

1/28/12

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

October 26, 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, October 26, 2011

Present:

Mr.	Raymond Brown
Mr.	Andre D. Jones
Ms.	Olliette Murray-Drobot
Ms.	Lynda Raiford
Mr.	Timothy Rainey
Mr.	Robert Norcross
Ms.	Mary Sharp
Ms.	Emily Trenholm

Mr. Josh Whitehead, Secretary

Also Present:

Mr.	Norman Saliba, OPD
Mr.	Donald Jones, OPD
Mr.	Nate Taylor, City Engineer
Ms.	Sheila Pounder
Mr.	Josh Whitehead
Mr.	Gregory Love

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous September 28, 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:** 11-16 (CITY)
- APPLICANT:** Maranatha Faith Temple (Kevin White)
- PREMISES AFFECTED:** 538 E. Holmes Road, (North side of E. Holmes Rd, 125 feet east of Berta Street)
- USE DISTRICT:** Residential Single Family-6 (R-6) District
- REQUESTING:** A variance to Article 4.10.7 B to increase the maximum size of an attached sign from 12 sq. ft. to 32 sq. ft.
- ACTION OF THE BOARD:** Approval
- APPEARANCES:** For Applicant: None
For Opposition: None

THE RESOLUTION:

WHEREAS, Maranatha Faith Temple filed an application with the Board of Adjustment on July 28, 2011 within the R-6 Zoning District by requesting a variance to Article 4.10.7B to increase the maximum size of an attached sign from 12 sq ft. to 32 sq. ft.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 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 in Article 9 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 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, Jones, Murray-Drobot, Norcross,
Rainey, Sharp, and Trenholm8

NOT VOTING0

ACTION IS TO APPROVE

NEW CASE:

2. **DOCKET:** 11-22 (County)

APPLICANT: Alfred and Louellen Dearen

PREMISES AFFECTED: 8132 Rosemark Road, (East side of Rosemark Road; approximately 2,000 feet south of McCalla Road)

USE DISTRICT: Conservation Agriculture (CA) District

REQUESTING: A variance from section 2.7.3 of unified development code (UDC) to permit the addition of a 1,230 foot accessory dwelling unit where a maximum of 700 square feet is permitted

ACTION OF THE BOARD: Approval

APPEARANCES: For Applicant: Alfred Dearen
For Opposition: None

THE RESOLUTION:

WHEREAS, The Memphis and Shelby County Building Official rejected an application on October 3, 2011 by Alfred & Louellen Dearen requesting a variance to Section 2.7.3.B. to build an attached accessory dwelling unit at 1,230 square feet where a maximum of 700 square feet is permitted; and

WHEREAS, Alfred & Louellen Dearen filed an application with the Board of Adjustment on October 3, 2011 requesting a variance to requesting a variance to Section 2.7.3.B. to build an attached accessory dwelling unit at 1,230 square feet where a maximum of 700 square feet is permitted; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 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, Article 9.22 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 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:

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FOR MOTION:

Chairman Raiford, Brown, Jones, Murray-Drobot, Norcross,
Rainey, Sharp, and Trenholm

.....8

NOT VOTING

.....0

ACTION IS TO APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:

CONDITIONS:

1. The addition shall require an upgrade to the subsurface sewage disposal system.
A final permit for this use shall not be issued by the Office of Construction Code Enforcement without written confirmation from the Water Quality Branch & Septic Tank Program of the Memphis and Shelby County Health Department that the septic tank is in compliance with their regulations.
2. The submitted elevations shall indicate the height of the existing and proposed residential structures and demonstrate compliance with Article 2.7.3.

NEW CASE:

3. **DOCKET:** 11-23 (County)

APPLICANT: Monty L. and Connie L. Lester

PREMISES AFFECTED: 915 S. Collierville – Arlington Road, (West side of Collierville-Arlington Road; approximately 2,900 feet south of Raleigh-Lagrange Road)

USE DISTRICT: Conservation Agriculture (CA) and Flood Plain (CA [FP]) Districts

REQUESTING: A variance to Article 2.7.2 to permit construction of an accessory structure (stable) in front of the principal structure

ACTION OF THE BOARD: Approval

APPEARANCES: For Applicant: Connie Lester

For Opposition: None

THE RESOLUTION:

WHEREAS, Monty L. and Connie L. Lester filed an application with the Board of Adjustment on October 4, 2011 requesting a variance to Section 2.7.2 Accessory Structures – no accessory structure shall extend into the required front yard or forward of the front building facade; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 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, in Article 9 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 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, 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, Jones, Murray-Drobot, Rainey, Sharp,
and Trenholm7

NOT VOTING0

RECUSED Norcross.....1

ACTION IS TO APPROVE

NEW CASE:

4. **DOCKET:**

11-24 (City)

APPLICANT:

Rhonda Walker & Chandra Briggs

PREMISES AFFECTED:

2653 Browning Avenue, (Southeast corner of Browning Avenue and LaBelle Street)

USE DISTRICT:

Residential Single Family (R-6) District

REQUESTING:

A variation to Article 2.7.2.A.3 and Article 3.6.1 of the Unified Development Code to reduce the required minimum building setback of 10 feet along LaBelle Street to a minimum of 6.9 feet to expand a kitchen by adding a laundry room and carport addition.

ACTION OF THE BOARD:

Approval to 6 feet

APPEARANCES:

For Applicant: Rhonda Walker

For Opposition: None

THE RESOLUTION:

WHEREAS, Rhonda Walker & Chandra Briggs filed an application with the Board of Adjustment on October 5, 2011 by requesting a variance to Article 2.7.2.A.3 and Article 3.6.1 of the Unified Development Code to reduce the required minimum building setback of 10 feet to expand a kitchen to a minimum of 6.9 feet to expand a kitchen by adding a laundry room and carport addition; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 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, in Article 9 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 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 to a minimum building setback of 6 feet in order to account for the existing home and detached garage setback and to permit the addition of a kitchen expansion for a laundry room and carport addition 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, Jones, Murray-Drobot, Rainey, Sharp,
and Trenholm8

NOT VOTING0

ACTION IS TO APPROVE

5. DOCKET:

11-25 (City)

APPLICANT:

Jerry Martin

PREMISES AFFECTED:

3830 Austin Peay Highway (South side of Austin Peay Highway, approximately 1,057 feet southwest of New Covington Pike)

USE DISTRICT:

Commercial Mixed Use (CMU-2) District

REQUESTING:

A variance to Article 2.5 and 2.6.3M to allow a Pay Day Loan establishment within the CMU-2 Zoning District. The applicant also requests to operate within the required minimum 1,325 ft. vicinity boundary of a residential district.

ACTION OF THE BOARD:

Rejection

APPEARANCES:

For Applicant: Mike Fahy

For Opposition:

THE RESOLUTION:

WHEREAS, Jerry Martin filed an application with the Board of Adjustment on October 4, 2011 by requesting a variance to Article 2.5 and 2.6.3M to allow a Pay Day Loan establishment within the CMU-2 Zoning District. The applicant also requests to operate within the required minimum 1,325 ft. vicinity boundary of a residential district; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 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 in Article 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 may 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 rejected as submitted.

NOW, THEREFORE, Be it resolved that the application is not granted.

MOTION TO REJECT

AGAINST MOTION: Brown, Jones, Murray-Drobot, Norcross, Rainey, Sharp, and
Trenholm.....7

FOR MOTION:0

NOT VOTING Chairman Raiford1

ACTION IS TO REJECT

6. **DOCKET:**

11-26 (County)

APPLICANT:

Kingsway Greens of America Inc.

PREMISES AFFECTED:

**4249 North Watkins Road
(West side of N. Watkins Street; +/-1,700 feet
northwest of Old Millington Road)**

USE DISTRICT:

Mobile Home (R-MO) [FP] District with a flood plain overlay

REQUESTING:

A variance to paragraph 8.7.5.b.1 to allow Kingsway Green Mobile Home Park to continue at current flood elevation levels

ACTION OF THE BOARD:

Rejection

APPEARANCES:

For Applicant: Frank Palumbo, Jr.
Christopher Holloway

For Opposition: Steve Lockwood

THE RESOLUTION:

WHEREAS, Kingsway Greens of America, Inc. filed an application with the Board of Adjustment on October 4, 2011 requesting a variance to Sub-section 8.7.5.b.1 to allow Kingsway Green Mobile Home Park to continue at current flood elevation levels ; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, October 26, 011 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 in Article 9.22, standards for Manufactured Homes and Recreational Vehicles in Paragraph 8.7.5. B. and Variance Procedures found in Section 8.7.6 of the Unified Development Code are not being met; and

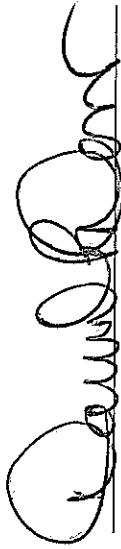
WHEREAS, The Board has determined that said variances would be unduly detrimental to the other properties in the vicinity of the subject premises; and

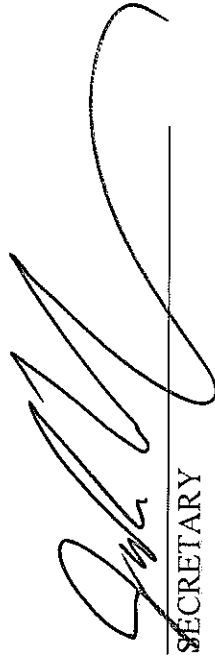
WHEREAS, The Board is further of the opinion that to allow this request will endanger the public safety, and unreasonably diminish or impair established property values within the surrounding area, or in any other respect will impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is not approved as submitted.

ADJOURNMENT:

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

MINUTES APPROVED: Dec 14, 2011


CHAIRMAN


SECRETARY