

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

Wednesday, June 27, 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., June 27, 2018

Present:

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

Mr.	Josh Whitehead, Secretary
-----	---------------------------

Also Present:

Mr.	Don Jones, OPD
Mr.	Jeffrey Penzes, OPD
Ms.	Kirstin Jones, OPD
Ms.	Marion Jones, OPD
Ms.	Staci Tillman, 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. 18-46**
- APPLICANT:** Marvin Bank
- PREMISES AFFECTED:** Northwest corner of Tulane Rd and Windsor Rd
- USE DISTRICT:** Residential Single Family – 8 (R-8) District
- REQUESTING:** Use variance from Section 2.5.2 to allow outdoor events and weddings
- ACTION OF THE BOARD:** Approval

THE RESOLUTION:

WHEREAS, Marvin Bank filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow outdoor events and weddings; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 27, 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 seventeen (17) 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 SEVENTEEN (17) CONDITIONS

CONDITION:

1. A revised site plan shall be submitted in compliance with all of the conditions subject to administrative review and approval by the Office of Planning and Development.
2. 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.
3. A site proof fence along west and north side of property shall be 9' in height with a undisturbed 50' buffer. A site proof fence along east property line shall be 6' in height with approved plate B-1 landscaping.
4. Hours of operation:
 - a. Monday – Thursday – 9:00 AM to 8:00 PM
 - b. Friday and Saturday – 9:00 AM to 11:00 PM
5. Attendance: The maximum attendance shall not exceed one hundred-fifty (150) persons on-site at any one time. This total number includes staff.
6. Frequency:
 - a. Any single event including fifty (50) or more persons shall be capped at a maximum of four (4) per month.
 - b. Any single event including one hundred (100) or more persons shall be limited to a maximum of two (2) events per month.
 - c. Only one event at a time is allowed.
7. Delivery of food and event supplies shall under no circumstances utilize semi-trailer trucks.
8. All on-site event parking shall be limited to the areas shown on the site plan.
9. Connect the pavilion, pier, and fire pit with sidewalk from parking area.

10. All private drives shall be constructed to meet pavement requirements of the Subdivision Regulations, applicable City Standards, and provide a minimum width of twenty-two (22) feet.
11. Gating shall be provided at both entrances to secure property.
12. Two permanent signs shall be permitted, provided that the maximum sign area shall be limited to twelve (12) square feet in area and five feet in height. The sign shall not be illuminated internally, but may be illuminated externally. The external light shall only be off during non-operation hours, as defined in Condition 3.
13. Amplified sound shall be configured in a manner to minimize the effect on neighboring properties. Outdoor speakers shall be arranged in a manner that they direct sound towards the designated event areas in order to reduce the transmission distance of the sound. The site plan shall designate a maximum distance line where outdoor speakers can be placed from the event areas.
14. On-site security shall be provided at all events.
15. Alcoholic beverages shall be limited to beer and wine.
16. Lighting shall be arranged/positioned to prevent direct glare onto any public right-of-way or private property.
17. All pole mounted illumination fixtures shall be shielded and positioned to prevent the pole from being illuminated by either direct or reflective light of luminaries.

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING:0

2. **DOCKET:** **B.O.A. 18-45**

APPLICANT: Balton Signs

PREMISES AFFECTED: 3030 Poplar Ave.

USE DISTRICT: Commercial Mixed Use – 1 (CMU-1)

REQUESTING: Variance from Sub-Item 4.9.6E(2)(g)(ii) to permit a digital sign with 36 square feet of sign area within 200 feet of a Residential District zoning line; the digital conversion of two existing signs.

ACTION OF THE BOARD: Approval with conditions

APPEARANCES: Support: Mark Balton
Keenan McCloy

Opposition: David Johnson

THE RESOLUTION:

WHEREAS, Balton Signs filed an application with the Board of Adjustment for variance from Sub-Item 4.9.6E(2)(g)(ii) to permit a digital sign with 36 square feet of sign area within 200 feet of a Residential District zoning line; the digital conversion of two existing signs; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 27, 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 ONE (1) CONDITION

CONDITION:

1. Any change or deviation from the site plan 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:7

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

NOT VOTING:0

3. **DOCKET:** **B.O.A. 18-49**
APPLICANT: Second Chance Fellowship Church / S. Berry Jones
PREMISES AFFECTED: Northwest corner of Latham and Bullington
USE DISTRICT: Residential – 6 (R-6) District
REQUESTING: Variance from Paragraph 2.6.2G(5) to allow a reduction in landscaping buffers at Second Chance Fellowship Church at the NW corner of Latham Street and Bullington Ave.
ACTION OF THE BOARD: Approval with conditions

THE RESOLUTION:

WHEREAS, Second Chance Fellowship Church / S. Berry Jones filed an application with the Board of Adjustment for a variance from Paragraph 2.6.2G(5) to allow a reduction in

landscaping buffers at Second Chance Fellowship Church at the NW corner of Latham Street and Bullington Ave.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 27, 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 8 (EIGHT) CONDITIONS

AGAINST MOTION:0

FOR MOTION:6

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

NOT VOTING:1 (Jackson)

CONDITIONS:

1. A final site plan that meets all the bulk regulations of the UDC shall be submitted to OPD for final approval prior to the issuance of building permits.

an existing but nonconforming sign to remain in use that is greater than 10' in height and less than 10 feet from the street right-of-way; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 27, 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 THREE (3) CONDITIONS

AGAINST MOTION:0

FOR MOTION:7

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

NOT VOTING:0

CONDITIONS:

1. Changeable copy (Digital or LED) signage is not permitted.
2. A site plan depicting existing conditions shall be provided to staff.
 - a. The site plan shall indicate the existing dimensions of the pole sign

- b. The site plan shall indicate the existing dimensions and square feet of the planting area at the sign base.
 - c. Along with any soil preparation, applicant shall plant as a first step a ground cover such as monkey grass or similar material immediately and commit to its maintenance.
 - d. Formal and finished landscaping shall be delayed to the fall of the year, approximately October 15, when a detailed plan that includes non-deciduous shrubs will be presented to staff for review and approval.
 - e. The detailed plan shall include a combination of shrubs and year-round ground cover. The shrubs shall be planted 3-feet on center along the perimeter of the planting area.
 - f. The plan shall include a notarized affidavit committing to the watering schedule of the planting area by the business' staff or community volunteers.
 - g. Said affidavit shall commit the business owner to replace any dead or dying shrubs or planted materials in a timely manner.
3. The survey with the attached affidavit will become part of the approved site plan. Any deviations from the approved site plan must be submitted to the Planning Direction or his/her designee for a determination of process.


ADJOURNMENT:

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

MINUTES APPROVED: July 25, 2018



CHAIRMAN



SECRETARY