

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

Wednesday, April 28, 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, April 26, 2017.

**Present:**

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

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

Mr.	Don Jones, OPD
Mr.	Chip Saliba, OPD
Ms.	Staci Tillman, OPD
Ms.	Kirstin Kettley, OPD
Mr.	Jeffrey Penzes, OPD
Ms.	Iris Robertson, City Engineering
Mr.	John Walpole, OCCE

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 CASES:**

1. **DOCKET:** **B.O.A. 17-16 (City)**
- APPLICANT:** Board of Education-Shelby County/City Sign Contractors, LLC
- PREMISES AFFECTED:** 4405 Crump Road
- USE DISTRICT:** Residential Urban (RU-2)
- REQUESTING:** Variance from UDC Paragraphs 4.9.7B(1), (2) and (3) and 4.9.6D(3) to allow the installation of a new permanent, detached LED pole sign in the RU-2 district
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Board of Education
- Opposition: None

**THE RESOLUTION:**

**WHEREAS**, the Board of Education, filed an application with the Board of Adjustment Variance from UDC Paragraphs 4.9.7B(1), (2) and (3) and 4.9.6D(3) to allow the installation of a new permanent, detached LED pole sign in the RU-2 district; and

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

**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 APPROVED WITH TWO (2) CONDITIONS**

**CONDITIONS:**

1. The site shall have one (1) pole sign with a maximum gross surface area of 35 square feet.
2. The applicant shall submit a landscape plan and comply with the landscape plan as submitted to and approved by the Office of Planning and Development.

AGAINST MOTION: .....0

FOR MOTION: .....8

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

NOT VOTING .....0

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

**APPLICANT:** Terry and Everette Thomas

**PREMISES AFFECTED:** 249 Garland Street

**USE DISTRICT:** Residential Single Family-6 (R-6)

**REQUESTING:** Variance from Item 2.7.3B(1)(b) to exceed the square footage of 1/3 of the ground floor area of the principal dwelling structure on the lot for an accessory dwelling unit

**ACTION OF THE BOARD:** Approve with conditions

**APPEARANCES:** For Applicant: Terry and Everette Thomas

Opposition: None

**THE RESOLUTION:**

**WHEREAS**, Terry and Everette Thomas, filed an application with the Board of Adjustment for a Variance from Item 2.7.3B(1)(b) to exceed the square footage of 1/3 of the ground floor area of the principal dwelling structure on the lot for an accessory dwelling unit; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A & 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 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 with 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 variance.

**MOTION WAS TO APPROVE WITH FOUR (4) CONDITIONS:**

**CONDITIONS:**

1. 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.
2. A bulk variance shall be granted to allow an increase for an accessory dwelling unit to 1,128 sq. ft.
3. No additions may be added onto the principal dwelling structure without Board of Adjustment approval.
4. The submitted site plan is contingent upon receiving final approval and a Certificate of Appropriateness (COA) from the Memphis Landmarks Commission.

AGAINST MOTION: .....0

FOR MOTION: .....8

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

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

**CONDITIONS:**

1. The materials of the carport shall match those of the principal building. The site plan shall reflect the materials.
2. The porch, including the forward extension of the roof of the carport, shall reflect a depth of 6 feet.
3. The site plan shall be stamped as the Approved Plan. Any changes to the plan shall be presented to the Planning Director for his determination as to whether or not said change shall require review the Memphis and Shelby County Board of Adjustment.

AGAINST MOTION: .....3  
Doss, Dow and Scurlock

FOR MOTION: .....5  
Claybrook, Jackson, Petree, Rainey, and Savage-Townes

NOT VOTING .....0

4. **DOCKET:** **B.O.A. 17-20 (City)**
- APPLICANT:** Mt. Pisgah C.M.E Church/Reverend Willie Ward Jr.
- PREMISES AFFECTED:** 2471 & 2477 Saratoga Avenue
- USE DISTRICT:** Residential Urban (RU-1)
- REQUESTING:** Variance from UDC Paragraph 2.6.2G(4) to allow parking in the 20' required front yard
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Mt. Pisgah C.M.E Church/Reverend Willie Ward Jr.
- Opposition: None

**THE RESOLUTION:**

**WHEREAS**, Reverend Willie Ward Jr. on behalf Mt. Pisgah C.M.E Church, filed an application with the Board of Adjustment for Variance from UDC Paragraph 2.6.2G(4) to allow parking in the 20' required front yard; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A 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 WITH FOUR (4) CONDITIONS**

**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 9).
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.
4. The developer will be required to acquire a curb cut and sidewalk permit.

AGAINST MOTION: .....0

FOR MOTION: .....8  
Claybrook, Doss, Dow, Jackson, Norcross, Petree,  
Rainey & Savage-Townes

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.

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

**MOTION TO APPROVE**

AGAINST MOTION:	.....1	
		Rainey
FOR MOTION:	.....7	
		Claybrook, Dow, Doss, Jackson, Norcross, Petree & Savage-Townes
NOT VOTING	.....0	

6. **DOCKET:** **B.O.A. 17-22 (City)**
- APPLICANT:** Barry Alan & Kathleen Yoakum
- PREMISES AFFECTED:** 782 River Park Drive
- USE DISTRICT:** P.D. 88-347 Harbortown Planned Development
- REQUESTING:** Variance from Section 2.7.6 to allow an encroachment into the front yard (swimming pool) and from Item 3.2.9E(2)(c) to allow more than a 42 inch encroachment (bay window)
- ACTION OF THE BOARD:** Approve with conditions
- APPEARANCES:** For Applicant: Barry Yoakum  
Lon McDurmon
- Opposition: Gary Morrell

**THE RESOLUTION:**

**WHEREAS**, Barry Alan & Kathleen Yoakum, filed an application with the Board of Adjustment for Variance from Section 2.7.6 to allow an encroachment into the front yard (swimming pool) and from Item 3.2.9E(2)(c) to allow more than a 42 inch encroachment (bay window); and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A & 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 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.

**NOW, THEREFORE**, Be it resolved that the application be and it hereby is granted for the requested variance 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 WITH TWO (2) CONDITIONS**

**CONDITIONS:**

1. Revise the site plan to show the masonry wall to fully secure the pool area. The wall shall be shown on the site plan.
2. Clear sight areas must be maintained due to this being a corner lot.

AGAINST MOTION:                   .....0

FOR MOTION:                       .....8

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

NOT VOTING                       .....0

7. **DOCKET:** **B.O.A. 17-23 (City) & (Companion Case B.O.A. 17-24)**

**APPLICANT:** 2166 Central, LLC (d/b/a: Rail Garten)

**PREMISES AFFECTED:** 2158, 2164 & 2166 Central Avenue

**USE DISTRICT:** Employment (EMP) District

**REQUESTING:** Conditional Use Permit to allow metal shipping containers in conjunction with a bar/tavern in Employment District Midtown District (MD) Overlay

**ACTION OF THE BOARD:** Hold

**APPEARANCES:** For Applicant: Brenda Solomito Basar, Michael Tauer, Billy Orgel, Reginald Milton, June West, Cameron Mann, Ryan McDarmon

Opposition: David Wade and Charles Ryan

**MOTION TO HOLD FOR 30 DAYS**

AGAINST MOTION: .....0

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

NOT VOTING .....1  
Petree

8. **DOCKET:** B.O.A. 17-24 (City)

**APPLICANT:** 2166 Central, LLC (d/b/a: Rail Garten)

**PREMISES AFFECTED:** 2158, 2164 & 2166 Central Avenue

**USE DISTRICT:** Employment (EMP) District

**REQUESTING:** Conditional Use Permit to allow metal shipping containers in conjunction with a bar/tavern in Employment District Midtown District (MD) Overlay

**ACTION OF THE BOARD:** Hold

**APPEARANCES:** For Applicant: Brenda Solomito Basar, Michael Tauer, Billy Orgel, Reginal Milton, June West, Cameron Mann, Ryan McDarmon

Opposition: David Wade and Charles Ryan

**MOTION TO HOLD FOR 30 DAYS**

AGAINST MOTION: .....0

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

NOT VOTING .....1  
Petree

9. **DOCKET:** B.O.A. 17-25 (City)
- APPLICANT:** The Liquor Store, LLC
- PREMISES AFFECTED:** 2655 Broad Avenue
- USE DISTRICT:** Commercial Mixed Use (CMU-1) District
- REQUESTING:** Conditional Use Permit to allow metal shipping containers as a prep kitchen and storage area in conjunction with a restaurant
- ACTION OF THE BOARD:** Approve
- APPEARANCES:** For Applicant: Touliatus Greg Living Trust
- Opposition: None

**THE RESOLUTION:**

**WHEREAS,** The Liquor Store, LLC, filed an application with the Board of Adjustment Conditional Use Permit to allow metal shipping containers as a prep kitchen and storage area in conjunction with a restaurant; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A & B of the Unified Development Code are being met; 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.



**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested variance 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 IS TO APPROVE WITH SIX (6) CONDITIONS**

**Site Plan Conditions:**

1. A conditional use permit to allow metal shipping containers for a prep kitchen and storage area in conjunction with a restaurant establishment shall be allowed and the street side setback shall align with the existing building setback line of 7.8 feet from the Maris Street right-of-way line. An administrative review in accordance with Condition 6 allows a 0' foot setback from Maris Street in accordance with Sub-Section 3.10.2B of the zoning code.
2. The days and hours of operations shall be adequately staffed to monitor all patrons, including the security of the building inside and outside of the premises.
3. Any landscaped areas shall be fully refurbished with shrubs, small understory trees and Bermuda sod to compliment the building and surroundings subject to review and approval by staff.
4. Any and all garbage dumpsters shall be screened from residential property and the public right-of-ways.
5. This facility shall operate in accordance with all State statutes and local ordinances and all official policies and procedures adopted pursuant thereto.
6. 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: .....8

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

NOT VOTING .....0

10. **DOCKET:** **B.O.A. 17-26 (City)**
- APPLICANT:** Timothy & Lyle Davis
- PREMISES AFFECTED:** 45 Norwal Road
- USE DISTRICT:** Residential Single Family-6 (R-6) District
- REQUESTING:** Variance from Sub-Section 3.2.9F to allow (Legitimize) an encroachment into the building setback of the recorded plat and from Paragraph 2.7.2B(2) to allow an accessory structure to encroach into the side yard setback per plat and UDC
- ACTION OF THE BOARD:** Approval with conditions
- APPEARANCES:** For Applicant: Timothy & Lyle Davis
- Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Timothy & Lyle Davis, filed an application with the Board of Adjustment for Variance from Sub-Section 3.2.9F to allow (Legitimize) an encroachment into the building Setback of the recorded plat and from Paragraph 2.7.2B(2) to allow an accessory structure to encroach into the side yard setback per plat and UDC; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A & B of the Unified Development Code are not being met; and;

**WHEREAS,** The Board has determined that said variance would 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.

**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested variance and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the variance 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 WITH ONE (1) CONDITON**

**CONDITION:**

1. The approval is to be the submitted site survey. Any minor changes to the site impacting the encroachments can be approved administratively.

AGAINST MOTION: .....0

FOR MOTION: .....8

Claybrook, Doss, Dows, Jackson, Petree, Salvage-Townes, Scurlock and Rainey

NOT VOTING .....0

11. **DOCKET:** B.O.A. 17-27 (City)

**APPLICANT:** Loeb Realty LP

**PREMISES AFFECTED:** 6 South Cooper

**USE DISTRICT:** Commercial Mixed Use (CMU-1) District

**REQUESTING:** 1. Sub-Section 8.4.8D to allow 45’-6” front yard setback where a maximum of 15’ is required; 2. Sub-Section 8.4.8D to allow 68.25% building frontage on the Primary Street (Cooper) where 80% is required; 3. Sub-Section 8.4.8D to allow 39.20% building frontage on the Secondary Street (Madison) where 40% is required; 4. Section 8.4.11 Modification to the streetscape standards to allow a reduced overall design; 5. Sub-Section 8.4.8D to allow a 10’ parking setback along a primary street where 15’ is required and 6. Sub-Section 3.1.4A. to permit two principal structures on one lot.

**ACTION OF THE BOARD:** Approve

**APPEARANCES:** For Applicant: Brenda Solomito-Basar (Solomito Land Planning)

Opposition: None

**THE RESOLUTION:**

**WHEREAS**, Loeb Properties LP, filed an application with the Board of Adjustment for multiple variances from the requirements of the Midtown Overlay (MD) District and a use variance to allow two principal uses, one of them being a billboard, on one lot ; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 26, 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 variance in Sub-Section 9.22.6A & B of the Unified Development Code are being met; 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.

**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 WITH SIX (6) CONDITIONS**

1. Sub-Section 8.4.8D to allow 45’-6” front yard setback where a maximum of 15’ is required.
2. Sub-Section 8.4.8D to allow 68.25% building frontage on the Primary Street (Cooper) where 80% is required.
3. Sub-Section 8.4.8D to allow 39.20% building frontage on the Secondary Street (Madison) where 40% is required.
4. Section 8.4.11 Modification to the streetscape standards to allow a reduced overall design.
5. Sub-Section 8.4.8D to allow a 10’ parking setback along a primary street where 15’ is required.
6. Sub-Section 3.1.4A. to permit two principle structures on one lot

AGAINST MOTION: .....0

FOR MOTION: .....8

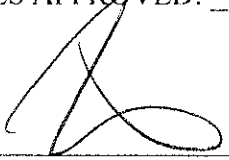
Claybrook, Dow, Jackson, Rainey,  
Savage-Townes Scurlock

NOT VOTING: Petree

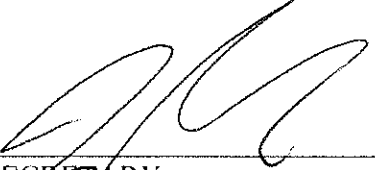
**ADJOURNMENT:**

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

MINUTES APPROVED: 5-24-17



\_\_\_\_\_  
CHAIRMAN



\_\_\_\_\_  
SECRETARY

