

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

June 27, 2012

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 1:30 p.m., Wednesday, June 27, 2012

Present:

Ms. Lynda Raiford "Chairman"
Mr. Raymond Brown
Mr. Frank Colvett, Jr.
Mr. Andre Jones
Mr. Timothy Rainey
Mr. Daniel Dow

Mr.

Josh Whitehead, Secretary

Also Present:

Mr. Brian Bacchus, OPD
Mr. Terry Langlois, OPD
Mr. Greg Love, OPD
Mr. Don Jones, OPD
Mr. Nate Taylor, City Engineer

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous May 23, 2012 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 CASE:

1. **DOCKET:** **B.O.A. 12-17 (COUNTY)**
- APPLICANT:** St. Elizabeth's Episcopal Church
- PREMISES AFFECTED:** **6033 Old Brownsville Road
(Southwest corner of Old Brownsville Road and
Billy Maher Road)**
- USE DISTRICT:** Conservation Agriculture (CA) District
- REQUESTING:** A request appeal of administration decision requiring improvement or cash in lieu of construction for Billy Maher Road and Old Brownsville Road, owner agrees to dedicate right of way for each road to Shelby County.
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant: None
For Opposition: None

THE RESOLUTION:

WHEREAS, St. Elizabeth's Episcopal Church filed an application with the Board of Adjustment on April 30, 2012 by requesting an appeal of administration decision requiring improvement or cash in lieu of construction for Billy Maher Road and Old Brownsville Road, owner agrees to dedicate right of way for each road to Shelby County; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, June 27, 2012 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances Section 9 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 this request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the variation is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE WITH CONDITIONS

AGAINST MOTION: 0

FOR MOTION: 6
 Chairman Raiford, Brown, Colvett, Jr., Murry-Drobot, Jones, and
 Rainey

NOT VOTING: 0

ACTION IS TO APPROVE WITH THE FOLLOWING CONDITIONS

1. Owner agrees to dedicate right of way for each road to Shelby County.
2. Owner agrees to pay \$26,334 towards the improvements for Old Brownsville Road.
3. Owner agrees to pay \$8,452.50 towards the improvements for Billy Maher Road.

NEW CASE:

2. **DOCKET:** B.O.A.12-18 (CITY)
- APPLICANT:** Randal Hartzog
- PREMISES AFFECTED:** 630 S. Perkins Extended
(*Southwest corner of Perkins Extended and Southern Avenue*)
- USE DISTRICT:** Residential Single Family (R-15) District
- REQUESTING:** A variance to replace an existing sign structure with a new structure on the same site and including a digital message center.
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant: Randal Hartzog
For Opposition: None

THE RESOLUTION:

WHEREAS, Randal Hartzog filed an application with the Board of Adjustment on June 6, 2012 requesting a variance to replace an existing, sign structure with a new structure on the same site and including a digital message center; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, June 27, 2012 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances in Chapter 9.22 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 this request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted. Provided, however, that the variation is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE

AGAINST MOTION:0

FOR MOTION:6
Chairman Raiford, Brown, Murry-Drobot, Colvett, Jr., Jones, and
Rainey

NOT VOTING:0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. The site plan shall be revised to show a landscaped area the equivalent of two times the area of the sign at the base of the sign.
2. The requirement for the installation of underground irrigation may be waived if satisfactory evidence is provided to staff that this area will be routinely maintained.

NEW CASE:

3. **DOCKET:**

B.O.A. 12-19 (CITY)

APPLICANT:

Memphis Botanic Garden Foundation, Inc.

PREMISES AFFECTED:

**750 Cherry Road
(East side of Cherry Road between Park Avenue
and Southern Avenue)**

USE DISTRICT:

Residential Single Family (R-15) District

REQUESTING:

Variance to Articles 4.10.6.E & 4.10.7.B to allow the replacement of three (3) existing signs with three (3) new detached LED signs, including a reduction in the required sign setback along Southern Avenue from ten (10) feet to two (2) feet from the right-of-way line

ACTION OF THE BOARD:

Approved

APPEARANCES:

For Applicant: Rob Liddon

For Opposition: None

THE RESOLUTION:

WHEREAS, Memphis Botanic Garden Foundation, Inc. filed an application with the Board of Adjustment on Wednesday, June 6, 2012 requesting variances to Articles 4.10.6.E & 4.10.7.B to allow the replacement of three (3) existing signs with three (3) new detached LED signs, including a reduction in the required sign setback along Southern Avenue from ten (10) feet to two (2) feet from the right-of-way line; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, June 27, 2012 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 standards for variances in Article 9.22.6 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 this request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that this application be and it hereby is granted and the Memphis and Shelby County Building Official shall issue sign permits as granted by these variances. Provided, however, that the variations 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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from granting the application.

MOTION TO APPROVE WITH CONDITIONS

AGAINST MOTION: 0

FOR MOTION: 6
 Chairman Raiford, Brown, Colvett, Jr., Murry-Drobot, Jones, and
 Rainey

NOT VOTING: 0

NEW CASE:

4. **DOCKET:** B.O.A. 12-20 (COUNTY)
APPLICANT: Marvell and Mattie Pearl Harris
PREMISES AFFECTED: 1036 Dent Road
(East side of Dent Road; +/-1,116 feet north of Wexford Road)

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

REQUESTING: A variance to allow a lot width of less than 120 feet, the proposed lot width for Lot 4A is 80.3 feet and Lot 4B is 117.55 feet. The Board also approved a reduction in the required side yard setback from 20 feet to 3.44 feet or side yard setback reduction necessary to accommodate the existing structures situated on lot 4B.

ACTION OF THE BOARD: Approved

APPEARANCES: For Applicant: Cindy Reaves

For Opposition:

THE RESOLUTION:

WHEREAS, Marvell and Mattie Harris filed an application with the Board of Adjustment on June 11, 2012 by requesting a variance to allow lot width less than 120 feet, the proposed lot width from Lot 4A is 80.3 feet and Lot 4B is 117.55 feet; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, June 27, 2012 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances Chapter 9.22 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 this request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that the application be and it hereby is granted and that the decision of the Memphis and Shelby County Building Official be and hereby is overruled. Provided, however, that the variation is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the application.

MOTION TO APPROVE WITH CONDITIONS

AGAINST MOTION:0

FOR MOTION:6

Chairman Raiford, Brown, Colvett, Jr., Murry-Drobot, Jones, and Rainey

NOT VOTING:0

BOA 12-20CC

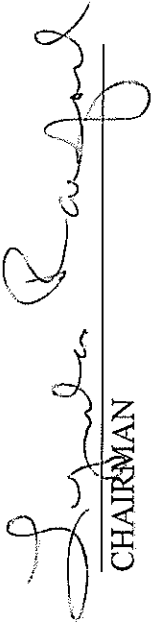
Conditions:

1. As outlined in Rules and Regulations to Govern Subsurface Sewage Disposal Systems Chapter 1200-1-6-.03, areas consisting of fill material shall be excluded from the area considered for the installation of the disposal field unless soil conditions provide for adequate filtration and will prevent outcropping of sewage effluent.
2. Should a new structure, with plumbing, be constructed on lot 4A or 4B a high intensity soils map must be completed for these lots in order to verify that the soil is suitable for a subsurface sewage disposal system as well as a duplicate area for these proposed lots
3. An existing subsurface sewage disposal system was approved for a three (3) bedroom house at 1046 Dent Road to be built on August 25, 1975.
4. Lot 4 located at 1036 Dent Road was approved for the construction of a three (3) bedroom house to be built on October 15, 1986 and the system was updated o August 7, 1995.
5. The minimal lot size must be two acres excluding lakes, ponds, utility easements or similar usage.
6. The County Engineer shall approve the design, number and location of curb cuts.

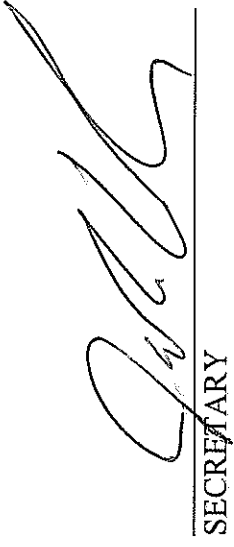
ADJOURNMENT:

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

MINUTES APPROVED: July 25, 2012



CHAIRMAN



SECRETARY