

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

April 27, 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, April 27, 2016.

**Present:**

Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	Daniel Dow
Mr.	John Jackson III
Mr.	Aaron Petree
Mr.	Timothy Rainey (Chair)
Ms.	Madeleine Savage-Townes (Vice Chair)
Ms.	Portia Scurlock

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Mr.	Josh Whitehead, Secretary
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**Also Present:**

Mr.	Brian Bacchus, OPD
Mr.	Gene Burse, OPD
Mr.	Calvin Abram, OPD
Mr.	Don Jones, 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. 16-14 (CITY)**
- APPLICANT:**                                 Dr. Wesam Ballouk
- PREMISES AFFECTED:**                 8090 Walnut Run Road
- USE DISTRICT:**                             Residential Use (RU-3) District
- REQUESTING:**                             Variance from UDC Section 3.6.1A to allow an encroachment into the side yard setback
- ACTION OF THE BOARD:**                 Approve
- APPEARANCES:**                         For Applicant:    Tim Maskill
- For Opposition:  None

**THE RESOLUTION:**

**WHEREAS**, Dr. Wesam Ballouk, filed an application with the Board of Adjustment on **February 22, 2016** for a Variance from UDC Section 3.6.1A to allow and 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, **April 27, 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 (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 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 (4) CONDITIONS:**

**CONDITIONS:**

1. The applicant shall continue to comply with the PD89-374, Timber Creek Office Park PD, Phase 13 Parcel F; however, BOA16-14 shall govern the side yard setback of the property.
2. The applicant shall re-record the plat with approved setbacks approved by the Board of Adjustment.
3. The property owner to the site shall continue to comply with all setback encroachments that have been identified within BOA16-14 application.
4. 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: .....8  
Dow, Doss, Claybrook, Jackson, Savage-Townes,  
Rainey, Scurlock and Petree

NOT VOTING .....0



**CONDITIONS:**

1. Landscape plan approved by OPD
2. No on street parking for office use
3. 6 foot masonry wall along Southern Street & Eastern property lines
4. No outdoor operations
5. Masonry wall enclosure for a dumpster



**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 Use 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. The City Engineer shall require a full set of engineered plans (including plat), signed and sealed by a registered engineer in the State of Tennessee on this project.
2. No Use & Occupancy permit shall be granted until a full set of engineered plans are approved by the City Engineer.
3. The service area, dumpster enclosure and loading areas shall be in accordance with Sub-Sections 4.6.8(B) & (C) of the zoning code.
4. Due to tree removal, a detailed Landscape Plan shall be submitted for review and approval of staff.

AGAINST MOTION: .....0

FOR MOTION: .....8

Dow, Doss, Claybrook, Jackson, Savage-Townes,  
Rainey, Scurlock and Petree

NOT VOTING: .....0





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.

**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for all requested signs with the exception of the Highland Avenue detached LED sign 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 (1) TO APPROVE SIGNS ATTACHED TO THE BUILDING AND MONUMENT SIGN ALONG SOUTHERN AVENUE**

AGAINST MOTION: .....0

FOR MOTION: .....6  
Dow, Doss, Jackson, Savage-Townes,  
Rainey and Scurlock

RECUSED: .....2  
Claybrook and Petree

**MOTION (2) TO HOLD THE DETACHED SIGN REQUEST ON HIGHLAND (30) DAYS**

AGAINST MOTION: .....0

FOR MOTION: .....6  
Dow, Doss, Jackson, Savage-Townes,  
Rainey and Scurlock

RECUSED: .....2  
Claybrook and Petree

**NEW CASE:**

5.     **DOCKET:**                             **B.O.A. 16-18 (City)**
- APPLICANT:**                         Richard Wickman & Paul Casoria
- PREMISES AFFECTED:**             2008 Vinton Avenue
- USE DISTRICT:**                     Residential-6 District
- REQUESTING:**                     Variance from Section 3.6.1 to allow open air porch along east side of house not to exceed currently existing structure and to allow a carport (8'x 22') on west side of current structure
- ACTION OF THE BOARD:**           Approve
- APPEARANCES:**                   For Applicant: None
- Opposition: None

**THE RESOLUTION:**

**WHEREAS**, Richard Wickman & Paul Casoria, filed an application with the Board of Adjustment on **March 24, 2016** a Variance from Section 3.6.1 to allow open air porch along east side of house not to exceed currently existing structure and to allow a carport (8'x 22') on west side of current structure; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **April 27, 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 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 (1) condition.

**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 (1) CONDITION**

**CONDITION:**

1. This variance is conditioned upon the site plan 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.

AGAINST MOTION: .....0

FOR MOTION: .....7

Claybrook, Doss, Jackson, Savage-Townes,  
Rainey, Scurlock and Petree

NOT VOTING .....0





welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is approved with (2) 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 (2) CONDITIONS**

**CONDITIONS:**

- 1. The nonconforming sign location, height, area and setback shall continue as illustrated in the sign plans.
- 2. The base of the sign shall include landscaping subject to review and approval by staff.

AGAINST MOTION: .....0

FOR MOTION: .....8  
Claybrook, Dow, Doss, Jackson, Savage-Townes,  
Rainey, Scurlock and Petree

NOT VOTING .....0



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 (9) 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 (9) CONDITIONS**

#### **CONDITIONS:**

1. The applicant is required to connect this entire facility to a public sewerage system.
2. The applicant is required to dedicate forty-five (45) feet from the centerline of Raleigh-Millington Road and improve with curb, gutters and sidewalk.
3. All entrance driveways to Raleigh-Millington Road are to be constructed as approved by the County or City Engineer.
4. Fire plugs and water mains are to be designed and installed as shown on the plan of development and as approved by the State Fire Marshall's Office.
5. All drainage shall be in accordance with plans, prepared by the applicant and submitted to the County/City Engineer for his approval, so as to protect adjacent property owners.
6. The applicant is to conform to all other requirements of the Unified Development Code pertaining to the construction of a mobile home park not herein above specified.
7. The applicant is permitted to construct this mobile home park in two (2) phases as outlined on the approved site plan.
8. The Cellular Communications Tower is permitted to be constructed to accommodate two (2) co-locators.
9. The submitted site plan shall be stamped as the Approved Site Plan. Any change or



deviation from this plan, including but not limited to the installation or placement of temporary and portable signs is subject to Section 9.22.9 of the Unified Development Code. The Planning Director shall have the discretion to determine if any such modification can be addressed administratively, or require a Major Modification or other type of application.

AGAINST MOTION: .....0

FOR MOTION: .....8

Claybrook, Dow, Doss, Jackson, Savage-Townes,  
Rainey, Scurlock and Petree

NOT VOTING .....0

**ADJOURNMENT:**

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

MINUTES APPROVED: May 25, 2016



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CHAIRMAN



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SECRETARY