

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

Wednesday, October 23, 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., October 23, 2019.

**Present:**

Ms.	Mary Baker
Mr.	John Jackson, III
Mr.	J.T. Malasri
Mrs.	Margaret Pritchard
Mr.	Timothy D. Rainey, Chairman
Ms.	Madeline Savage-Townes, Vice Chair
Ms.	Portia Trass-Scurlock

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

Mr.	Brian Bacchus, OPD
Mr.	Bradyn Carson, Office of Comprehensive Planning
Mr.	Brett Davis, OPD
Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Mrs.	Clarke Shupe-Diggs, OPD
Mr.	Lucas Skinner, OPD
Ms.	Somer Smith, OPD
Ms.	Ayse Tezel, OPD
Mr.	Seth Thomas, OPD

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Jackson made the motion to approve the minutes from the September 25, 2019, Board Meeting; Vice-Chair Savage-Townes Seconded the motion. 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. 19-93 (City)**
- APPLICANT(S):** ALSAC
- PREMISES AFFECTED:** Block bounded by Second, Third, Jackson and Overton
- USE DISTRICT:** Uptown Hospital (UH)
- REQUESTING:**
- 1.) Variance from Sub0Section 4.5.3B to provide a parking ratio of 0.79 per 1-4 bedroom unit where 1.5 is required;
  - 2.) Sub-Section 7.3.8C Uptown Hospital District Density/Intensity to allow 70 units per acre where 30 is required;
  - 3.) Sub-Section 7.3.8D Uptown Hospital District Build-to Lines/Setbacks to provide setbacks of 12.5' from Third Street, 4.3' from Overton Avenue, 0' from Second Street, and 0' from Jackson Avenue
  - 4.) Sub-Section 7.3.8E Uptown Hospital District Building Height to allow a height of 93'1" where there is no other Access and Parking
- ACTION OF THE BOARD:** Hold for one (1) month
2. **DOCKET:** **B.O.A. 19-103 (City)**
- APPLICANT(S):** Kimbrough Towers LLC/Doug Ketchum
- PREMISES AFFECTED:** 1491 Union Avenue
- USE DISTRICT:** Commercial Mixed Use– 3 (CMU-3[H]) and Residential Urban– 6 (RU-6[H]), Midtown Overlay, and Central Gardens Historic District Overlay
- REQUESTING:** Variance from Sub-Item 4.9.7D(3)(b)(2) to allow a digital sign that is higher than 10-feet to encroach +/- 4-feet into the required setback of 10-feet and variance from Sub-Item 4.9.7D(2)(b)(2) to allow a monument sign that exceeds the maximum allowed height by +/- 2-feet
- ACTION OF THE BOARD:** Hold for one (1) month

3. **DOCKET:** **BOA 19-105 (City)**
- LOCATION:** 5122 Crestview Road
- APPLICANT:** Richard Pearce
- USE DISTRICT:** Conservation Agriculture (CA), Floodway, Flood Plain Overlay, and Fletchers Creek Overlay
- REQUEST:** Final site plan approval for the partial filling of former sand mining operation with limited construction debris, based on conditions of Docket Number BOA 19-39
- ACTION OF THE BOARD:** Hold for one (1) month
4. **DOCKET:** **BOA 19-106 (City)**
- LOCATION:** Southwest corner of Jackson Avenue and North Manassas Street
- APPLICANT:** ALSAC
- USE DISTRICT:** (MU) District
- REQUEST:**
- 1.) Variance from Section 7.3.11 to permit one (1) temporary parking lot in the MU District;
  - 2.) Variance from Paragraph 7.3.10(1) to except the temporary parking lots from being organized into a series of small bays and permitting the driveways to be wider than 24 feet in width;
  - 3.) Variance from Paragraph 4.5.5D(2) to except the temporary parking lots from providing interior landscaping as it applies to the landscaping and types of islands;
  - 4.) Variance from Sub-Section 4.4.8 to permit the City Engineer's Office to review and approve the queuing space depth; and
  - 5.) Variance from Paragraph 4.6.7E(5) to permit the maximum length of continuous, unbroken fence or wall abutting a public ROW to exceed 100 feet
- ACTION OF THE BOARD:** Hold for one (1) month

5. **DOCKET:** **BOA 19-97 (City)**
- LOCATION:** 4266 Opportunity Road
- APPLICANT:** Otis Howard, Jr. and Diane Howard
- USE DISTRICT:** Conservation Agriculture (CA) District
- REQUEST:** Conditional Use Permit to allow a mobile home and a Variance from Sub-Section 3.1.4A to allow two (2) principal structures on a lot
- ACTION OF THE BOARD:** Approval with two (2) conditions

**Conditions:**

1. A Conditional Use Permit is hereby approved for a mobile home to be located on the same tract or lot as the single family home for a period of fifteen (15) years with an expiration date being October 23<sup>rd</sup>, 2034 and subject to Health Department approval for sewer connection or a septic system.
2. The final site plan shall be subject to review and approval by staff and any change or deviation to 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**, Otis Howard, Jr. and Diane Howard filed an application with the Board of Adjustment for a Conditional Use Permit to allow a mobile home and a variance from Sub-Section 3.1.4A to allow two (2) principal structures on the same lot, and:

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23, 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.

**NOW THEREFORE,** Be it resolved that the application be and it hereby are 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock )

RECUSED: .....0

6. **DOCKET:** **B.O.A. 19-99 (City)**

**APPLICANT(S):** Auto Glass Co. of Memphis, Inc

**PREMISES AFFECTED:** 1945 Union

**USE DISTRICT:** Commercial Mixed Use -3 (CMU-3) Midtown Overlay District

**REQUESTING:** Variance from Paragraph 3.1.4B(1) and Sub-Section 4.9.8A to allow the expansion of Jack Morris Auto Glass on a site with a nonconforming off-premise sign; and variance from Paragraph 8.4.10B(2) to allow the enlargement of a nonconforming metal sided building that would increase the degree of the existing non-conformity

**ACTION OF THE BOARD:** Approval with Conditions

**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 revised site plan with landscaping and other site elements detailed shall be submitted for review and approval by the Office of Planning and Development.
3. A minimum six (6)-foot in height site-proof wooden fence shall be installed along the eastern property line in the area adjacent to the existing school playground.
4. The westernmost non-conforming detached on-premise sign shall be removed.

5. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The applicant shall be responsible for any reconstruction or repair necessary.
6. The site shall be allowed to retain the two existing curb cuts.
7. This variance shall not grant any rights to the off-premise sign(s) on the property which shall remain nonconforming.

**THE RESOLUTION:**

**WHEREAS**, Auto Glass Co. of Memphis, Inc filed an application with the Board of Adjustment for a variance from Paragraph 3.1.4B(1) and Sub-Section 4.9.8A to allow the expansion of Jack Morris Auto Glass on a site with a nonconforming off-premise sign; and Variance from Paragraph 8.4.10B(2) to allow the enlargement of a nonconforming metal sided building that would increase the degree of the existing non-conformity; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23**, 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.

**NOW THEREFORE**, Be it resolved that the application be and it hereby are 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:.....7 (Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....1 (Baker)

7. **DOCKET:** **B.O.A. 19-100 (City)**
- APPLICANT(S):** Derek and Hallie Kelly
- PREMISES AFFECTED:** 256 N. Brenrich Cove
- USE DISTRICT:** Residential -6 (R-6) and PD 96-343
- REQUESTING:** To allow encroachment into the 20 feet side-yard setback allowed by recorded plat
- ACTION OF THE BOARD:** Approval with one (1) condition

**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.

**THE RESOLUTION:**

**WHEREAS,** Derek and Hallie Kelly filed an application with the Board of Adjustment to allow encroachment into the 20 feet side-yard setback allowed by recorded plat; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23,** 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.

**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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

8. **DOCKET:** **B.O.A. 19-101 (City)**

**APPLICANT(S):** Sprint c/o Pyramid Network Services

**PREMISES AFFECTED:** 2225 Union Avenue

**USE DISTRICT:** Commercial Mixed Use-3 (CMU-3), Midtown Overlay

**REQUESTING:** Modification to docket BOA 78-033 to allow the replacement of three (3) existing cellular service antennas with three (3) new cellular service antennas and legitimize the tower and equipment from an accessory use to legally permitted structure

**ACTION OF THE BOARD:** Approval with one (1) Condition

**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.

**THE RESOLUTION:**

**WHEREAS,** Sprint c/o Pyramid Network Services filed an application with the Board of Adjustment for a modification to Docket BOA 78-033 to allow the replacement of three existing cellular service antennas with three new cellular service antennas and legitimize the tower and equipment from accessory use to legally permitted structure; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23, 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 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

9. **DOCKET:** **B.O.A. 19-108 (City)**

**APPLICANT(S):** Kathryn Leopard

**PREMISES AFFECTED:** 329 Buena Vista

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

**REQUESTING:** Variance from Paragraph 2.7.2A(1) to allow an accessory structure to be located closer than 5ft. to any side or rear property line; and Variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit on a lot less than 10,000 sf.

**ACTION OF THE BOARD:** Approval with Conditions

**Conditions:**

1. The accessory structure shall be permitted to encroach 0.33ft. into the 5ft. side setback and 2.66ft into the 5ft. rear setback.
2. Any exterior changes to the structure shall be approved by the City of Memphis Landmarks Commission. An application shall be filed and approved by the Memphis Landmarks Commission before any permits are issued.

3. 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**, Kathryn Leopard filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2A(1) to allow an accessory structure to be located closer than 5ft. to any side or rear property line, and variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit on a lot less than 10,000 sf.; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23, 2019**, after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from 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 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 are granted for the 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

10. **DOCKET:** **B.O.A. 19-98 (City)**
- APPLICANT(S):** Loeb Realty, L.P/Loeb Properties, Inc
- PREMISES AFFECTED:** 6 South Cooper Street
- USE DISTRICT:** Commercial-Mixed use (CMU-3), Midtown District Overlay (MD), and BOA 17-27
- REQUESTING:** Variance from Item 4.9.15F(1)(c) to allow the continuation of a non-conforming pole sign
- ACTION OF THE BOARD:** Approval with Conditions

**Conditions:**

1. The site plan shall be revised to show a landscaped area around the immediate base area of the sign.
2. The owner/applicant shall apply a pole cover or jacket, a minimum width or depth of twelve (12) inches to the permitted sign. The color of the cover or jacket shall be complementary to the existing building.
3. The street address of the building shall be posted as required under UDC 4.9.6M(6).
4. 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,** Loeb Realty, L.P/Loeb Properties, Inc an application with the Board of Adjustment for a variance from Item 4.9.15F(1)(c) to allow the continuation of a non-conforming pole sign; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23, 2019**, after due notice; and

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

**WHEREAS,** The Board has determined that said variance would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

**WHEREAS**, The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is approved with conditions on the consent agenda.

**NOW THEREFORE**, Be it resolved that the application be and it hereby is granted for the variance. Provided, however, that the variance 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey,  
Savage-Townes, and Scurlock)

RECUSED: .....0

11. **DOCKET:** **B.O.A. 19-102 (City)**

**APPLICANT(S):** Charles C. Shoaf III and Paula L. Sawyer

**PREMISES AFFECTED:** 1956 Dunn Avenue

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

**REQUESTING:** Use variance from Section 2.5.2 to allow the continuation of contractor’s storage outdoor

**APPEARANCES:** Support: Charles C. Shoaf III

Opposition: Elbert Bowdens

**ACTION OF THE BOARD:** Approval with one (1) Condition

**Conditions:**

1.) This appeal shall be effective until October 23, 2020, at which time it shall expire.

**THE RESOLUTION:**

**WHEREAS**, Charles C. Loaf III and Paula L. Sawyer filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow the continuation of contractor’s storage outdoor; and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday October 23, 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 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: 0

- 12. **DOCKET:** **B.O.A 19-104 (City)**
- APPLICANT(S):** Makowsky Ringel Greenberg, LLC
- PREMISES AFFECTED:** 1270 Madison Avenue
- USE DISTRICT:** Commercial Mixed Use-3 with Medical Overlay District; and Commercial Mixed Use-1 with Medical Overlay District

**REQUESTING:** Variance from Sub-Section 8.2.5C to increase the maximum front setback from 15 feet to 65 feet, and to reduce the minimum ground floor transparency along Madison from 60% to 30%

**APPEARANCES:** Support: Vince Thillen (ETI) and Curt Pierce (Fleming Architects)

Opposition: None

**ACTION OF THE BOARD:** Approval with Conditions

**Conditions:**

1. The building façade must be located within a seven- to fifteen-foot setback area for a minimum of 40% of the lot width along Madison.
2. The building façade must be located within 65-foot maximum setback for a minimum of 80% of the lot width along Madison.
3. That portion of the Madison façade required to be within the seven- to fifteen-foot setback area by Condition 1 shall have a minimum ground floor transparency of 60%. The remainder of the Madison façade shall have a minimum ground floor transparency of 30%.
4. All chain link fencing and gates shall be removed. No chain link shall be permitted on this site.
5. All unused curb cuts shall be closed with curb, gutter, and streetscaping.
6. Any railing associated with the commercial use at the southeast corner shall be of a material similar to that of the railings of the upper-story balconies. Any retaining wall on said corner shall be limited to a maximum height of four (4) feet.
7. A landscape plan shall be submitted that illustrates landscape buffers, streetscapes, parking area landscaping, and a unique and outstanding courtyard design, to be reviewed and approved by the Office of Planning and Development.
8. The applicant shall demonstrate compliance with these conditions and all other requirements of the Unified Development Code through the Administrative Site Plan Review process.

**THE RESOLUTION:**

**WHEREAS**, Makowsky Ringel Greenberg, LLC filed an application with the Board of Adjustment for a variance from Sub-Section 8.2.5C to increase the maximum front setback from 15 feet to 65 feet, and to reduce the minimum ground floor transparency along Madison from 60% to 30%; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, October 23, 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 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: 0

13. **DOCKET:** **B.O.A. 19-107 (City)**

**APPLICANT(S):** Eduardo Sanchez Borja

**PREMISES AFFECTED:** 569 N. Mclean

**USE DISTRICT:** Commercial Mixed Use -1 (CMU-1), Residential Corridor (RC) Overlay

**REQUESTING:** Variances from Sub-Section 3.10.2B to allow a mixed-use apartment building with a lot area of 7,840.8 sf. Where 10,000 sf. is required, a 0ft. front setback where 20ft is required, a 0ft. side setback abutting single family residential where 10ft. is required, 0ft. side setback abutting an alley where 5ft is required; and Variance from Paragraph 4.6.8B(3) to allow a service area to be closer than 25ft to an abutting property in a single family district

**APPEARANCES:** Support: Brenda Solomito Basar and Dru Reynolds

Opposition: Ashlee Rivalto, John Leach, and Bryce Hendry

**ACTION OF THE BOARD:** Approval with conditions

**Conditions:**

- 1.) No parking or any other accessory use associated with the ground floor Commercial Use shall be permitted to encroach into the Residential Corridor Overlay
- 2.) One parking space in the northern section of the parking lot shall be reserved for commercial parking.
- 3.) A modified Class III buffer shall be installed along the perimeter of the parking area.
- 4.) The dumpster enclosure shall be enclosed by an opaque fence and shall not be accessible from the alley. Trash collection shall occur internally from the parking lot.
- 5.) A final site plan shall be submitted to the Office of Planning and Development indicating the boundary of the Residential Corridor.
- 6.) A final landscape plan shall be submitted to the Office of Planning and Development's east office for administrative approval.
- 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**, Charles C. Loaf III and Paula L. Sawyer filed an application with the Board of Adjustment for a Variance from Sub-Section 3.10.2B to allow a mixed-use apartment building with a lot area of 7,840.8 sf. Where 10,000 sf. Is required, a 0ft. front setback where 20ft. is required, a 0ft. side setback abutting single family residential where 10ft. is required, and a 0ft. side setback abutting an alley where 5ft. is required; and Variance from Paragraph 4.6.8B(3) to allow a service area to be closer than 25ft. to an abutting property in a single family district; and;

**WHEREAS**, a public hearing was postponed on this application by the Board at its regular meeting on **Wednesday October 23, 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 are granted for the 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:.....8 (Baker, Claybrook, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: 0

**ADJOURMENT:**

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

MINUTES APPROVED: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY