

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

February 24, 2016

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, February 24, 2016.

Present:

Ms.	Joy Doss
Mr.	Daniel Dow
Mr.	John Jackson III
Mr.	Aaron Petree
Mr.	Timothy Rainey (Chairman)
Ms.	Madeleine Savage-Townes
Ms.	Mary Sharp (Alternate)
Mr.	James Toles (Alternate)

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Gene Burse, OPD
Mr.	Calvin Abram, OPD
Mr.	C.J. Finkley, OPD
Mr.	John Walpole, OCCE
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. 16-03 (CITY)**
- APPLICANT:** Frank E. & Darois Libby
- PREMISES AFFECTED:** 1703 Carruthers Place
- USE DISTRICT:** Residential Single Family Historic (R-6[H]) District
- REQUESTING:** Variance from Sub-Section 3.6.1A of the UDC
 to allow a reduction in the required street side yard
 setback of ten (10) to seven (7) feet for a detached
 garage in Residential Single Family Historic (R-
 6[H]) District
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Frank Gionatti
- For Opposition: None

THE RESOLUTION:

WHEREAS, Frank E. & Darois Libby, filed an application with the Board of Adjustment on **January 18, 2016** for a variance from Sub-section 3.6.1A of the UDC to allow a reduction in the required street side yard setback of ten (10) to seven (7) feet for a detached garage in Residential Single Family Historic (R-6[H]) District; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **February 24, 2016** 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 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) 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 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 variance.

MOTION TO APPROVE WITH (3) CONDITIONS:

CONDITIONS:

1. The garage shall be at least five (5) feet from any 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 review and approval by the Memphis Landmarks Commission.

AGAINST MOTION:0

FOR MOTION:7
Dow, Doss, Jackson, Petree,
Rainey, Sharp and Toles

NOT VOTING0

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. Full compliance with Sub-Section 2.6.3P of the Unified Development Code, to include landscaping, site lighting, road testing of vehicles, etc.;
2. Final site and landscape plans shall be submitted to OPD for final approval, any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development; and
3. No “tote the note” operation allowed.

AGAINST MOTION:0

FOR MOTION:7
Dow, Doss, Jackson, Petree,
Rainey, Sharp and Toles

NOT VOTING0

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. The site shall have one (1) monument sign with a cumulative surface area of 32-square feet and have a zero setback at its property frontage along U.S. Highway 64 and the applicant shall be allowed to use the existing brick structure for offices.
2. The owner of the property shall report to the County Tax Assessor the property is being utilized as commercial and the property shall be taxed as a commercial use.
3. The applicant shall maintain the natural mature tree plantings and buffer to the site.
4. The existing Block Garage and Metal shop shall be used for storage to the property; however, no outside storage of material or equipment shall be permitted to the site.
5. No overnight parking of heavy equipment of any kind shall be permitted at the site.
6. The applicant shall comply with the revised site plan and landscape plan as approved by the Board of Adjustments and submitted to OPD.

AGAINST MOTION:0

FOR MOTION:8

Dow, Doss, Jackson, Petree,
Rainey, Sharp, Savage-Townes and Toles

NOT VOTING0

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 (4) 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 (4) CONDITIONS

CONDITIONS:

1. A building permit shall not be issued until the project has been approved through the ASPR process and a memorandum of conformance (MOC) is issued for this site and plans are approved by the City Engineer's office. The City Engineer will require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee on this project
2. These variances are conditioned upon the site plan and building elevations submitted with this application. Any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development.
3. The City Engineer shall approve the design, number and location of curb cuts. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
4. Capacity of existing sewer to handle the increased density shall be verified by Mr. Gary Vaden of the Engineering Division – Sewer, prior to plans approval.

AGAINST MOTION:0

FOR MOTION:8

Dow, Doss, Jackson, Petree,
Rainey, Sharp, Savage-Townes and Toles

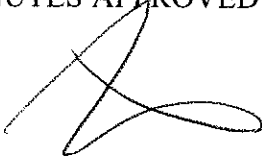
NOT VOTING0

ADJOURNMENT:

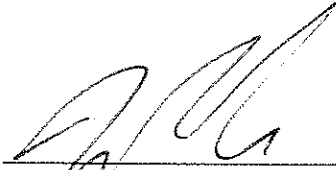
There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: _____

3-23-16



CHAIRMAN



SECRETARY