Owens, Representative)
- PREMISES AFFECTED:** 1288 Dovecrest Road  
*(East side of Dovecrest Road; 731.5 feet south of Macon Rd.)*
- USE DISTRICT:** Office General (OG)
- REQUESTING:** Use Variance from Section 2.5.2 to allow contractor storage (a request for a Use Variance to allow contractor storage at this location was rejected by the Board on March 25, 2015)
- ACTION OF THE BOARD:** Hold
- APPEARANCES:** For Applicant: Forrest Owens  
For Opposition: Lew Wardlaw

**THE RESOLUTION:**

**WHEREAS**, Thomas Szymanek, filed Petition for Use Variance from Section 2.5.2 to allow contractor storage (a request for a Use Variance to allow contractor storage at this location was rejected by the Board on March 25, 2015); and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 2015** after due notice; and

**NOW THEREFORE**, Be it resolved, The Board has decided to hold this case, a request for a Use Variance to allow contractor storage at this location.

**MOTION TO HOLD**

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

2. **DOCKET:** **B.O.A. 15-25 (CITY)**

**APPLICANT:** J. Wise Smith

**PREMISES AFFECTED:** West side of Germantown Parkway approximately 441 feet south of Fischer Steel Rd.

**USE DISTRICT:** Employment (EMP)

**REQUESTING:** Relief from Section 3.10.2 of the UDC to reduce the minimum lot size, Paragraph 4.9.8A(2), Sub-Section 4.9.8B, Sub-Section 4.9.8D and Paragraph 4.9.8G(7) of the UDC to allow the existing non-conforming billboard

**ACTION OF THE BOARD:** Approve

**APPEARANCES:** For Applicant: J. Wise Smith

Opposition: None

**THE RESOLUTION:**

**WHEREAS**, J. Wise Smith filed an application with the Board of Adjustment on **May 11, 2015**, a relief from Section 3.10.2 of the UDC to reduce the minimum lot size, Paragraph 4.9.8A(2), Sub-Section 4.9.8B, Sub-Section 4.9.8D and Paragraph 4.9.8G(7) of the UDC to allow the existing non-conforming billboard; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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 (3) three 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) CONDITONS**

**CONDITIONS:**

1. A landscape plate A-2, A-3, A-4 or A-5, (15 feet wide) must be installed along North Germantown Road frontage before a recording a subdivision plat.
2. The existing non-conforming off-premise advertising sign is permitted no build-back rights with the variation to Section 3.10.2 of the Unified Development Code. Its build-back rights shall be governed by Article 4.9.15 of the Unified Development Code (Non-Conforming Signs).
3. The sign shall remain as is and not be permitted to be improved or modified in any way.

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

3.     **DOCKET:**                                 **B.O.A. 15-27 (CITY)**

**APPLICANT:**                         Ronald & Sara Jerkins

**PREMISES AFFECTED:**             76 Mary Ann Dr.

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

**REQUESTING:**                     Variance from Paragraph 3.1.1F(3) of the Unified  
Development Code to allow for a one foot  
encroachment into the 40 foot required setback on  
the recorded subdivision plat

**ACTION OF THE BOARD:**           Hold

**APPEARANCES:**                   For Applicant: Tim Rainey

  Opposition: None

**THE RESOLUTION:**

**WHEREAS**, Ronald & Sara Jerkins filed an application with the Board of Adjustment on **May 24, 2015** for a variance from Paragraph 3.1.1F(3) of the Unified Development Code to allow for a one foot encroachment into the 40 foot required setback on the recorded subdivision plat; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 2015** after due notice; and

**NOW THEREFORE**, Be it resolved, The Board has decided to hold this case

**MOTION TO HOLD**

AGAINST MOTION: .....0

FOR MOTION: .....4

Chairman Colvett, Jackson, Petree,  
and Savage-Townes

NOT VOTING .....0

**NEW CASE:**

4.     **DOCKET:**                                     **B.O.A. 15-28 (CITY)**

**APPLICANT:**                                 David & Sarah Weinstein

**PREMISES AFFECTED:**                     4466 Barfield Road

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

**REQUESTING:**                             Variance from UDC Section 3.6.1 to allow an encroachment of a structure into the side setback

**ACTION OF THE BOARD:**                   Approve

**APPEARANCES:**                           For Applicant: Allison Gilbert

  For Opposition: None

**THE RESOLUTION:**

**WHEREAS,** David & Sarah Weinstein filed an application with the Board of Adjustment on **May 27, 2015** a variance from UDC Section 3.6.1 to allow an encroachment of a structure into the side setback; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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 Book 125, Page 47, with the exception of the variances provided within BOA15-28.
2. The property owner to the site shall continue to comply with all setback encroachments that have been identified within BOA15-28 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: .....5  
Chairman Colvett, Jackson, Petree,  
Rainey, and Savage-Townes

NOT VOTING .....0

**NEW CASE:**

5.     **DOCKET:**                                 **B.O.A. 15-29 (CITY)**

**APPLICANT:**                             John M. Leake, Jr.

**PREMISES AFFECTED:**                 3388 Macon Road

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

**REQUESTING:**                         Variance to Paragraph 2.7.2 A (2) for a reduction in  
  the required front yard setback of thirty (30) feet to  
  twenty (20) feet to allow construction of a canopy for a  
  convenience store with gasoline pumps

**ACTION OF THE BOARD:**                 Approve with two (2) conditions

**APPEARANCES:**                         For Applicant: David Bray

  For Opposition: None

**THE RESOLUTION:**

**WHEREAS**, John M. Leake, Jr. filed an application with the Board of Adjustment on **May 25, 2015** for variance to Paragraph 2.7.2 A (2) for a reduction in the required front yard setback of thirty (30) feet to twenty (20) feet to allow construction of a canopy for a convenience store with gasoline pumps; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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.A. 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 (2) conditions, as amended.

**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 (2) TWO CONDITIONS**

**CONDITIONS:**

- 1. The variance shall be bound to the approved site plan. Any modifications may be submitted to the Office of Planning & Development for review and approval by the Planning Director.
- 2. An irrigation system shall be installed for all landscaping on the perimeter and interior and noted on the site plan.

AGAINST MOTION: .....0

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

NOT VOTING .....0

**NEW CASE:**

6. **DOCKET:** **B.O.A. 15-30 (CITY)**
- APPLICANT:** Power Center Community Development Corporation
- PREMISES AFFECTED:** South side of Winchester Road; +/-871 feet east of Mendenhall Road
- USE DISTRICT:** Residential Urban – 3 (RU-3) District
- REQUESTING:** Variance from 2.7.2A (3) to permit an accessory building to extend in front of the principal building
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Forrest Owens  
For Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Power Center Community Development Corporation filed an application allow with the Board of Adjustment on **May 27, 2015** for relief from Section 2.7.2(3) of the an UDC to allow an accessory building to extend in front of the principal building; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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. The approved variance runs with the land and is conditioned upon its compliance with the approved site plan. The approved site plan shall be marked as such and presented to the Office of Construction Code Enforcement for the required permits. Deviations from the approved plan, may, at the discretion of the Planning Director, be addressed administratively or resubmitted to the Board of Adjustment for their review and approval.

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

7. **DOCKET:** **B.O.A. 15-31 (CITY)**
- APPLICANT:** First Tennessee Bank
- PREMISES AFFECTED:** 2574 Frayser Blvd.  
*(North side of Frayser Boulevard; +/-585' west of Range Line Road)*
- USE DISTRICT:** Commercial Mixed Use (CMU-2) District
- REQUESTING:** Variance from Sub-Section 2.7.1 to allow construction of an automated teller machine (ATM), including an overhead canopy to encroach thirty-five (35) feet into the required front yard setback of seventy-five (75) feet
- ACTION OF THE BOARD:** Approve, with three (3) conditions
- APPEARANCES:** For Applicant: Forrest Owens  
  
For Opposition: None

**THE RESOLUTION:**

**WHEREAS** First Tennessee Bank filed an application with the Board of Adjustment on **May 27, 2015** for Variance from Sub-Section 2.7.1 to allow construction of an automated teller machine (ATM), including an overhead canopy to encroach thirty-five (35) feet into the required front yard setback of seventy-five (75) feet; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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.A 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 (3) three 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. The front yard building setback for an accessory structure and use for an automated teller machine (ATM) shall be thirty-five (35) feet from the right-of-way line of Frayser Boulevard.
2. All landscaping for the ATM shall be as illustrated on the Site Plan and a Landscape Plate 'A' shall be installed along the street frontage prior to or concurrent with the installation of the ATM and canopy accessory structure.
3. The revised final plan for Phase II-Frayser Village Shopping Center (Z-1115) shall be submitted for review and approval by staff for re-recording with the Office of Shelby County Register.

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

8.     **DOCKET:**                             **B.O.A. 15-32 (CITY)**

**APPLICANT:**                         Marquis Companies, LLC

**PREMISES AFFECTED:**             360 Woodmere Lane

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

**REQUESTING:**                     Variance from Paragraph 3.1.1F(3) permit the installation of a swimming pool within the required 30 foot setback from Poplar Avenue, as shown on the Subdivision Plat, The Village Subdivision, re-subdivision of Lot 204 (per UDC Section 3.2.9F)

**ACTION OF THE BOARD:**             Approve

**APPEARANCES:**                    For Applicant: Lee Davidson

  For Opposition: None

**THE RESOLUTION:**

**WHEREAS** Marquis Companies, LLC filed an application with the Board of Adjustment on **May 28, 2015** for Variance from Paragraph 3.1.1F(3) permit the installation of a swimming pool within the required 30 foot setback from Poplar Avenue, as shown on the Subdivision Plat, The Village Subdivision, re-subdivision of Lot 204 (per UDC Section 3.2.9F); and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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 (3) three 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. Revise the site plan to show a wrought iron or sight proof wooden fence to fully secure the pool area. The fence shall be shown on the site plan.
- 2. Modifications to the site plan may be approved by the Planning Director or at his discretion send to the Board of Adjustment for approval.
- 3. Re-record the plat of record to show the pool, and the fence.

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

9.     **DOCKET:**                                     **B.O.A. 15-33 (CITY)**

**APPLICANT:**                                 Ben T. Duke

**PREMISES AFFECTED:**                 1525 Carr Avenue  
  *(South side of Carr Ave; +/-200 feet west of Willett St.)*

**USE DISTRICT:**                             Residential Single Family (R-6) Historic (H) District

**REQUESTING:**                             Variance from Sub-Section 3.6.1A to allow an encroachment into the required rear yard setback of fifteen (15) feet required and side yard setback of five (5) feet for construction of a new attached garage in Residential Single Family (R-6) Historic District

**ACTION OF THE BOARD:**                 Approve, with three (3) conditions

**APPEARANCES:**                           For Applicant: Ben Duke

  For Opposition: None

**THE RESOLUTION:**

**WHEREAS** Ben T. Duke filed an application with the Board of Adjustment on **May 26, 2015** for Variance from Sub-Section 3.6.1A to allow an encroachment into the required rear yard setback of fifteen (15) feet required and side yard setback of five (5) feet for construction of a new attached garage in Residential Single Family (R-6) Historic District; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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.A 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 (3) three 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. The garage shall be at least five (5) feet from overhead utility lines in accordance with Memphis, Light, Gas & Water (MLGW) requirements.
2. The structure shall not encroach into any existing utility easements, including the overhead electric along the south property line.
3. The final site plan shall be subject to approval by the Memphis Landmarks Commission.

AGAINST MOTION: .....0

FOR MOTION: .....5

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

NOT VOTING .....0

**NEW CASE:**

10. **DOCKET:** **B.O.A. 15-34 (CITY)**

**APPLICANT:** Tommy S. Marsh

**PREMISES AFFECTED:** 2734 Garden Lane

**USE DISTRICT:** R-6

**REQUESTING:** Variance from Section 3.6.1 to allow a four-foot encroachment into the side yard setback

**ACTION OF THE BOARD:** Approve

**APPEARANCES:** For Applicant: Adam Carson  
For Opposition: None

**THE RESOLUTION:**

**WHEREAS** Tommy S. Marsh filed an application with the Board of Adjustment on **May 28, 2015** for Variance from Section 3.6.1 to allow a four-foot encroachment into the side yard setback; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **June 24, 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 (2) two 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 (2) TWO CONDITIONS**

**CONDITIONS:**

1. The applicant shall construct an open air carport with the ability to encroach no greater than four-feet and three-inches into the eastern side yard setback.
2. 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: .....5


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

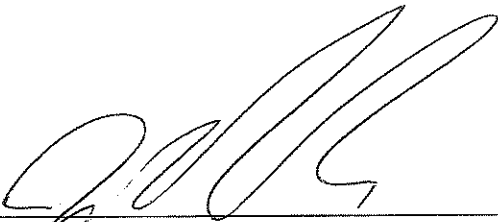
NOT VOTING .....0

**ADJOURNMENT:**

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

MINUTES APPROVED: July 22, 2015

  
\_\_\_\_\_  
CHAIRMAN

  
\_\_\_\_\_  
SECRETARY