

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

Wednesday, January 25, 2017

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, January 25, 2017.

**Present:**

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

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

Mr.	Brian Bacchus, OPD
Mr.	Don Jones, OPD
Mr.	Chip Saliba, OPD
Mr.	Josh Whitehead, OPD
Ms.	Kirstin Kettley, OPD

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.

**HELD CASE:**

1.     **DOCKET:**                             **B.O.A. 16-69 (City)**
- APPLICANT:**                     Jesus Bueno
- PREMISES AFFECTED:**         1539 Wanda Street
- USE DISTRICT:**                 Single-Family Residential-6 (R-6) District
- REQUESTING:**                 Variance from Sub-section 3.6.1A to allow reduction to the required 5 foot side yard setback to 3.81 feet to add an attached carport and accessory structure
- ACTION OF THE BOARD:**         Approve
- APPEARANCES:**               For Applicant: Tim McCaskill
- Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Jesus Bueno, filed an application with the Board of Adjustment for Use Variance from Sub-section 3.6.1A to allow reduction to the required 5 foot side yard setback to 3.81 feet to add an attached carport and accessory structure; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 25, 2017** 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 9.22.6A & B 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 the requests 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 on consent with two (2) conditions.

**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested variances and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the variances are 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the date of granting said variances.

**MOTION TO APPROVE ON CONSENT WITH TWO (2) CONDITIONS:**

1. The maximum width of the driveway in the required front yard shall be limited to the width of the current curb cut. All existing concrete beyond that limit shall be removed and the yard shall be replanted in grass.
2. Once revised, the Site Plan shall be stamped as the Official Copy, any changes to the approved plan must be reviewed by the Planning Director.

AGAINST MOTION: .....0

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

NOT VOTING .....0



**WHEREAS**, The Board is further of the opinion that to allow the requests 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 on consent with three (3) conditions.

**NOW, THEREFORE**, Be it resolved that the application be and it hereby is granted for the requested variances and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the variances are 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the date of granting said variances.

**MOTION TO APPROVE ON CONSENT WITH THREE (3) CONDITIONS:**

- 1. The City Engineer shall approve the design, number and location of curb cuts. A full set of engineered plans, however, shall **not** be required (See Engineering comments 1&2 on page 11).
- 2. Any existing nonconforming curb cuts shall be modified to meet current City standards or closed with curb, gutter and sidewalk.
- 3. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.

AGAINST MOTION: .....0

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

NOT VOTING .....0

**NEW CASE:**

3.     **DOCKET:**                                     B.O.A. 17-02 (City)

**APPLICANT:**                               WCP/DSSH Holdings 17 LLC

**PREMISES AFFECTED:**                 3686 Germantown Road

**USE DISTRICT:**                         Commercial Mixed Use-3 (CMU-3) District

**REQUESTING:**                           Revised site plan to reflect the changes that have taken place on the site since the BOA approval of February 26, 1986 per UDC Section 9.22.9

**ACTION OF THE BOARD:**               Hold for 30 days

**APPEARANCES:**                       For Applicant: 3686 Germantown Road

  Opposition: None

**MOTION TO HOLD FOR 30 DAYS:**

AGAINST MOTION:             .....0

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

NOT VOTING                   .....0

4. **DOCKET:** B.O.A. 17-03 (City)

**APPLICANT:** St. Charles Place, Inc.

**PREMISES AFFECTED:** 8473 U.S. Highway 64

**USE DISTRICT:** Commercial Mixed Use (CMU-3) District

**REQUESTING:** Variances from Paragraph 4.9.9M(3) and Sub-Section 4.9.15.E to change and alter a nonconforming off-premise (billboard) sign to allow digital and video technology

**ACTION OF THE BOARD:** Hold 30 days

**APPEARANCES:** For Applicant: Brenda Solomito Basar

Opposition: None

**MOTION TO HOLD FOR 30 DAYS**

AGAINST MOTION: .....0

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

NOT VOTING .....0





**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 appeal and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the appeal 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 appeal.

**MOTION TO APPROVE**

AGAINST MOTION: .....0

FOR MOTION: .....7

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

NOT VOTING .....0

**NEW CASE:**

6.     **DOCKET:**                             **B.O.A. 17-05 (City)**
- APPLICANT:**                         Terrell E. & Cheryl D. Carter
- PREMISES AFFECTED:**             1190 Hester Road  
  *(Northeast corner of Elvis Presley Blvd and Hester Road)*
- USE DISTRICT:**                     Residential Single Family (R-10) District
- REQUESTING:**                     Modification to an approved Site Plan to allow construction of a new two (2) story single family home
- ACTION OF THE BOARD:**           Approve
- APPEARANCES:**                   For Applicant: Terrell E. & Cheryl D. Carter
- Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Terrell E. & Cheryl D. Carter, filed an application with the Board of Adjustment for a Modification to an approved Site Plan to allow construction of a new two (2) story single family home; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 25, 2017** 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 modification 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 modification 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 on consent.

**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested modification and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the modification 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 modification.

**MOTION TO APPROVE WITH THREE (3) CONDITIONS:**

**CONDITION:**

1. A bulk variance shall be granted to allow an encroachment of fifty-four (54) 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.

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

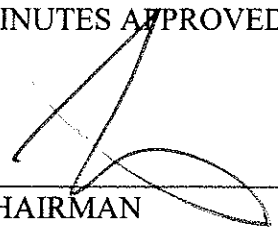
Claybrook, Doss, Jackson, Petree, Rainey,  
Savage-Townes & Scurlock


NOT VOTING .....0

**ADJOURNMENT:**

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

MINUTES APPROVED: 2-22-17

  
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CHAIRMAN

  
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SECRETARY