

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

Wednesday, October 26, 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, September 28, 2016.

Present:

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

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Gene Burse, 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.

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 four (4) 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 date of granting the variance.

MOTION TO APPROVE ON CONSENT WITH (4) FOUR CONDITONS

CONDITIONS:

1. The covered walkway shall be setback 1.5 (18") feet from the west property line and all overhead power and utility lines shall be in accordance with the technical codes and the requirements of Memphis, Light, Gas & Water (MLGW) division.
2. The maximum height of the covered walkway shall be 7'-8" along the west line and slope to 7'-4' to the interior of the lot. The covered walkway roof shall drain inward to the property with a slope not to exceed 1:4 to include gutters, down spots and splash blocks along the east line of the walkway.
3. The covered walkway shall not encroach upon any existing utility easements, including overhead power lines along the west property line.
4. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission.

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey & Savage-Townes

NOT VOTING0

NEW CASE:

2. **DOCKET:** **B.O.A. 16-63 (City)**
- APPLICANT:** John M. Williams/Kristy Jeffords
- PREMISES AFFECTED:** 3533/3547 Walker Avenue
- USE DISTRICT:** Commercial Mixed Use (CMU-2) within the
 University District Overlay
- REQUESTING:** Variance from Item 4.9.8M(1)(a) and Paragraph
 8.3.10G (2) to permit a detached sign advertising
 the Tiger Bookstore where currently prohibited
 by the University District Overlay detached sign
 requirements
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: John M. Williams/Kristy Jeffords
- Opposition: None

THE RESOLUTION:

WHEREAS, John M. Williams/Kristy Jeffords, filed an application with the Board of Adjustment on **Monday, September 12, 2016** for a Variance from Item 4.9.8M(1)(a) and Paragraph 8.3.10G (2) to permit a detached sign advertising the Tiger Bookstore where currently Prohibited by the University District Overlay detached sign requirements; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 26, 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 9.22.6A 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 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 date of granting the variance.

MOTION TO APPROVE ON CONSENT WITH (2) TWO CONDITONS

CONDITIONS:

1. The readerboard component of the sign shall be manual only. No electronic LED or video component is permitted.
2. Landscaping shall be provided at the base of the sign a minimum of two times the size of the sign message area (a minimum of 116 square feet of area to be landscaped).

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey &
Savage-Townes

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 (10) TEN CONDITONS

CONDITIONS:

1. These variances are 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.
2. If no building permit is obtained within five years, this approval expires.
3. The City Engineer shall approve the design, number and location of curb cuts.
4. 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.
5. Standard Subdivision Contract may be required per Article 5.5.5 of the Unified Development Code.
6. All existing nonconforming curb cuts may be modified to meet current City Standards or closed with curb, gutter and sidewalk subject to determination of the City Engineer.
7. The Developer shall be responsible for the repair and/or replacement of all existing curb, gutter and sidewalk along the frontage of this site as necessary.
8. The width of all existing public off-street easements shall be widened to meet current city standards subject to determination by City Engineer.
9. Required landscaping shall not be placed on sewer or drainage easements.
10. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey &
Savage-Townes

NOT VOTING0

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

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey &
Savage-Townes

NOT VOTING0

5. **DOCKET:** **B.O.A. 16-66(City)**
- APPLICANT:** Mirna Sanchez D/B/A 5 Star Autoplex
- PREMISES AFFECTED:** 3135 Austin Peay Highway
Northwest side of Austin Peay Hwy at Jones Road
- USE DISTRICT:** Commercial Mixed Use (CMU-1) District
- REQUESTING:** Variance pursuant to Sub-Section 3.2.9F and from Item 4.6.5J (1)(a) to allow a wall greater than nine (9) feet in height to encroach into recorded front and street side yard setback lines within the required buffer areas
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Delinor Smith
- Opposition: Faye Morrison
Kevin Brooks

THE RESOLUTION:

WHEREAS, Mirna Sanchez D/B/A 5 Star Autoplex, filed an application with the Board of Adjustment on **Monday, September 27, 2016** for a Variance pursuant to Sub-Section 3.2.9F and from Item 4.6.5J (1)(a) to allow a wall greater than nine (9) feet in height to encroach into recorded front and street side yard setback lines within the required buffer areas; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 26, 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 9.22.6A 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 hereby 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 date of granting the variance.

MOTION TO APPROVE WITH TWO (2) CONDITIONS:

CONDITIONS:

1. Remove all barbed wire.
2. No barbed wire in the future.

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey &
Savage-Townes

NOT VOTING0

6. **DOCKET:** B.O.A. 55-52(City)
- APPLICANT:** Memphis Medical Redevelopment Group, LLC
- PREMISES AFFECTED:** 57 N. Sommerville (the “Park Tower”)
- USE DISTRICT:** RU-4 (Residential Urban), CMU-1 (Commercial) and CMU-3 (Commercial)
- REQUESTING:** Remove a condition placed by the Board of Adjustment when it approved this nine-story apartment in 1955 that limited the type of non-residential uses on the ground floor
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Memphis Medical Redevelopment Group, LLC
- Opposition: None

THE RESOLUTION:

WHEREAS, Memphis Medical Redevelopment Group, LLC, filed an application with the Board of Adjustment on **Friday, September 30, 2016** for a Remove a condition placed by the Board of Adjustment when it approved this nine-story apartment in 1955 that limited the type of non-residential uses on the ground floor; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 26, 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 9.22.6A 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.

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

AGAINST MOTION:0

FOR MOTION:7

Claybrook, Doss, Dow, Jackson, Petree, Rainey &
Savage-Townes

NOT VOTING0

7. **APPLICANT:** Josh Whitehead

REQUESTING: Amend the rules of procedure to add a show cause hearing process

ACTION OF THE BOARD: Hold

APPEARANCES: For Applicant: Josh Whitehead

 Opposition: None

MOTION TO HOLD

AGAINST MOTION: 0


FOR MOTION: 7
 Claybrook, Doss, Dow, Jackson, Petree, Rainey & Savage-Townes

NOT VOTING 0

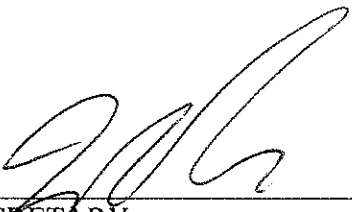
ADJOURNMENT:

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

MINUTES APPROVED: 11/16/16



CHAIRMAN



SECRETARY

