

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

Wednesday, April 25, 2018

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., April 25, 2018

**Present:**

Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	Daniel Dow
Mr.	John Jackson III
Mr.	Aaron Petree
Ms.	Madeline Savage-Townes, Vice Chairman
Ms.	Portia Scurlock
Mr.	Timothy Rainey, Chairman

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

Mr.	Don Jones, OPD
Mr.	Jeffrey Penzes, OPD
Ms.	Jordan Johnson, OPD
Ms.	Marion Jones, OPD
Ms.	Staci Tillman, OPD
Ms.	Kirstin Jones, OPD

A quorum being present, the Board proceeded to consideration of the day's agenda. The Minutes from the previous meeting were approved.

In some of the following cases, the application for a building permit or sign permit was rejected by the Memphis and Shelby County Building Official or Planning Director 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.

1. **DOCKET:** **B.O.A. 18-31**

**APPLICANT:** Mark and Caroline Christopher

**PREMISES AFFECTED:** 3549 Galloway

**USE DISTRICT:** Residential – 6 (R-6)

**REQUESTING:** 4 Variances: 1. From Sub-Section 3.6.1A to allow a reduction to the side yard setback, Lot A to 3.2' where a minimum 5' is required; 2. From Sub-Section 3.6.1A to allow a reduction in the total lot size: Lot A – 5,607 sq. ft., Lot B – 5,020 sq. ft. where a minimum of 6,000 sq. ft. is required, 3. From Sub-Section 3.6.1A to allow a reduction in the minimum front yard setback for Lot B request 15 where a minimum of 20' is required, 4. From Sub-Section 3.6.1A Reduction in the required rear yard setback, request 10' where 15' is required

**ACTION OF THE BOARD:** Approval

**APPEARANCES:** Support: Tim McCaskill

Opposition: Rebecca Dougherty  
Don Dougherty

**THE RESOLUTION:**

**WHEREAS,** Mark and Caroline Christopher filed an application with the Board of Adjustment for 4 Variances: 1. From Sub-Section 3.6.1A to allow a reduction to the side yard setback, Lot A to 3.2' where a minimum 5' is required; 2. From Sub-Section 3.6.1A to allow a reduction in the total lot size: Lot A – 5,607 sq. ft., Lot B – 5,020 sq. ft. where a minimum of 6,000 sq. ft. is required, 3. From Sub-Section 3.6.1A to allow a reduction in the minimum front yard setback for Lot B request 15/ where a minimum of 20' is required, 4. From Sub-Section 3.6.1A Reduction in the required rear yard setback, request 10' where 15' is required; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 variances. 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

**TWO MOTIONS WERE MADE**

**MOTION #1 IS TO APPROVE VARIANCE 1**

FOR MOTION: .....8  
(Claybook, Doss, Dow, Jackson, Petree Rainey, Savage-Townes, and Scurlock)  
.....0

**MOTION #2 IS TO APPROVE VARIANCES 2-5**

FOR MOTION: .....6  
(Claybook, Doss, Dow, Jackson, Petree and Scurlock)  
.....2  
(Rainey and Savage-Townes)

**CONDITIONS:**

1. A Major Subdivision Application shall be filed with the Office of Planning and Development. No permits for a new structure, other than accessory structures permitted by the UDC shall be granted unless or until a Subdivision application has been approved.
  2. If the Major Subdivision application is approved by the Land Use Control Board, the Plat of Subdivision shall include the variances that were approved by the BOA;
    - a. Minimum Lot Area – Lot A – 5,607 Square Feet
    - b. Minimum Side Yard Setback, Lot A – 3.2 feet.
    - c. Minimum Lot Area – Lot B – 5,020 square feet.
    - d. Minimum Front Yard Setback – Lot B – Porch – 12.5 feet, House – 15 feet
    - e. Minimum Rear Yard Setback – 10 feet.
  3. The approved subdivision will become the official site plan for this Docket Number. Any requested changes to the plat shall follow the procedures as directed by the Planning Director or his assigns.
  4. The elevation shown included in this report shall be included in this approval.
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**2. DOCKET:** **B.O.A. 18-32**

**APPLICANT:** 3D Realty LLC

**PREMISES AFFECTED:** 2542 Broad Avenue

**USE DISTRICT:** Industrial District – EMP

**REQUESTING:** Use variance from Section 2.5.2 to allow an apartment building with ground floor retail

**ACTION OF THE BOARD:** Approval

**APPEARANCES:** Support: James Maclin  
Bob Loeb

Opposition: Pat Brown  
Kip Gordon

**THE RESOLUTION:**

**WHEREAS**, 3D Realty LLC filed an application with the Board of Adjustment for use variance from Section 2.5.2 to allow an apartment building with ground floor retail; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 variance 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years

**MOTION TO APPROVE WITH NINE (9) CONDITIONS**

AGAINST MOTION: .....0

FOR MOTION: .....7

(Claybook, Doss, Dow, Jackson, Rainey, Savage-Townes, and Scurlock)

NOT VOTING: .....1

(Petree)

**CONDITIONS:**

1. Vehicular access to the site is permitted as shown on the Site Plan. Access to the site via Hammonds Court shall be designed as a commercial curb-cut subject to the approval of City Engineering.
2. Vehicular access from the subject site to Broad Avenue shall be prohibited
3. A total number of 403 parking spaces including accessible parking shall be provided on-site, 15 parking spaces shall be provided on Bingham Street, and 36 parking spaces shall be provided on Broad Avenue.
4. The City Engineer shall approve the design and location of curb-cuts.
5. Adequate queuing spaces in accordance with the UDC shall be provided between the street right-of-way line and any proposed gate/guard house/card reader.
6. Adequate maneuvering room shall be provided between the right-of-way and the gate/guardhouse/card reader for vehicles to exit by forward motion.
7. Landscaping within the surface parking areas shall be consistent with the requirements of the UDC Sub-Section 4.5.5D.
8. Common open space shall be maintained by a Property Management Company.
9. The applicant shall record a Final Plat with the following note:

*The property owner reserves the northern portion of this site for a future public street of at least 24 feet of right-of-way width. The property owner shall dedicate this right-of-way to the City when and if the following occurs: 1) a public parking garage is constructed on or within 100 feet of the subject property, as measured from the property line of the parking garage to the property line of the subject property, that reserves a number of parking spaces equal to or greater than the number of parking spaces lost due to the right-of-way dedication to tenants and for customers of the subject property, and 2) the City fully obtains the necessary right-of-way to construct a public street from the western edge of the subject property to Hollywood Street that would result in a substantially straight public street from Hollywood Street to the west and Bingham Street to the east with no jogs.*

3.     **DOCKET:**                             **B.O.A. 18-33**
- APPLICANT:**                         Frank Balton & Co- Chris Haskins
- PREMISES AFFECTED:**             4625 Poplar Avenue - Laurelwood Collection  
   Shopping Center
- USE DISTRICT:**                     Commercial Mixed Use – 3
- REQUESTING:**                     Variance from Section 4.9.15 to legitimize a  
   nonconforming sign
- ACTION OF THE BOARD:**           Approval with conditions

**THE RESOLUTION:**

**WHEREAS,** Frank Balton & Co- Chris Haskins filed an application with the Board of Adjustment for a variance from Section 4.9.15 to legitimize a nonconforming sign; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 variance. 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 shall be obtained from the

Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

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

AGAINST MOTION: .....0

FOR MOTION: .....8

(Claybook, Doss, Dow, Jackson, Petree, Rainey,  
Savage-Townes, and Scurlock)

NOT VOTING: .....0

**CONDITIONS:**

1. The detached sign shall remain as a Nonconforming Sign in accordance with Subsection 4.9.15 of the zoning code. Any alterations other than replacing tenant panels, replacing existing lettering of any kind, or routine maintenance will result in relocating the sign in its entirety.
2. The owner agrees to adhere to any current or future provisions of the Unified Development Code with regards to the brightness of the sign.
3. The variance shall be conditioned upon the approved site plan. Any modification shall be submitted to the Office of Planning & Development for review. Any major modification shall be approved by the Board of Adjustment.

4. **DOCKET:** **B.O.A. 18-34**

**APPLICANT:** MSA Security

**PREMISES AFFECTED:** 2890 (3000) Democrat Road, Building C: northeast corner of Democrat Road and Business Park Drive

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

**REQUESTING:** Variance from Chapter 2.5, Permitted Use Table, Employment District, to store small quantities of explosives, except for fireworks, for the purpose of scent detection training for canine in the Employment (EMP) District

**ACTION OF THE BOARD:** Approval



**APPERANCES:**

Marc Lamberty

**THE RESOLUTION:**

**WHEREAS**, MSA Security filed an application with the Board of Adjustment for a Use variance from Chapter 2.5, Permitted Use Table, Employment District, to store small quantities of explosives, except for fireworks, for the purpose of scent detection training for canines in the Employment (EMP) District; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 variance. 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

**MOTION TO APPROVE WITH 1 (ONE) VARIANCE & 6 (SIX) CONDITIONS**

AGAINST MOTION: .....0

FOR MOTION: .....8

(Claybook, Doss, Dow, Jackson, Petree Rainey, Savage-Townes, and Scurlock)

NOT VOTING: .....0

**CONDITIONS:**

1. The applicant shall file an application every five years to renew the approved use variance with the Memphis and Shelby County Board of Adjustment or the process and/or body in place at the time.
2. The applicant will store the explosives separately in containers that comply with all federal, state and local regulations, codes, statutes, ordinances, permits and periodic inspections that are required.
3. The applicant shall carry insurance in an amount commensurate with the risk/liability associated with storing explosives and using explosives for canine scent detection training in an urban area and in an office environment.
4. The applicant will retain the required permits, licenses and certifications required for the canine scent detection training required and the storage of explosives.
5. The submitted concept plan is the approved plan and is to be marked and made part of the records of this case. Such approval is based in part upon the Board's evaluation and conclusion that the plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon the surrounding properties.
6. 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.

5. **DOCKET:** **B.O.A. 18-35**
- APPLICANT:** Susan Skaer
- PREMISES AFFECTED:** 528 Fleda Road
- USE DISTRICT:** Residential Single-Family – 6
- REQUESTING:** Variance from Sub-Section 3.6.1A to allow a five-foot encroachment into the required five-foot side (interior) setback for an attached garage.

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

**THE RESOLUTION:**

**WHEREAS,** Susan Skaer filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A to allow a five-foot encroachment into the required five-foot side (interior) setback for an attached garage.; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 one (1) condition.

**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 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

**MOTION TO APPROVE ON CONSENT WITH 1 (ONE) CONDITION**

AGAINST MOTION: .....0

FOR MOTION: .....8

---(Claybook, Doss, Dow, Jackson, Petree, Rainey,

NOT VOTING: Savage-Townes, and Scurlock)  
.....0

**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.

6. **DOCKET:** **B.O.A. 18-36**
- APPLICANT:** Juan Self, Self+Tucker Architects
- PREMISES AFFECTED:** 2955 Republican Drive: southwest corner of Democrat Road and Republican Drive
- USE DISTRICT:** Employment (EMP) District
- REQUESTING:** Variance from Paragraph 2.7.2A(3) to permit the erection of solar panels (solar energy system) to encroach into the 30' front setback and 20" side (street) setback: Sub-Items 2.6.2J(b)(1&2) to permit solar panels within the required front and side (street) setbacks.
- ACTION OF THE BOARD:** Approval

**THE RESOLUTION:**

**WHEREAS,** Juan Self, Self+Tucker Architects filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2A(3) to permit the erection of solar panels (solar energy system) to encroach into the 30' front setback and 20" side (street) setback: Sub-Items 2.6.2J(b)(1 & 2) to permit solar panels within the required front and side (street) setbacks.; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 rejected.

**NOW, THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested variances. 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.

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

AGAINST MOTION: .....7  
(Claybook, Doss, Dow, Jackson, Petree, Savage-Townes, and Scurlock)

FOR MOTION: .....0

NOT VOTING: .....1  
(Rainey)

**VARIANCES:**

1.Approval of a variance from Paragraph 2.7.2A(3), Accessory Structures, Setbacks, to permit an accessory structure (solar energy system) to extend into the required 30' front setback along Democrat Road and the 20' side (street) setback along Republican Drive.

2.Approval of a variance to Sub-Item 2.6.2J(2)(b)(1), Solar Energy Systems, Freestanding Solar Energy Systems, to permit free standing arrays in the 30' front setback along Democrat Road.

3. Approval of a variance to Sub-Item 2.6.6J(2)(b)(2), Solar Energy Systems, Freestanding Solar Energy Systems, to permit panel arrays to encroach either into the minimum district setback or 110% the height of the panel array, whichever is greater, as measured from grade to the highest point on the array is hereby granted to permit the solar panel arrays to encroach into the 30' front setback on Democrat Road and the 20' side (street) setback on Republican Drive.

**CONDITIONS:**

1. The applicant shall file a site plan with OPD that clearly locates the encroachment of the solar panels into the 30' front setback on Democrat Road and the 20' side street setback on Republican Drive, provide the elevation of the solar panel graphic contained on page 9, the existing building, existing parking lot, etc., and lists the three variances with three conditions approved by the Memphis and Shelby County Board of Adjustment on April 25, 2018. The site plan shall be drawn at scale to be approved by the Planning.

2. The submitted concept plan is the approved plan and is to be marked and made part of the records of this case. Such approval is based in part upon the Board's evaluation and conclusion that the plan, as approved, eliminates or minimizes the potentially harmful characteristics or impact upon the surrounding properties.

3. 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.

7. **DOCKET:** B.O.A. 18-37
- APPLICANT:** Rebecca Terrell
- PREMISES AFFECTED:** 1203 Poplar Ave, 0 N. Bellevue Blvd and 144 N. Bellevue Blvd.
- USE DISTRICT:** Commercial Mixed Use - 3 District (CMU-3)
- REQUESTING:** Revision to the site plan approved by the Board under Docket 18-19 to include the property to the south into the parking and circulation pattern; add a guardhouse with security rail within the required que distance from Bellevue Blvd
- ACTION OF THE BOARD:** Approval

**THE RESOLUTION:**

**WHEREAS**, Rebecca Terrell filed an application for a revision to the site plan approved by the Board under Docket 18-19 to include the property to the south into the parking and circulation pattern; add a guardhouse with security rail within the required que distance from Bellevue Blvd; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 variance. 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

**MOTION TO APPROVE ON CONSENT WITH 5 (FIVE) CONDITIONS**

**CONDITIONS:**

1. Demonstrate to the satisfaction of the OPD that the conditions and requirements of SAC 16 -12 have been met. No building permits shall be issued associated with this site plan, until this condition is satisfied.
2. The site plan shall reflect a 6-foot-tall, sight-proof wooden fence be installed along the

south property line, between the alley and the south building wall of 144 N. Bellevue Blvd. to screen the dumpster area from the abutting property to south.

3. While the sign location on N. Bellevue Blvd. is acceptable, the design of the sign must be approved by the Downtown Memphis Commission. Proof of their approval is required before any permit for the sign is issued.

4. The entry gate at Bellevue Blvd. shall remain up (open) during business hours, M-f 8a.m. – 5:30 p.m.

5. The site plan will be reviewed by the OPD staff and once stamped it will become the Official site plan to govern this site. Any changes to the approved site plan will be reviewed by the OPD staff for their determination as to process.

AGAINST MOTION: .....0

FOR MOTION: .....8

(Claybook, Doss, Dow, Jackson, Petree, Rainey, Savage-Townes, and Scurlock)

NOT VOTING: .....0

8. **DOCKET:** **B.O.A. 18-38**

**APPLICANT:** Larkspur Acquisitions, LLC

**PREMISES AFFECTED:** 6655 Quince Road

**USE DISTRICT:** Residential Urban – 2 (RU-2)

**REQUESTING:** Use variance from Section 2.5.2 to allow existing shopping center buildings to be used for an indoor self-storage facility

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

**THE RESOLUTION:**

**WHEREAS,** Larkspur Acquisitions, LLC filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow existing shopping center buildings to be used for an indoor self-storage facility; and



**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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) conditions.

**NOW, THEREFORE**, Be it resolved that the application be and it 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 is not 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

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

**CONDITION:**

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. All refuse containers shall be completely screened from view from all adjacent properties and all public right-of-way.
3. The hours of operation shall be limited to between the hours 7:00 AM and 9:00 PM.

AGAINST MOTION: .....0

FOR MOTION: .....8  
(Claybrook, Doss, Dow, Jackson, Petree, Rainey,  
Savage-Townes and Scurlock)  
NOT VOTING: .....0

9. **DOCKET:** **B.O.A. 18-39**
- APPLICANT:** Michael Shaw
- PREMISES AFFECTED:** 740 E. Georgia Avenue
- USE DISTRICT:** Residential Urban-3 (RU-3) District
- REQUESTING:** Variance pursuant to Sub-Section 3.2.9F to allow a home expansion within the required 5-foot side yard setback
- ACTION OF THE BOARD:** Approval
- APPEARANCES:** Support: Michael Shaw  
Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Michael Shaw filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow a home expansion within the required 5-foot side yard setback; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **April 25, 2018** 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 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 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 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 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 shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

**MOTION TO APPROVE WITH ONE (1) CONDITION**

**CONDITION:**

1. The attached site plan shall be considered as the official site plan. Any deviations from the approved plan shall, at the discretion of the Planning Director, be submitted to the Board of Adjustment for review and approval.

AGAINST MOTION: .....0

FOR MOTION: .....8

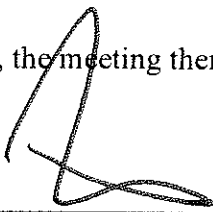
(Claybrook, Doss, Dow, Jackson, Petree, Rainey,  
Savage-Townes and Scurlock)

NOT VOTING: .....0

**ADJOURNMENT:**

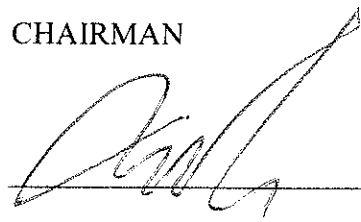
There being no further business, the meeting there upon adjourned.

MINUTES APPROVED: \_\_\_\_\_

A handwritten signature in black ink, appearing to be a stylized 'L' or similar character, positioned above the 'MINUTES APPROVED' line.

5-23-18

CHAIRMAN

A handwritten signature in black ink, appearing to be a stylized name, positioned above the 'CHAIRMAN' line.

SECRETARY