

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

September 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, August 26, 2015.

Present:

Mr.	Frank Colvett Jr. (Chairman)
Ms.	Joy Doss
Mr.	Aaron Petree
Mr.	Timothy Rainey (Vice Chairman)
Ms.	Lynda Raiford
Ms.	Madeleine Savage-Townes
Mr.	John Jackson III

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Gene Burse, OPD
Mr.	Calvin Abram, OPD
Mr.	Chip Saliba, OPD
Mr.	Don Jones, OPD
Mr.	John Walpole, CCE
Mr.	Darek Baskin, City Engineering

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.

NEW CASE:

1. **DOCKET:** **B.O.A. 15-42 (CITY)**
- APPLICANT:** Charles Lebel
- PREMISES AFFECTED:** 4871 Bolen Huse Road
- USE DISTRICT:** Single Family Residential (R-8) Zoning District
- REQUESTING:** (1) Variation to Paragraph 2.7.2.A.3 of the Unified Development Code to permit the location of a barn in front of a single-family residence; (2) Variation to Sub-Section 2.9.2.A of the Unified Development Code to permit the raising of up to 35 goats as a permitted accessory use.
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Dr. Charles Lebel
- For Opposition: None

THE RESOLUTION:

WHEREAS, Charles Lebel, filed an application with the Board of Adjustment on **July 22, 2015**, for (1) a variation to Paragraph 2.7.2.A.3 of the Unified Development Code to permit the location of a barn in front of a single-family residence; and (2) a variation to Sub-Section 2.9.2.A of the Unified Development Code to permit the raising of up to 35 goats as a permitted Accessory use; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **September 23, 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 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 these requests 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) CONDITIONS

CONDITIONS:

1. A maximum of 35 goats may be kept on the subject property at any one time.
2. Any pasture areas must be completely enclosed with a fence. The fencing may be electrified, barbed wire, or chain link.
3. The existing barn may remain as constructed with no structural alterations required.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

2. **DOCKET:** **B.O.A. 15-48 (CITY)**

APPLICANT: Valentine Vijil

PREMISES AFFECTED: 1161 Homer Street

USE DISTRICT: Residential Use (RU-1)

REQUESTING: (1) Variance from Section 2.5.2 (Use) and 6 (2) Variance from Subsection 3.7.3A (Side yard Setback).

ACTION OF THE BOARD: Approve

APPEARANCES: For Applicant: Valentine Vijil

Opposition: None

THE RESOLUTION:

WHEREAS, Valentine Vijil filed an application with the Board of Adjustment on **July 22, 2015**, (1) Variance from Section 2.5.2 (Use) and 6 (2) Variance from Subsection 3.7.3A (Side yard Setback); and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **September 23, 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 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 (7) CONDITIONS

CONDITIONS:

1. The applicant shall install a Class III buffer along the properties western boundary. The sight proof barrier shall be a masonry wall; however, the applicant shall plant the appropriate landscaping per the UDC in the buffer area.
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.
3. No vehicles shall be parked in the front yard at any time on property.
4. The additional permitted use to the property may be a restaurant; however, the applicant shall comply with existing site plan and current building design as approved by the Board of Adjustments.
5. The applicant shall provide wayfinding signage or painting on the asphalt to identify one-way traffic with the entrance to the property at Homer and the exit from the property at Rockwood.
6. The applicant shall provide a planting area at the southwestern corner of Homer Street and Rockwood Avenue. This area shall be the area the business may place a monument sign for the restaurant signage. This area shall have a minimum ground cover of five by five-feet (5x5).
7. No pylon signs shall be allowed to the site and signage shall comply to the RU-1 zoning district.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

application is approved with (6) six 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 (6) CONDITIONS

CONDITIONS:

1. Only the following uses shall be permitted on subject site (parcel ID 091090 00010 and parcel ID D0221 00242):
 - a. Nursing home
 - b. Full-time convalescent
 - c. Hospice
 - d. Assisted living facility
 - e. Residential home for the elderly
 - f. Independent living facility
 - g. Nursing rehab residence
 - h. Short term rehab facility
 - i. Personal care home for the elderly
 - j. Supportive living facility
 - k. Office except as listed below
 - i. Radio
 - ii. Television
 - iii. Recording Studio
 - l. All commercial parking
2. The City Engineer shall require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee, for review and approval after the issuance by OPD of a memorandum of conformance prior to construction of this project (parcel ID 091090 00010 and parcel ID D0221 00242).
3. The site plan shall conform to the Unified Development Code except that which is being varied being parcel ID 091090 00010 and parcel ID D0221 00242).
4. A landscape plan shall be submitted to OPD for approval.
5. Landscape plan modifications shall be permitted based upon comments from OPD.
6. This variance shall only remain with parcel ID 091090 00010 and parcel ID D0221 00242 as long as the aforementioned uses persist on subject site (parcel ID 091090 00010 and parcel ID D0221 00242).

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

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 ONE (1) CONDITION

CONDITION:

1. The site plan associated with this request for a Use Variance shall be understood to grant any necessary variances from Articles 3 and 4 of the UDC.

AGAINST MOTION:0


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

NOT VOTING0

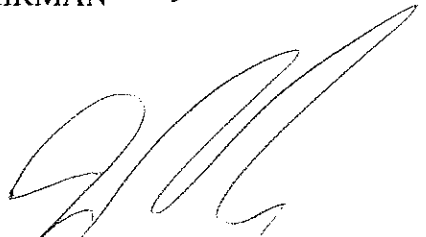
ADJOURNMENT:

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

MINUTES APPROVED: Oct 28, 2015



CHAIRMAN



SECRETARY