

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

September 28, 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, September 28, 2011

Present:

Mr.	Raymond Brown
Mr.	Daniel Dow
Ms.	Olliette Murray-Drobot
Ms.	Lynda Raiford
Mr.	Timothy Rainey
Ms.	Mary Sharp
Mr.	Andrew Trippel

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Donald Jones, OPD
Mr.	Nate Taylor, City Engineer
Ms.	Sheila Pounder
Mr.	Josh Whitehead

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous August 24, 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:

B.O.A 11-04 (CITY)

APPLICANT:

Memphis Housing, LLC

PREMISES AFFECTED:

0 Monroe Avenue
South side of Monroe Avenue; +/-604 feet east of
Lauderdale Avenue

USE DISTRICT:

Central Business District (CBD) and Medical
Overlay (MO) Districts

REQUESTING:

A variance to the requirements of the Medical
Overlay District (MO) District, Sub-Section 8.1.5.C
– minimum side yard setback – to permit a
reduction from 10’ to 6’6”

ACTION OF THE BOARD:

Approved

APPEARANCES:

For Applicant: Cindy Reaves

For Opposition: None

THE RESOLUTION:

WHEREAS, Memphis Housing LLC filed an application with the Board of Adjustment on February 2, 2011 requesting a variance to the Medical Overlay District (MO) District, Sub-Section 8.1.5. C- minimum side yard setback - to permit a reduction from 10’ to 6’6”; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, February 23, 2011 with the Board and the applicant agreeing to continue this item to give the applicant time to respond to the questions and issue that were raised at the Public Hearing; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, September 28, 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 Chapter 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 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, Dow, Murray-Drobot, Rainey, Sharp,
and Trippel

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NOT VOTING

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ACTION IS TO APPROVE

NEW CASE:

2. **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: Not Approved

APPEARANCES: For Applicant: Mr. John Leake
For Opposition: None

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, September 28, 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 to Section 9 of the Unified Development Code are not being met; and

WHEREAS, The Board has determined that said variances 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 County of Shelby; and, therefore, this application is not approved as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is not granted and that the decision of the Memphis and Shelby County Building Official be and hereby is upheld.

MOTION TO APPROVE

AGAINST MOTION: Brown, Sharp, and Trippel
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FOR MOTION: Chairman Raiford, Murray-Drobot, and Rainey
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NOT VOTING Dow
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ACTION IS TO NOT APPROVE

ADJOURNMENT:

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

MINUTES APPROVED: October 26, 2011

Lynne Rainford
CHAIRMAN

[Signature]
SECRETARY