

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

Wednesday, June 26, 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., June 26, 2019

Present:

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

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Brett Davis, OPD
Mr.	Don Jones, OPD
Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Ms.	Clarke Shupe-Diggs, OPD
Ms.	Somer Smith, OPD
Ms.	Staci Tillman, OPD
Mr.	Chris Simmons, Code Enforcement

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Members not present for the consent agenda vote were Board Members Doss and Scurlock; both were present for cases as listed in this current June 26, 2019 account of minutes. 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. 19-39**
- APPLICANT(S):** Richard Pearce
- PREMISES AFFECTED:** 5122 Crestview Road
- USE DISTRICT:** Conservation Agriculture, Floodway, Floodplain Overlay, Fletcher Creek Overlay, BOA 17-83, BOA 86-93, and SUP 3413
- REQUESTING:** Use variance from Section 2.5.2 to allow the partial filling of a former sand mining operation with limited construction debris including brick, concrete, and dirt
- APPEARANCES:** Support: Scott Pearce
Opposition: Todd Tigner
Jonathan Richards
- ACTION OF THE BOARD:** Approval with Conditions

Conditions:

1. Construction work on the levee (labeled as “area to be filled to elevation 240” on the site plan) to block the pond/lake from draining into the Wolf River should take place as soon as possible. Only proper materials are allowed to be used in the construction of the levee.
2. The applicant shall hire an independent ecological testing firm to study the materials used for fill on the site, including soil borings of the land and potentially under the water to determine the type of fill that exists below grade.
3. An environmental impact statement based on the independent ecological test above shall be performed on the property to determine whether any environmental damage exists and what corrective actions, if any, may be required.
4. The implementation of the environmental impact statement shall be performed by an independent inspection company that reports to the following four entities: Office of Planning and Development, Office of Construction Code Enforcement, Tennessee Department of Environment and Conservation, and the Applicant.
5. The entire cost of conditions 1 through 4 above shall be borne by the applicant.
6. No other work or dumping is allowed to be conducted on the site other than the construction of the levee.

7. The applicant shall report to the Board within four (4) months with its findings during a public hearing.

THE RESOLUTION:

WHEREAS, Richard Pearce filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow the partial filling of a former sand mining operation with limited construction debris including brick, concrete, and dirt; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, June 26, 2019** after due notice; and

WHEREAS, The Board is of the opinion, and finds from the records on file, that the standards for use variances in the Unified Development Code are being met; and;

WHEREAS, The Board has determined that said use 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 seven (7) conditions.

NOW THEREFORE, Be it resolved that the application be and it hereby is granted, in part, for the requested use variance, but its approval is limited to the aforementioned seven (7) conditions. 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, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

RECUSED:1 (Scurlock)

2. **DOCKET:** **B.O.A. 19-56**

APPLICANT(S): Eduardo Sanchez Borja

PREMISES AFFECTED: 569 N. McLean Blvd.

USE DISTRICT: Commercial Mixed Use – (CU-1) District

REQUESTING: Multiple Variances: 1. Required Lot Size; Allow the existing 7,840 sq. ft. where a minimum of 10, 000 sq. ft. is required. 2. Front yard setback; Permit a zero (0) foot setback from McLean where a minimum of 20 is required. 3. Side yard setback abutting Single Family Residential; Permit a 5-foot setback where 10 feet is required. 4. Parking; Reduce the number of required on-site spaces from 20 to 9 spaces

APPEARANCES: None

ACTION OF THE BOARD: Hold for one month

AGAINST MOTION:0

FOR MOTION:6 (Claybrook, Jackson, Malasri, Petree, Rainey, and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

3. **DOCKET:** **B.O.A. 19-40**

APPLICANT(S): Ferrell Properties

PREMISES AFFECTED: 5323 Crestview Road

USE DISTRICT: Conservation Agriculture (CA)

REQUESTING: Use variance from Section 2.5.2 to allow the filling of a former sand mining operation with limited construction debris including brick, concrete, asphalt, dirt, and grubbing

APPEARANCES: None

ACTION OF THE BOARD: Approval to hold for one month (Approved on consent agenda)

AGAINST MOTION:0

FOR MOTION:6 (Claybrook, Jackson, Malasri, Petree, Rainey, and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

4. DOCKET: B.O.A. 19-46

APPLICANT(S): William Mathis / Pep Boys – Prinston Moon

PREMISES AFFECTED: 5115 Park Avenue

USE DISTRICT: Commercial Mixed Use (CMU-1) & B.O.A. 72-267

REQUESTING: Modification to an approved sign variance (Docket BOA 72-267) to legitimize the detached on-premise sign in its existing form

APPEARANCES: None

ACTION OF THE BOARD: Approval with Condition (Approved on 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, William Mathis/Pep Boys – Prinston Moon filed an application with the Board of Adjustment for a modification to an approved sign variance (Docket BOA 72-267) to legitimize the detached on-premise sign in its existing form; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, June 26, 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, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

5. **DOCKET:** **B.O.A. 19-57 (City)**

APPLICANT(S): William A. & Hilary Jones

PREMISES AFFECTED: 1789 Linden Avenue

USE DISTRICT: Residential Single Family Historic (R-6[H]) District

REQUESTING: Variance from Paragraph 2.7.2A(1) to allow a detached accessory garage structure within five (5) feet of a side and rear yard property line

APPEARANCES: None

ACTION OF THE BOARD: Hold for One (1) Month

AGAINST MOTION:0

FOR MOTION:6 (Claybrook, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

6. **DOCKET:** **B.O.A. 19-58**

APPLICANT(S): BilMor, Inc.

PREMISES AFFECTED: 2104 Hillshire Circle

USE DISTRICT: Employment (EMP)

REQUESTING: Variance pursuant to Sub-Section 3.2.9F to allow encroachments into a platted setback and a use variance from Section 2.5.2 to legitimize the continuation of a nonconforming child care center operation due to conflicts that may have occurred with Section 10.2.1 which addresses the authority to continue a nonconforming use

APPEARANCES: None

ACTION OF THE BOARD: Approval with Conditions (Approved on 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. A landscape plan must be submitted for administrative review and approval by the Office of Planning and Development.

THE RESOLUTION:

WHEREAS, BilMor, Inc., filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow encroachments into a platted setback and a use variance from Section 2.5.2 to legitimize the continuation of a nonconforming child care center operation due to conflicts that may have occurred with Section 10.2.1 which addresses the authority to continue a nonconforming use; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 use 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 conditions.

NOW THEREFORE, Be it resolved that the application be and it hereby is granted for the requested variances. Provided, however, that the use 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, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

7. **DOCKET:** **B.O.A. 19-59**
- APPLICANT(S):** Pinkney Family Trust/Sean Hosman
- PREMISES AFFECTED:** 1682 Raynor Street
- USE DISTRICT:** Former Day Care Center in the Residential Urban (RU-1) District
- REQUESTING:** Use Variance from Section 2.5.2 to permit a “social service institution” in a Residential Urban (RU-1) District.
- APPEARANCES:**
- Support: Stacey Books-Mesko
David Pinkney
- Opposition: Councilwoman Jamita Swearengen
Osie Lewis, Jr.
Sandra Whitelow
- ACTION OF THE BOARD:** Approved with Conditions

Conditions:

1. The facility shall be adequately staffed to assist all residents from 8 a.m. – 5 p.m. and from 5 pm to 7 am Monday through Friday and 24 hours on Saturday and Sunday.
2. Include with this approved file, a copy of the property management and residential oversight agreement or operating manual.
3. The hours of resident intake and processing shall be limited to 8 AM-5 PM Sunday through Saturday.
4. All garbage dumpsters on site shall be screened from residential property and the public right-of-way.
5. All physical improvements to the property shall be completed prior to operation and occupancy.
6. This facility shall operate in accordance with all Federal, state, and local statutes, codes and ordinances.

7. Prior to the issuance of building permits, the applicant shall submit an updated site plan that shows compliance with the UDC and any conditions of approval. The site plan shall also list the variance and conditions approved by the Board of Adjustment's on June 26, 2019.
8. 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.
9. The sidewalk shall be inspected for ADA compliance.
10. An S-13 streetscape shall be installed.
11. Close curb-cuts for Lot # 11, 12, 13, 15 and 17.
12. The subject site shall conform to the RU-1 building regulations for conventional housing types.
13. The subject site shall only contain single-family detached conventional type housing.
14. At least 1.0 parking space shall be provided on the site for each bed.
15. All parking areas shall be surfaced with either asphalt, concrete, or some other impervious pavement.
16. Only low ambient lighting shall be used on the subject site including all parking areas.
17. No signs using video technology for a message board shall be allowed on site.
18. This approval contains a two-year sunset. By June 26, 2021, the applicant shall file an application with the Board of Adjustment for a variance to allow the continued use of this property as a social service institution with transient housing which shall include a police report listing any criminal activity at the property for the time period from June 26, 2019- June 26, 2021.
19. Sex offenders are prohibited from occupancy.
20. Internal and external cameras shall be installed at all entrances of the site, including a potential SkyCop camera on or across the street from the site. An application for a SkyCop camera shall be made within 90 days of this approval.
21. No guest will be permitted on site between 9 pm and 8 a.m.

- 22. The maximum number of visitors shall not exceed 14.
- 23. No more than 8 individuals shall reside on site including 1 manager.
- 24. No alcohol is permitted on site.

THE RESOLUTION:

WHEREAS, Pinkney Family Trust/Sean Hosman filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to permit “social service institution” in a Residential Urban (RU-1) zoning district; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 use 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 use 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:3 (Doss, Savage-Townes, and Scurlock)

FOR MOTION:5 (Claybrook, Jackson, Malasri, Petree, and Rainey)

8. **DOCKET:** **B.O.A. 19-60**
- APPLICANT(S):** Reginald Clark & Lamottis Woods
- PREMISES AFFECTED:** 836 Heiskell Place
- USE DISTRICT:** Employment (EMP)
- REQUESTING:** A Use Variance from Section 2.5.2 of the UDC to allow the re-occupancy of a one-story, 12-unit apartment building in the EMP district and a Variance from Section 3.10.2 of the UDC to allow the existing 6,096 sq. ft. where a minimum of 20,000 sq. ft. is required
- APPEARANCES:** None
- ACTION OF THE BOARD:** Approved with Conditions (Approved on Consent)

Conditions:

1. No building permit or Certificate of Occupancy shall be issued until a site plan has been approved by the by the Board of Adjustment or the Office of Planning and Development.
2. A paved, one-way, drive aisle shall be shown on the site plan. The drive aisle shall follow the perimeter of the building and shall be a minimum of 11 feet in width.
3. The rear and side yards shall be lined by a Class I Type A Buffer. Width, plant material, and fencing shall be illustrated on the site plan and comply with Section 4.6.5 of the UDC.
4. A final site plan shall be submitted which lists the variances and conditions approved by the Board of Adjustment and provides the BOA case number.
5. All approvals are made subject to an approved site plan. 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, Reginald Clark & Lamottis Woods filed an application with the Board of

Adjustment for a use variance from Section 2.5.2 of the UDC to allow the re-occupancy of a one-story, 12-unit apartment building in the EMP district and a Variance from Section 3.10.2 of the UDC to allow the existing 6,096 sq. ft. where a minimum of 20,000 sq. ft. is required.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 use 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 use 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:5 (Claybrook, Jackson, Malasri, Petree, and Rainey)

ABSENT:2 (Doss and Scurlock)

NOT VOTING:1 (Savage-Townes)

9. **DOCKET:** **B.O.A. 19-61**

APPLICANT(S): RK Developers LLC (Gautam Malnotra)

PREMISES AFFECTED: 1162 Peabody Avenue

REQUESTING: Variance from the height limit of the adopted Height Map for the Medical District Overlay (MO) and the minimum/maximum building setback, parking location, and minimum parking ratio requirements in the Residential Urban-3 (RU-3) District to allow the development of a four-story, 18-unit apartment building

APPEARANCES: None

ACTION OF THE BOARD: Approved with Conditions (Approved on Consent)

Conditions:

1. A final site plan shall be submitted which lists the variances and conditions approved by the Memphis and Shelby County Board of Adjustment and provides the BOA case number.
2. The stamped site plan shall govern the development of the site. 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. Landscaping shall be provided along the Peabody Avenue frontage that is consistent with the required S-1 Streetscape Plate.
4. Sidewalks shall be inspected for compliance with the Americans with Disabilities Act.

THE RESOLUTION:

WHEREAS, RK Developers LLC (Gautam Malnotra) filed an application with the Board of Adjustment for a variance from the height limit of the adopted Height Map for the Medical District Overlay (MO) and the minimum/maximum building setback, parking location, and minimum parking ratio requirements in the Residential Urban-3 (RU-3) District to allow the development of a four-story, 18-unit apartment building.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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, Jackson, Malasri, Petree, Rainey, and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

10. **DOCKET:** **B.O.A. 19-62**

APPLICANT: R&G of Memphis Inc/Bantam Apartments Holdings, LLC (Mark Vengroff)

PREMISES AFFECTED: 2949 Airways Boulevard

USE DISTRICT: Employment District (EMP)

REQUESTING: 1. Removal of the names of the entities/recipients of the Use Variance, and 2. Increase in the number of units from 145 to 149

APPEARANCES: None

ACTION OF THE BOARD: Approval with Conditions (Approved on Consent)

Conditions:

1. This Use Variance is granted for the conversion of a motel to 149 residential, studio style apartments to serve affordable workforce housing.
2. Each unit shall include a sleeping area, a kitchen area and a bathroom.
3. Provide an S-10 Streetscape Plate or an equivalent along Director's Row and Director's Cove or an equivalent that is acceptable to the Office of Planning and Development.
4. Provide a sight-proof fence, a minimum of six feet in height along the east property line to provide privacy for the rental units.
5. Applicant will work with staff to provide a landscape and screening plan along the balance of the east property line adjacent with the former restaurant use.
6. Remove the existing chain link and barbed wire.
7. Fencing along Director's Row shall include wrought iron or a similar decorative material.
8. Fencing along Director's Cove may be wrought iron or decorative metal. However, staff will consider alternatives to fencing for this frontage based on the addition of landscaping material.
9. The site plan shall indicate all curb cuts. Any curb cut that is not in use shall be closed and reconstructed with curb, gutter and sidewalk.
10. The stamped site plan is the official plan. Any changes to the plan shall be presented to the planning director or his designee to determine the appropriate process for review.

THE RESOLUTION:

WHEREAS, R&G of Memphis Inc/Bantam Apartment Holdings, LLC (Mark Vengroff) filed an application with the Board of Adjustment for removal of the names of the entities/recipients of the use variance, and increase in the number of units from 145 to 149.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 use 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 use 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, Jackson, Malasri, Petree, Rainey, and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

11. **DOCKET:** **B.O.A. 19-63**

APPLICANT: Mahmoud Ghannam

PREMISES AFFECTED: 3451 Jackson Avenue

USE DISTRICT: Commercial Mixed Use-3 (CMU-3)

REQUESTING: Variance from Sub-Section 3.10.2B of the Unified Development Code to permit a proposed convenience store with gasoline pumps to encroach into the 20-foot front setback on Jackson Avenue

APPEARANCES: None

ACTION OF THE BOARD: Approval with Conditions (Approved on Consent)

Conditions:

1. This variance shall allow encroachment only as shown in the approved site plan, per Condition 7.
2. Streetscape Plate S-3 shall be installed and maintained along the perimeter of the parcel. The landscape strip shall be 10 feet wide along Jackson and National, and eight feet wide along Bayliss Avenue. Six trees, Type A, shall be sited on Jackson; nine trees, Type C, shall be sited on National; and five trees, Type C, shall be sited on Bayliss Avenue.
3. A maximum of three curb cuts shall be permitted on this site.
4. A continuous and unobstructed walkway shall lead from the sidewalk to the store's front door.
5. All chain link fencing shall be removed. Guardrails along the two Bayliss Avenue corners shall be removed. The existing sign shall be removed.
6. A bicycle repair stand and air pump, specifications of which shall be approved by the Office of Planning and Development, shall be installed for public use.
7. A revised site plan shall be submitted that conforms with Conditions 2 – 6, or an alternative equivalent, to be approved by the Office of Planning and Development.

THE RESOLUTION:

WHEREAS, Mahmoud Ghannam filed an application with the Board of Adjustment for variance from Sub-Section 3.10.2B of the Unified Development Code to permit a proposed convenience store with gasoline pumps to encroach into the 20-foot front setback on Jackson Avenue.; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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.

NOW THEREFORE, Be it resolved that the application be and it hereby is granted for the requested use 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, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

12. **DOCKET:** **B.O.A. 19-64**
- APPLICANT:** Apple Partners, LLC
- PREMISES AFFECTED:** 76 & 78 Rembert
- USE DISTRICT:** Residential Urban (RU-3) in Midtown District Overlay District
- REQUESTING:** Variances from Chapter 3.4 to allow access for a stacked townhouse to be taken from the front of the

lot and from Sub-Section 3.7.2B to allow a building frontage of 72 percent where 80 percent is required

APPEARANCES: None

ACTION OF THE BOARD: Approved with Conditions (Approved on Consent)

Conditions:

1. A site plan meeting the requirements of Section 8.4.4 shall be submitted to the Office of Planning and Development for approval.
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

THE RESOLUTION:

WHEREAS, Apple Partners, LLC filed an application with the Board of Adjustment for variances from Chapter 3.4 to allow access for a stacked townhouse to be taken from the front of the lot and from Sub-Section 3.7.2B to allow a building frontage of 72 percent where 80 percent is required; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 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 subject to conditions.

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, Jackson, Malasri, Petree, Rainey, and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

13. **DOCKET:** **B.O.A. 19-65 (Modification to B.O.A. 19-15)**

APPLICANT: Springbrook Hospitality, LLC/One stop housing (Mark Vengroff)

PREMISES AFFECTED: 1360 Springbrook Ave

USE DISTRICT: Employment (EMP)

REQUESTING: 1) Removal of the names of the entities/recipients of the use variance, and; 2) Clarification that the installation of sidewalks is not required as a part of the required landscape improvements

APPEARANCES: None

ACTION OF THE BOARD: Approval with Conditions (Approved on Consent)

Conditions:

1. This Use Variance is granted for the conversion of a motel to 140 residential, studio style apartments to serve affordable workforce housing.
2. Each unit shall include a sleeping area, a kitchen area and a bathroom.
3. Provide an S-12 Streetscape Plate along Stonebrook Circle or an equivalent that is

acceptable to the Office of Planning and Development. The installation of sidewalks is not required.

4. Provide an S-10 Streetscape Plate along Sandbrook Street Springbrook Avenue or an equivalent that is acceptable to the Office of Planning and Development. The installation of sidewalks is not required.
5. Remove the existing chain link and barbed wire.
6. Fencing along Sandbrook Street and Stonebrook Circle shall include either a wrought iron fence with landscaping or a sight proof wooden fence with cap.
7. Fencing along Springbrook Avenue shall be wrought iron or similar material.
8. The site plan shall indicate all curb cuts. Any curb cut that is not in use shall be closed and reconstructed with curb and gutter.
9. The stamped site plan is the official plan. Any changes to the plan shall be presented to the planning director or his designee to determine the appropriate process for review.

THE RESOLUTION:

WHEREAS, Springbrook Hospitality, LLC/One Stop Housing (Mark Vengroff) filed an application with the Board of Adjustment for Removal of the names of the entities/recipients of the use variance, and 2. Clarification that the installation of sidewalks is not required as a part of the required landscape improvements; and

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **June 26, 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 use 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 use 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, Jackson, Malasri, Petree, Rainey,
and Savage-Townes)

ABSENT:2 (Doss and Scurlock)

ADJOURNMENT:

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY