

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

Wednesday, May 23, 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., May 23, 2018

**Present:**

Ms.	Joy Doss
Mr.	Daniel Dow
Mr.	John Jackson III
Ms.	Dr. Margaret Pritchard, Alternate
Ms.	Madeline Savage-Townes, Vice Chairman
Mr.	Timothy Rainey, Chairman

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

Ms.	Jordan Johnson, OPD
Mr.	Jeffrey Penzes, 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. 18-40**
- APPLICANT:** Sidney and Emily Johnson
- PREMISES AFFECTED:** 312 N. Perkins
- USE DISTRICT:** Residential Single Family – 10 (R-10) District
- REQUESTING:** Variance pursuant to Sub-Section 3.2.9F to allow a new garage within the 30-foot, platted side street setback
- ACTION OF THE BOARD:** Approval with conditions

**THE RESOLUTION:**

**WHEREAS,** Sidney and Emily Johnson filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow a new garage within the 30-foot, platted side street setback in a R-10 district; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 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 ONE (1) CONDITION**

**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.

AGAINST MOTION: .....0

FOR MOTION: .....6

(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)

NOT VOTING: .....0

2. **DOCKET:** **B.O.A. 18-41**

**APPLICANT:** Robert C. Brown

**PREMISES AFFECTED:** 8857 Oak Hedge Cove

**USE DISTRICT:** Residential Single Family – 15 (R-15) District

**REQUESTING:** Variance from Paragraph 2.7.2A (1+5) to legitimize an existing metal garage carport within the side yard setback

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

**THE RESOLUTION:**

**WHEREAS,** Robert C. Brown filed an application with the Board of Adjustment for variance from Paragraph 2.7.2A (1+5) to permit a legitimize an existing metal garage/carport with a 1.5 foot side setback where a 5 foot setback is required; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 ON CONSENT WITH THREE (3) VARIANCES AND THREE (3) CONDITIONS**

AGAINST MOTION: .....0  
FOR MOTION: .....6  
(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)  
NOT VOTING: .....0

**VARIANCES:**

1. Approval of a variance from Paragraph 2.7.2A(1), Accessory Structures, Setbacks, to permit an existing detached garage/carport to be encroach a maximum of 3.5' into the side setback where a 5-foot side setback is required on any side or rear property lines.

2. Approval of a variance from Paragraph 2.7.2A(3), Accessory Structures, Setbacks, to permit an existing detached garage/carport to extend a maximum of 3.5' into the required side yards.
3. Approval of a variance to Sub-Item 2.7.2A(5) to permit an existing detached garage/carport to extend a maximum of 3.5' into the required side setback.

**CONDITIONS:**

1. The applicant shall file a site plan (not a survey) with OPD that clearly locates the encroachment of the existing detached garage/carport into the side setback; provide the dimensions, height and square footage of the existing detached garage; and list the three variances with three conditions approved by the Memphis and Shelby County Board of Adjustment on May 23, 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.

AGAINST MOTION: .....0

FOR MOTION: .....6

(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)

NOT VOTING: .....0

3. **DOCKET:** **B.O.A. 18-42**

**APPLICANT:** Carlos Amandor

**PREMISES AFFECTED:** 8847 Oak Hedge Cove

**USE DISTRICT:** Residential Single Family – 15 (R-15) District

**REQUESTING:** Variance from Section 2.7.2A (1+5) to legitimize an existing shed with a zero setback where a 5-foot side setback is required.

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

**THE RESOLUTION:**

**WHEREAS,** Carlos Amandor filed an application with the Board of Adjustment for a variance from Section 2.7.2A (1+5) to legitimize an existing shed with a zero setback where a 5-foot side setback is required; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 TWO (2) VARIANCES AND (3) THREE CONDITIONS**

AGAINST MOTION: .....0

FOR MOTION: .....6  
(Doss, Dow, Jackson, Pritchard, Savage-Townes  
and Rainey)  
NOT VOTING: .....0

**VARIANCES:**

1. Approval of a variance from Paragraph 2.7.2A(1), Accessory Structures, Setbacks, to permit an existing one-story shed to have a zero-side setback along the shared eastern property line with Lot 25 of the Buckstone Subdivision where a 5-foot side setback is required on any side or rear property lines. However, if the existing shed is substantially (50% or more) damaged or destroyed, it shall be rebuilt according to the setback requirements.
2. Approval of a variance to Sub-Item 2.7.2A(5) to permit an existing one-story shed to have a zero-side setback along the shared eastern property line with Lot 25 of the Buckstone Subdivision extend a maximum of 3.5' where no accessory structure shall extend into the required side setback, except for air conditioning and heating units, pool equipment and similar mechanical equipment.

**CONDITIONS:**

1. The applicant shall file a site plan (not a survey) with OPD that clearly locates the existing one-story shed on the eastern shared property line with Lot 25 of the Buckstone Subdivision; provide the dimensions, height and square footage of the existing shed; and list the two variances with three conditions approved by the Memphis and Shelby County Board of Adjustment on May 23, 2018. The site plan shall be drawn at scale to be approved by the Office of Planning and Development.
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.

4. **DOCKET:** **B.O.A. 18-43**

**APPLICANT:** Museum Lofts, LLC

**PREMISES AFFECTED:** 138 Huling Ave.

**USE DISTRICT:** South Main

**REQUESTING:** Variance from the density standards of Item 7.2.2E(2)(a) to allow for a four-story apartment building with parking on ground floor

**APPEARANCES:** Support: Vince Smith

Opposition: None

**THE RESOLUTION:**

**WHEREAS,** Museum Lofts, LLC filed an application with the Board of Adjustment for a use variance from the density standards of Item 7.2.2E(2)(a) to allow for a four-story apartment building with parking on ground floor; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 THREE (3) CONDITIONS**

AGAINST MOTION: .....0

FOR MOTION: .....6

(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)

NOT VOTING: .....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.
2. Elevations shall be submitted for administrative review and approval by the Memphis and Shelby County Office of Planning and Development.
3. All refuse containers shall be completely screened from view from all adjacent properties and all public right-of-way.

5. **DOCKET:** **B.O.A. 18-44**

**APPLICANT:** Charles Shipp

**PREMISES AFFECTED:** 2908 Natchez

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

**REQUESTING:** Variance from Section 3.6.1 to allow a master bath addition to encroach 5’ into the rear yard setback

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

**THE RESOLUTION:**

**WHEREAS,** Charles Shipp filed an application with the Board of Adjustment for a

variance from Section 3.6.1 to allow a master bath addition to encroach 5' into the rear yard setback in the Residential Single Family – 6 (R-6) District; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 TWO (2) CONDITIONS**

AGAINST MOTION: .....0

FOR MOTION: .....6

(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)

NOT VOTING: .....0

**CONDITIONS:**

1. Submit architectural elevations to indicate that the new addition shall be composed of materials that are similar to the existing building to which it is attached.
2. The site plan and elevations shall be stamped as the Approved Plan. Any changes to the

approved plan shall be submitted to the OPD for determination as to process.

6. **DOCKET:** **B.O.A. 18-46**
- APPLICANT:** Marvin Bank
- PREMISES AFFECTED:** Northwest corner of Tulane Rd and Winsor Rd
- USE DISTRICT:** Residential Single Family – 8 (R-8)
- REQUESTING:** Use variance from Section 2.5.2 to allow outdoor events and weddings
- ACTION OF THE BOARD:** Hold for 30 days
- APPEARANCES:** None

**MOTION TO HOLD ON CONSENT:**

- AGAINST MOTION: .....0
- FOR MOTION: .....6  
(Doss, Dow, Jackson, Pritchard, Savage-Townes and Rainey)
- NOT VOTING: .....0

7. **DOCKET:** **B.O.A. 18-48**
- APPLICANT:** Griselda Cortes
- PREMISES AFFECTED:** 4934 Tulane Rd.
- USE DISTRICT:** Residential Single Family – 6 (R-6) District
- REQUESTING:** Use Variance from Section 2.5.2 to allow a mobile home
- ACTION OF THE BOARD:** Rejection
- APPEARANCES:** Support: Tim McCaskill

Opposition: Rhonda Lauderdale  
Charles Wale  
Aaron Campbell  
Mary Akin-Deko  
Jerry Greer

**THE RESOLUTION:**

**WHEREAS**, Griselda Cortes filed an application with the Board of Adjustment for a Use variance from Section 2.5.2 to allow a mobile home in the Residential Single Family – 6 (R-6) District; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **May 23, 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 use variance in the Unified Development Code are being not 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 request will 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 rejected.

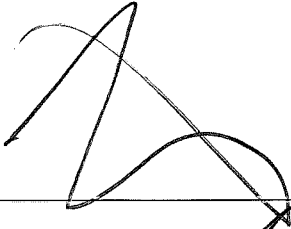
**MOTION FAILED**

AGAINST MOTION: .....6  
(Doss, Dow, Jackson, Pritchard, Savage-Townes  
and Rainey)  
FOR MOTION: .....0  
NOT VOTING: .....0

**ADJOURMENT:**

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

MINUTES APPROVED: June 27, 2018



CHAIRMAN



SECRETARY

