

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

Wednesday, April 24, 2019

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 24, 2019

**Present:**

Mr.	Carson Claybrook
Mrs.	Joy Doss
Mr.	John Jackson, III
Mr.	Aaron Petree
Mr.	Timothy D. Rainey, Chairman
Ms.	Madeline Savage-Townes
Ms.	Portia Trass-Scurlock

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

Mr.	Brian Bacchus, OPD
Mr.	Brett Davis, OPD
Mr.	Don Jones, OPD
Ms.	Marion Jones, OPD
Ms.	Somer Smith, 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.

<b>1. DOCKET:</b>	<b><u>B.O.A. 19-20</u></b>
<b>APPLICANT:</b>	Loeb Properties Inc.
<b>PREMISES AFFECTED:</b>	2264-68 Union Avenue
<b>USE DISTRICT:</b>	Commercial Mixed Use-3 (CMU-3)
<b>REQUESTING:</b>	A variance from paragraph 4.9.15F(6) to allow/legitimize a second detached sign on this site
<b>APPEARANCES:</b>	None
<b>ACTION OF THE BOARD:</b>	Approved with conditions (Consent)

**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. Apply a pole cover or jacket, a minimum width or depth of twelve (12) inches. Color of cover or jacket shall be complementary to the existing building.
3. Add the street address as required under UDC 4.9.6M(6).
4. Revise the site plan to add shrubs, similar to what is existing on the outside edges of the existing landscaped area to the balance of the landscaped area. The site plan shall indicate the species type.
5. In the interior of the landscaped area, the existing grass shall be replaced with a choice of either seasonal plantings and grass or a year-round material such as monkey grass.
6. In lieu of the requirement for in-ground irrigation, owner/applicant shall submit a watering/maintenance schedule to cover the first year of this new planting. The schedule shall be signed and that signature notarized by owner/applicant.
7. Any future portioning of the building that results in the addition of a retail bay(s) shall invalidate this variance. At that point, all detached signage shall be placed on an integrated center sign.

**THE RESOLUTION:**

**WHEREAS**, Loeb Properties, Inc filed an application with the Board of Adjustment for a variance from paragraph 4.9.15F(6) to allow/legitimize a second detached sign on this site; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the sworn testimony of the witnesses 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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Rainey  
and Scurlock)

RECUSED: .....1 (Petree)

ABSENT: .....2 (Malasri and Savage-Townes)

2.     **DOCKET:**                             **B.O.A. 19-29**
- APPLICANT:**                     John D. Smith / same as owner
- PREMISES AFFECTED:**         36 N. Cooper Street
- USE DISTRICT:**                 Single-family home in the Residential Urban-3 (RU-3) and Midtown Overlay Districts
- REQUESTING:**                 Use variance from Section 8.4.7 to allow a Real Estate Closing Office in the Residential Urban-3 (RU-3) and Midtown Overlay Districts
- APPEARANCES:**               John D. Smith (Support)
- ACTION OF THE BOARD:**       Approved with conditions

**Conditions:**

1. A use variance and a parking variance is hereby granted.
2. The subject site shall allow Office (OG) uses specifically for a “real estate closing office” as the principal use along with associated parking.
3. The developer shall be responsible for the construction of an ADA compliant wheelchair ramp at the intersection of N. Cooper and Court Avenue.
4. A 5 to 10-foot landscape buffer that shall include a privacy fence of at least 6 feet in height or equivalent shall be installed along the rear property line subject to the approval of the Office of Planning and Development.
5. The developer shall provide for the closure of one of the curb cuts along Court Avenue.
6. A site plan submitted for review and approval by the Office of Planning and Development shall demonstrate conformance with the approved site plan conditions for BOA 19-29.

**THE RESOLUTION:**

**WHEREAS**, John D. Smith, filed an application with the Board of Adjustment for a use variance from Section 8.4.7 to allow a Real Estate Closing Office in the Residential Urban-3 (RU-3) and Midtown Overlay Districts; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the sworn testimony of the witnesses 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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

**3. DOCKET:** **B.O.A. 19-30**  
**APPLICANT:** Rakesh Patel  
**PREMISES AFFECTED:** 6065 Macon Cove  
**USE DISTRICT:** Employment District (EMP) and BOA 99-011  
(Existing Zoning)

**REQUESTING:** Variance from Sub-Item 4.9.7D(2)(b)(2) to exceed the thirty-five-square foot (35 sq. ft.) maximum for a detached sign on a minor street in the Employment (EMP) zoning district

**APPEARANCES:** None

**ACTION OF THE BOARD:** Approved with condition (Consent)

**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.

**THE RESOLUTION:**

**WHEREAS,** Rakesh Patel filed an application with the Board of Adjustment for a variance from Sub-Item 4.9.7D(2)(b)(2) to exceed the thirty-five-square foot (35 sq. ft.) maximum for a detached sign on a minor street in the Employment (EMP) zoning district; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 24, 2019** after due notice; and

**WHEREAS,** The Board is of the opinion, and finds from the records on file, that the standards for variances 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 conditions on the consent agenda.

**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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

4. **DOCKET:** **B.O.A. 19-31**

**APPLICANT:** Robert Cockerham

**PREMISES AFFECTED:** 610 N. Germantown Pkwy.

**USE DISTRICT:** Commercial Mixed Use (CMU-2) District

**REQUESTING:** Variance from Paragraph 4.9.15F(4) to allow a portion of a nonconforming sign to convert to digital copy

**APPEARANCES:** None

**ACTION OF THE BOARD:** Withdrawn

5. **DOCKET:** **B.O.A. 19-32**

**APPLICANT:** Yaaqob Elshugga

**PREMISES AFFECTED:** 3230 Elvis Presley / 3230 Commercial parkway

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

**REQUESTING:** Use variance from Section 2.5.2 to allow the reuse of a warehouse

**APPEARANCES:** None

**ACTION OF THE BOARD:** Approved as amended with Conditions (Consent)

**Conditions**

1. The site plan shall be updated to show the existing trees along Commercial Parkway. The trees shall be preserved and shall be accepted as a modified S-12 streetscape plate. Any revision to the streetscape on Commercial Parkway shall meet the required landscape conditions, or an equivalent alternative, and shall be submitted to the Planning Director or his designee for approval
2. The site plan shall be updated to show paved and striped parking spaces for employees and tractor trailers in accordance with Chapter 4.5 of the Unified Development Code.
3. The paved parking area shall be maintained in a smooth, well-graded condition in accordance with Paragraph 4.5.5C(1) of the Unified Development Code
4. Trash collection areas shall be screened from public right of way with a fence or wall composed of opaque matte material compatible with the dominant material of the primary building as required by Sub-Section 4.6.8B of the Unified Development Code
5. The nonconforming curb cut on Commercial Parkway shall be modified to meet current City Standards or closed with curb, gutter and sidewalk
6. A 6' wide sidewalk shall be constructed along Commercial Parkway to connect to the existing sidewalk along the street
7. 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

**THE RESOLUTION:**

**WHEREAS**, Yaaqob Elshugga filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow the reuse of a warehouse.; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 24, 2019** after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the records on file, that the standards for variances 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 approved with conditions on the consent agenda.

**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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

6. **DOCKET:** **B.O.A. 19-33**

**APPLICANT:** Michael J. & Joy A. Karel

**PREMISES AFFECTED:** 4900 Mockingbird Lane

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

**REQUESTING:** Variance from Sub-Section 3.6.1A to allow a reduced side yard setback in a Residential Single-Family-6 (R-6) district

**APPERANCES:** None

**ACTION OF THE BOARD:** Approved with condition (Consent)

**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.

**THE RESOLUTION:**

**WHEREAS**, Michael J. & Joy A. Karel filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A to allow a reduced side yard setback in a 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 **Wednesday, April 24, 2019** after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the records on file, that the standards for variances 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 conditions on the consent agenda.

**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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

7. **DOCKET:** **B.O.A. 19-34**
- APPLICANT:** Kerry Clish, Octapharma Plasma, Inc.
- PREMISES AFFECTED:** 3830 Austin Peay Highway (The Goodwill Job Center portion of the building)
- USE DISTRICT:** Commercial Mixed Use-2 and Z 92-106
- REQUESTING:** Conditional use permit for a blood plasma donation center in a portion of an existing building located in an existing shopping center that is zoned Commercial Mixed Use-2 (CMU-2) Zoning District, but is governed by Z 92-106
- APPEARANCES:** None
- ACTION OF THE BOARD:** Approved with conditions (Consent)

**Conditions:**

1. A conditional use permit shall be granted to allow a blood plasma donation center as required by Section 2.5.2, Permitted Use Table, in the CMU-2 zoning district and as required by Z 92-106.
2. The applicant shall file a site plan with OPD that locates the blood plasma donation center within the existing building and the existing shopping center, provides the building dimensions, and lists the conditions approved by the Memphis and Shelby County Board of Adjustment on April 24, 2019. The site plan shall be drawn at scale to be approved by the Planning.
3. 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.
4. 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.

**THE RESOLUTION:**

**WHEREAS**, Kerry Clish, Octapharma Plasma, Inc. filed an application with the Board of Adjustment for a conditional use permit for a blood plasma donation center in a portion of an existing building located in an existing shopping center that is zoned Commercial Mixed Use-2 (CMU-2) Zoning District, but is governed by Z 92-106; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** 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 conditional use permit in the Unified Development Code are being met; and;

**WHEREAS**, The Board has determined that said conditional use permit 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 conditional use permit. Provided, however, that the conditional use permit 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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

8. **DOCKET:** **B.O.A. 19-35 (Companion Case: MLC 19-118)**
- APPLICANT:** Essence Properties, LLC
- PREMISES AFFECTED:** 1595 Court Avenue
- USE DISTRICT:** Two-story stucco and wood frame single family home in ‘Bickford’s Courtland Place’ subdivision in the Residential Urban Historic (RU-3[H]) District
- REQUESTING:** Variance from Sub-Section 3.7.2B to allow a lot with less than the required sq. ft. and building frontage
- APPEARANCES:** None
- ACTION OF THE BOARD:** Approved with conditions (Consent)

**Conditions:**

1. A non-use variance to allow a minimum lot area of 5,225 sq. ft. and a minimum lot width of 35 feet shall be allowed as illustrated on the site plan.
2. A non-use variance to allow a maximum of three (3) off-street parking spaces designed to allow vehicle exit by forward motion shall be illustrated on the site plan.
3. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission and any change or deviation to the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment and the Memphis Landmarks Commission for review and approval or administrative review and approval by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS**, Essence Properties, LLC filed an application with the Board of Adjustment for a variance from Sub-Section 3.7.2B to allow a lot with less than the required sq. ft. and building frontage; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** 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 subject to conditions.

**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.

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey, and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

- 9. **DOCKET:** **B.O.A. 19-36**
- APPLICANT:** 275 Food Project
- PREMISES AFFECTED:** 939 Walker Avenue
- USE DISTRICT:** Campus Master Plan-1 (CMP-1)
- REQUESTING:** Conditional use permit for a container building housing a walk-up restaurant use, Side street yard variance and parking variance.

**APPEARANCES:** None

**ACTION OF THE BOARD:** Approved as amended with conditions (Consent)

**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. Provide one handicapped accessible space to be located behind the proposed building.
3. Provide a detailed landscape and screening plan that:
  - a. Indicates that location and species of trees and shrubs and other green space within the center of the site. 2
  - b. Addresses the screening along the west property line. This treatment shall include any existing mature trees and shrubs and includes a sight proof wooden fence along that property. The wooden fence will vary in height and may include shrubs and trees to provide a screen to the gathering/active areas of the subject site.
  - c. Provides a minimum six-foot-tall sight-proof wooden fence along the south property line.
4. Close the unused section of the curb cut along College Street and replace with curb gutter and sidewalk.
5. Hours of operation are daily from 10:30 a.m. to dusk.
6. If the signature of the abutting property owner is not forthcoming by the April 24, 2019 hearing date, the staff may review and approve a revised site plan for the parcel 01401900007. If the abutting property is subsequently added, that addition of property may be reviewed administratively by staff as long as all of the above conditions are met and no additional variances are needed.

**THE RESOLUTION:**

**WHEREAS**, 275 Food Project filed an application with the Board of Adjustment for a conditional use permit for a Container Building housing a walk-up restaurant use, Side street yard variance and parking variance.; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** 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 conditional use permit in the Unified Development Code are being met; and;

**WHEREAS,** The Board has determined that said conditional use permit 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 subject to conditions.

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

AGAINST MOTION: .....0

FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

10. **DOCKET:** **B.O.A. 19-38**

**APPELLANT(S):** Carr Avenue Homeowners

**PREMISES AFFECTED:** 1360 Carr Ave

**REQUESTING:** Appeal of the Zoning Inspector's finding of no zoning violation

**APPEARANCES:** None

**ACTION OF APPELLANT(S):** Removed



11. **DOCKET:** **B.O.A. 19-41**

**APPLICANT:** Highland Street Investments, LLC

**PREMISES AFFECTED:** 657 South Highland Street, west side, +/-150 feet north of Spottswood Avenue and 3466 & 3470 Spottswood Avenue, north side, +/-183 feet west of South Highland Street

**USE DISTRICT:** Commercial Mixed Use-2 (CMU-2) and Residential Urban-3 (RU-3)

**REQUESTING:** Variances from Sub-Section 8.3.6D to allow building width greater than 75 feet, allow a front setback greater than 7 feet, allow a parking setback abutting single-family of less than 10 feet, waive transparency requirements for the ground floor, and allow ground floor height of less than 14 feet and upper floor height of less than 11 feet; from Paragraph 8.3.10B(3) to allow trash collection within 50 feet of residentially zoned property; from Paragraph 8.3.10E(3) to allow additional parking to be asphalt pavement; from Sub-Section 4.5.5A to allow reduced parking stall widths; from Item 4.5.5D(3)(a) to waive required interior parking islands; from Paragraph 4.5.5D(4) to waive required terminal parking islands; from Item 4.5.5D(6)(a) to waive parking drive aisle landscaping requirements; from Paragraph 4.9.7B(2) to allow a 32-square foot sign on a lot smaller than 2.66 acres; and from Paragraph 4.9.7B(3) to allow a sign greater than 12 square feet to be located within 50 feet of a residential district

**APPEARANCES:**

Support: Cindy Reaves  
Cody Fletcher  
Zach Channing

Opposition: Eddy Chester  
Brian Yoacum

**ACTION OF THE BOARD:** Approved with conditions (Consent)

**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. The key pad for vehicular gate access shall be moved north to a point 40 feet from the southern property line to allow for adequate vehicle queuing space.
3. A space for vehicle turnaround (such as a hammerhead, cul-de-sac, widened driveway, or equivalent) shall be provided in front of the entrance gate.
4. The curb cut and driveway on Spottswood Avenue shall be shifted east so that a minimum of three and a half (3.5) feet of level sidewalk is provided before the pavement slopes down to meet the driveway throat.
5. The dumpster enclosure shall include a screen a minimum of 8 feet high composed of materials compatible with the primary structure.
6. The sign along Spottswood Avenue shall be set back a minimum of 8 feet from the southern property line.

**THE RESOLUTION:**

**WHEREAS**, Highland Street Investments, LLC filed an application with the Board of Adjustment for variance from Sub-Section 8.3.6D to allow building width greater than 75 feet, allow a front setback greater than 7 feet, allow a parking setback abutting single-family of less than 10 feet, waive transparency requirements for the ground floor, and allow ground floor height of less than 14 feet and upper floor height of less than 11 feet; from Paragraph 8.3.10B(3) to allow trash collection within 50 feet of residentially zoned property; from Paragraph 8.3.10E(3) to allow additional parking to be asphalt pavement; from Sub-Section 4.5.5A to allow reduced parking stall widths; from Item 4.5.5D(3)(a) to waive required interior parking islands; from Paragraph 4.5.5D(4) to waive required terminal parking islands; from Item 4.5.5D(6)(a) to waive parking drive aisle landscaping requirements; from Paragraph 4.9.7B(2) to allow a 32-square foot sign on a lot smaller than 2.66 acres; and from Paragraph 4.9.7B(3) to allow a sign greater than 12 square feet to be located within 50 feet of a residential district; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** 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 subject to conditions.

**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.

AGAINST MOTION: .....0

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

RECUSED: .....1 (Claybrook)

ABSENT: .....1 (Malasri)

- 12. **DOCKET:** **B.O.A. 19-43**
- APPLICANT:** Alpha Beta Alumni Association
- PREMISES AFFECTED:** 623 and 627 Jefferson Avenue
- USE DISTRICT:** CBD(H) Medical District Overlay

<b>REQUESTING:</b>	Use variance from Section 2.5.2 to allow a fraternity group home and adjacent parking lot in the CBD(H) Medical District Overlay
<b>APPEARANCES:</b>	None
<b>ACTION OF THE BOARD:</b>	Approved with conditions (Consent)

**Conditions :**

1. The use variance shall allow, in addition to all by-right uses, only the principal use of “Fraternity, Sorority, Dormitory.”
2. All barbed-wire and chain link fencing – along the rear lot line, along the parking lot perimeter, and anywhere else – shall be removed. The fence along the front façade shall be removed. (Please note that any new fencing, if desired, shall require a Certificate of Appropriateness from the Landmarks Commission demonstrating consistency with historic design guidelines.)
3. The planters along the front façade shall be maintained in a state of vegetation. If the current plants are removed, they shall be replaced with native flora.
4. In satisfaction of UDC Item 4.5.5D(1)(a), a purple crepe myrtle shall be planted on the grass strip to the east of the curb cut on Lot 1. (Please note that this tree shall be planted at least two feet from the curb.)
5. In satisfaction of UDC Item 4.5.5D(1)(b), a Class III Buffer shall be installed along the eastern property line of Lot 1. (Please note that any fence or wall shall require a Certificate of Appropriateness.)
6. A revised site plan shall be submitted that meets the required landscape conditions, or an equivalent alternative for administrative review and approval by the Office of Planning and Development.
7. Following approval of the revised site plan, the applicant shall submit an application for the re-recording of the Planters Row II Subdivision 14-001 final plat to reflect the changes represented in that site plan:
  - a. The site plan of the final plat shall be updated to show Lot 1 as shown in the BOA 19-43 site plan.
  - b. The landscape plan of the final plat shall be updated to show Lot 1 as shown in the BoA 19-43 site plan.
  - c. Condition 7 of the final plat shall be removed.

- d. Condition 8 of the final plat shall be amended to read: "Excepting the curb cut on Lot 1, access to Jefferson Street via private drive or driveway is prohibited. Convey right of access to the City of Memphis."
- e. Note 6 shall be amended to read: "Existing curb cuts on Lots 1 & 4 to remain open until completion of houses on these lots. Lot 4 will be used as a construction staging area."
- f. A note shall be added that refers the reader to this variance.

8. In the event that Lot 1 of the Planters Row II Subdivision shall ever be developed as a single-family residence, the final plat of the Planters Row II Subdivision 14-001 shall be re-recorded to revoke all changes in Condition 7.

**THE RESOLUTION:**

**WHEREAS**, Alpha Beta Alumni Association filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow a fraternity group home and adjacent parking lot in the CBD(H) Medical District Overlay.; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **April 24, 2019** 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 subject to conditions.

**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.

AGAINST MOTION: .....0


FOR MOTION: .....6 (Claybrook, Doss, Jackson, Petree, Rainey,  
and Scurlock)

ABSENT: .....2 (Malasri and Savage-Townes)

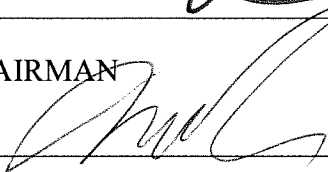
**ADJOURMENT:**

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

MINUTES APPROVED: May 22, 2019

  
\_\_\_\_\_

CHAIRMAN

  
\_\_\_\_\_

SECRETARY