

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

AUGUST 22, 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, August 22, 2012

**Present:**

Mr.	Raymond Brown
Mr.	Jimmy Burditt
Mr.	Frank Colvett, Jr.
Ms.	Lynda Raiford, Chairman
Mr.	Timothy Rainey
Ms.	Mary Sharp, Alternate

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

Mr.	Terry Langlois, OPD
Mr.	Don Jones, OPD
Mr.	Calvin Abram, OPD
Mr.	Nate Taylor, City Engineering
Mr.	Chip Saliba, OPD

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous July 25, 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 12-21 (CITY) (Motion 1)**  
**APPLICANT:** Wes Kraker  
**PREMISES AFFECTED:** 214 Fleur De Lis Cove  
(Approximately 627 feet west of White Station Road)

**USE DISTRICT:** Single Family Residential (R-10) District

**REQUESTING:** To place an accessory structure (outdoor kitchen) in front of the principal structure

**ACTION OF THE BOARD:** Approved

**APPEARANCES:** For Applicant: Cindy Reaves (SR Consulting)  
Tim Disalvo

For Opposition: Troy Drewry  
Rachel Drewry  
Beatrice Wilson

**THE RESOLUTION:**

**WHEREAS,** Wes Kraker filed an application with the Board of Adjustment on July 2, 2012 requesting a variance to allow 4' +/- variation for front and a 3' -4' +/- variation for part of the south side in order to accommodate an open air partially roofed arbor; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 22, 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 requested revision to the approved site plan 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 WITH CONDITIONS:**

AGAINST MOTION: .....0

FOR MOTION: .....5  
Brown, Burditt, Colvett Jr., Rainey, and Sharp

NOT VOTING: .....1  
Chairman Raiford

**ACTION IS TO APPROVE**

1. The owner agrees to minimize the intrusion of lighting into the adjacent properties.
2. The owner will refrain from using the outdoor area between 11:00 pm and 6:00 am.
3. The addition of other accessory structures in the front yard or further expansion of the outdoor kitchen or arbor is not allowed.
4. Evergreen landscaping shall be planted along the front façade of the accessory structure so, within three years of the Board's vote, it is at least six feet in height and dense enough to prevent a view of the accessory structure from the sidewalk.

**NEW CASE:**

1. **DOCKET:** **B.O.A 12-21 (CITY) (Motion 2)**

**APPLICANT:** Wes Kraker

**PREMISES AFFECTED:** 214 Fleur De Lis Cove  
(Approximately 627 feet west of White Station Road)

**USE DISTRICT:** Single Family Residential (R-10) District

**REQUESTING:** To allow a fence/wall over 4' high in the required front yard

**ACTION OF THE BOARD:** Approved

**APPEARANCES:** For Applicant: Cindy Reaves (SR Consulting)  
Tim Disalvo

For Opposition: Troy Drewry  
Rachel Drewry  
Beatrice Wilson

**THE RESOLUTION:**

**WHEREAS**, Wes Kraker filed an application with the Board of Adjustment on July 2, 2012 requesting a variance to allow front yard setback with previous 3 staff conditions on the last motion; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 22, 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 requested revision to the approved site plan 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 WITH CONDITIONS:**

AGAINST MOTION: .....0

FOR MOTION: .....6  
Chairman Raiford, Brown, Burditt, Colvett Jr., Rainey, and  
Sharp

NOT VOTING: .....0

**ACTION IS TO APPROVE**

**NEW CASE:**

1. **DOCKET:** **B.O.A 12-21 (CITY) (Motion 3)**
- APPLICANT:** Wes Kraker
- PREMISES AFFECTED:** 214 Fleur De Lis Cove  
*(Approximately 627 feet west of White Station Road)*
- USE DISTRICT:** Single Family Residential (R-10) District
- REQUESTING:** To place an accessory structure within the required side yard setback
- ACTION OF THE BOARD:** Failed
- APPEARANCES:** For Applicant: Cindy Reaves (SR Consulting)  
Tim Disalvo
- For Opposition: Troy Drewry  
Rachel Drewry  
Beatrice Wilson

**THE RESOLUTION:**

**WHEREAS**, Wes Kraker filed an application with the Board of Adjustment on July 2, 2012 requesting a variance to allow a side yard pavement with arbor subject; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 22, 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 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 requested variance is hereby rejected.

**MOTION TO REJECT**

**AGAINST MOTION:**

.....2  
Rainey and Brown

**FOR MOTION:**

.....4  
Chairman Raiford, Burditt, Colvett Jr. and Sharp

**NOT VOTING:**

.....0

**ACTION IS TO REJECT:**

- 1. An accessory structure within the required side yard.**

**NEW CASE:**

2. **DOCKET:** **B.O.A. 12-23 (CITY)**

**APPLICANT:** Lauderdale Greenlaw, LLC

**PREMISES AFFECTED:** **148 Mill Avenue**

**USE DISTRICT:** High Density Residential (HDR) District

**REQUESTING:** A variance to allow offices uses in a historic neighborhood structure in the Uptown High Density Residential (HDR) District and a parking variance

**ACTION OF THE BOARD:** Approved

**APPEARANCES:** For Applicant: Cindy Reaves

For Opposition:

**THE RESOLUTION:**

**WHEREAS**, The Memphis and Shelby County Building Official rejected an application on August 1, 2012 by Lauderdale Greenlaw, LLC requesting a variance to allow office uses in a significant neighborhood structure in the Uptown High Density Residential (HDR) District; and

**WHEREAS**, Lauderdale Greenlaw, LLC filed an application with the Board of Adjustment on August 1, 2012, by requesting a variance to allow office uses in a significant neighborhood structure in the Uptown High Density Residential (HDR) District; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 22, 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, Burditt, Colvett, Jr., Brown, Rainey,  
and Sharp

NOT VOTING .....0

**ACTION IS TO APPROVE WITH THE FOLLOWING CONDITIONS:**

1. The applicant shall complete a separate application to subdivide parcels one (1) and (2) as identified in staff report; thereby formerly separating proposed office use from the residential land-use.
2. The applicant must obtain, in writing, a shared use agreement for the three (3) shared parking spaces located off-street as identified in the staff report.

**CORRESPONDENCE CASE:**

3. **DOCKET:** B.O.A. 10-28 (CITY)
- APPLICANT:** Macedonia Missionary Baptist Church Hyde Park, Inc.
- PREMISES AFFECTED:** 1444 Austin  
*South side of Griggs Avenue between Austin and Hyde Park Blvd.*
- USE DISTRICT:** Residential Dwelling (R-D) District
- REQUESTING:** A two-year time extension to complete the expansion to the Church Sanctuary
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant:  
For Opposition:

**THE RESOLUTION:**

**WHEREAS**, Macedonia Missionary Baptist Church was approved for a number of setback and related variances on September 22, 2010; and

**WHEREAS**, Macedonia Missionary Baptist Church Hyde Park, Inc. filed an application with the Board of Adjustment for a time extension on August 2, 2012; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on Wednesday, August 22, 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 9.6 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 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.

**ACTION IS TO APPROVE:**

AGAINST MOTION: .....0

FOR MOTION: .....6  
Chairman Raiford, Brown, Burditt, Colvett, Jr., Sharp,  
and Rainey

NOT VOTING: .....0

**ACTION IS TO APPROVE WITH CONDITIONS:**

**Conditions**

1. A detailed landscape and screening plan shall submitted to the Office of Planning and Development for their review and approval prior to submitting this item to Construction Code Enforcement.
2. No Building Permits shall be issued for this project until a time extension for the companion Use Variance Application U.V. 10-13 is addressed by the Memphis and Shelby County Land Use Control Board.

ADJOURNMENT:

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

MINUTES APPROVED: Sept. 26, 2012

Lynne LaRauferd  
CHAIRMAN

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SECRETARY