

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

Wednesday, August 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, August 24, 2016.

Present:

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

Mr.	Josh Whitehead, Secretary
-----	---------------------------

Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Gene Burse, OPD
Mr.	Don Jones, OPD
Mr.	Chip Saliba, OPD
Mr.	John Walpole, OCCE
Ms.	Iris Robinson, 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.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted for the requested 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 date of granting the variance.

MOTION TO APPROVE ON CONSENT WITH (3) THREE CONDITONS

CONDITIONS:

1. A bulk variance shall be granted to allow an encroachment of thirty-eight (38) feet into the required 223 feet street side setback line from Elvis Presley Boulevard.
2. The street side setback shall be as illustrated and dimensioned on the applicant's submitted site plan.
3. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING0

NEW CASE:

4. **DOCKET:** **B.O.A. 16-54 (City)**
- APPLICANT:** Usdan Family Partnership
- PREMISES AFFECTED:** 824 S. Mendenhall Road
- USE DISTRICT:** Residential Single Family-10 (R-10) District
- REQUESTING:** Variance from Sub-Section 3.6.1A to allow a reduction in the required minimum lot size of 10,000 square feet and from Sub-Section 2.7.2A to allow a reduction to the required rear yard setback for a detached garage
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Mike Fahy
- Opposition: None

THE RESOLUTION:

WHEREAS, Andrews Investment, LLC, filed an application with the Board of Adjustment on **July 22, 2016** for a Variance from Sub-Section 3.6.1A to allow a reduction in the required minimum lot size of 10,000 square feet and from Sub-Section 2.7.2A to allow a reduction to the required rear yard setback for a detached garage; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 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 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 six (6) 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) TWO CONDTIONS

CONDITIONS:

1. Lot 111 of the Colonial View Subdivision, Section F, shall be permitted a reduction in the overall lot area to 8,483.89 square feet as shown on the approved site plan.
2. The existing detached garage on Lot 111, as shown on the approved site plan, shall be permitted to observe a zero (0) foot rear yard setback.
3. The owner of Lot 111 shall be permitted access to Lot 123 for the purposes of performing maintenance on or to the east elevation of the detached garage.
4. The owner of Lot 123 shall be responsible of the ownership, upkeep and continued maintenance of the sight-proof wooden fence separating the parking lot from Lot 111.
5. The approved conditions of BOA 88-90 shall remain in force.
6. The site plan shall be marked as the approved plan. Any change or deviation from this plan shall be submitted to the Planning Director for his/her determination with respect to any required action to be taken.

AGAINST MOTION:0

FOR MOTION:7

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

RECUSED:0

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 two (2) conditions.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted for the requested 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 TO APPROVE WITH (2) TWO CONDITONS

CONDITIONS:

1. 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.

2. The garage for each lot shall have a minimum of 2 garage doors.

AGAINST MOTION:0

FOR MOTION:7

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

RECUSED:0

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 date of granting the variance.

MOTION TO APPROVE ON CONSENT WITH THREE (3) CONDITIONS

CONDITIONS:

- 1. The front yard building setback for an accessory structure and use for an electrical vehicle (EV) charging station shall be eighteen (18) feet from the right-of-way line of Ridgeway Road.
- 2. All landscaping for the EV charging station shall be illustrated on the Site/Landscape Plan and installed around the perimeter of the fence prior to operation of the EV charging stations.
- 3. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or subject to administrative review and approval by the Office of Planning and Development.

AGAINST MOTION:0

FOR MOTION:7
Claybrook, Dow, Doss, Jackson, Savage-Townes,
Scurlock and Rainey

NOT VOTING0

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted for the requested 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 date of granting the variance.

MOTION TO APPROVE ON CONSENT WITH (3) THREE CONDITIONS

CONDITIONS:

- 1. A bulk variance shall be granted to allow an encroachment of fifteen (15) feet into the required rear yard building setback line.
- 2. The rear yard setback shall be as illustrated and dimensioned on the applicant's submitted site plan.
- 3. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

AGAINST MOTION:0

FOR MOTION:7
Claybrook, Dow, Doss, Scurlock, Savage-Townes,
Jackson and Rainey

RECUSED:0

NEW CASE:

8. **DOCKET:** **B.O.A. 16-59 (City)**
- APPLICANT:** The Nine at Memphis, LLC
- PREMISES AFFECTED:** Southwest corner of Mynders and Brister
- USE DISTRICT:** Commercial Mixed Use (CMU-1);
 University District Overlay
- REQUESTING:** Variance from Sub-Section 3.10.2B to exceed
 maximum 15,000 sq. ft. ground floor area
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: The Nine at Memphis, LLC
- Opposition: None

THE RESOLUTION:

WHEREAS, The Nine at Memphis, LLC, filed an application with the Board of Adjustment on **July 26, 2016** for a Variance from Sub-Section 3.10.2B to exceed maximum 15,000 sq. ft. ground floor area; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, **August 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 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 three (3) 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 (3) THREE CONDITIONS

CONDITIONS:

1. A bulk variance shall be granted to allow an encroachment of fifteen (15) feet into the required rear yard building setback line.
2. The rear yard setback shall be as illustrated and dimensioned on the applicant's submitted site plan.
3. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

AGAINST MOTION:0

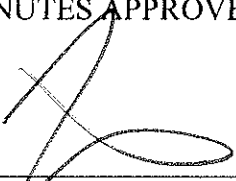
FOR MOTION:7
Claybrook, Dow, Doss, Jackson, Savage-Townes,
Scurlock and Rainey

NOT VOTING0


ADJOURNMENT:

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

MINUTES APPROVED: 9/28/16



CHAIRMAN



SECRETARY