

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

Wednesday, December 18, 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., December 18, 2019.

**Present:**

Ms.	Mary Baker
Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	John Jackson, III
Mr.	J.T. Malasri
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.	Brett Davis, OPD
Mr.	Jeffrey Penzes, OPD
Ms.	Teresa Shelton, OPD
Ms.	Clarke Shupe-Diggs, OPD
Mr.	Lucas Skinner, OPD
Ms.	Somer Smith, OPD
Mr.	Seth Thomas, OPD
Mr.	Robert Rowling, Asst. County Attorney

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 November 20, 2019, Board Meeting; Claybrook 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. 19-105 (City)**  
**APPLICANT(S):** Richard Pearce  
**PREMISES AFFECTED:** 5122 Crestview Road  
**USE DISTRICT:** Conservation Agriculture (CA), Floodway, Flood Plain Overlay, and Fletchers Creek Overlay  
**REQUESTING:** 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

**13. DOCKET:** **B.O.A. 19-126 (City)**  
**APPLICANT(S):** Rosecrest LLC  
**PREMISES AFFECTED:** 45 South Idlewild  
**USE DISTRICT:** Residential Urban -4 (RU-4), Midtown Overlay, PD 82-018, SUP 95-208, SUP 01-219, and SUP 06-218  
**REQUESTING:** Variances from 8.45B(b), 8.4.5B(1)(c), 8.4.5B(1)(a), and 4.5.3B dealing with front setback, building height, amount of parking spaces, and design of building frontage  
**ACTION OF THE BOARD:** Hold for one (1) month

**14. DOCKET:** **B.O.A. 19-127 (City)**  
**APPLICANT(S):** Kimbrough LLC  
**PREMISES AFFECTED:** southeast corner of Union and Kimbrough  
**USE DISTRICT:** (R-6), Central Hardens Historic District, BOA 78-095, and BOA 85-113

**REQUESTING:** Use variance from Dection 2.5.2 to legitimize the existing parking, drive isle, and a porte cochere associated with the apartment building that lies within the Residential Single Family -6 District; variance from Sub-Section 3.2.10B to legitimize the following existing encroachments +/-5.4 feet into the front setback, and variance from 4.5.3 to legitimize the existing on-site parking ratio that is deficient by 56 spots-172 required 116 provided

**ACTION OF THE BOARD:** Hold for one (1) month

**15. DOCKET:** **B.O.A. 19-128 (City)**

**APPLICANT(S):** Blair Tower LLC

**PREMISES AFFECTED:** 810 Washington Avenue

**USE DISTRICT:** Residential Urban -4 (RU-4), Medical District Overlay (Z 06-117)

**REQUESTING:** Variances from Section 8.2.4 and Sub-Section 8.2.6A to legitimize existing, “as built” non-conformities. These include ground floor residential apartments and exceeding maximum building height

**ACTION OF THE BOARD:** Hold for one (1) month

**19. DOCKET:** **B.O.A. 19-132 (City)**

**APPLICANT(S):** Mars Hill Baptist Group/ Neejar Kumar

**PREMISES AFFECTED:** 235 West Shelby Drive

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

**REQUESTING:** Variance from Sub-Section 3.6.2A to permit existing church building rear setback encroachment

**ACTION OF THE BOARD:** Hold for one (1) month

12. **DOCKET:** **B.O.A. 19-124 (City)**
- APPLICANT(S):** Keithely Enterprises, Inc
- PREMISES AFFECTED:** 657 Baltic Street
- USE DISTRICT:** Residential Urban (RU-1) District
- REQUESTING:** Use Variance from Section 2.5.2 to allow the continuation of contractor's storage, outdoor with accessory commercial parking
- ACTION OF THE BOARD:** Hold for two (2) months
5. **DOCKET:** **B.O.A. 19-117 (City) (Correspondence to Docket BOA 18-32)**
- APPLICANT(S):** Commerce Center LP/ Grubb Properties, LLC
- PREMISES AFFECTED:** 2542 Broad Avenue
- USE DISTRICT:** Employment (EMP)
- REQUESTING:** Variance from Sub-Section 3.10.2B to allow a 0' front setback, 5' side setbacks, and 5' rear setback
- ACTION OF THE BOARD:** Approval with conditions

**Conditions:**

1. The existing curb cut on Broad Avenue shall be permitted to remain open.
2. Ground floor commercial shall not be required.
3. The parking ratio shall be a minimum of 1.1. The ratio shall include on-street parking.
4. The building shall have the following setbacks: 0' front setback, 5' side setbacks, and a 5' rear setback.
5. A final site plan including, but not limited to, dimensions, landscaping, elevations, and other site elements shall be submitted for administrative review and approval by the Office of Planning and Development. Any change or deviation from the approved conditions shall be submitted to the Board of Adjustment for review and approval.

**THE RESOLUTION:**

**WHEREAS**, Commerce Center LP/ Grubb Properties, LLC filed an application with the Board of Adjustment for a variance from Sub-Section 3.10.2B to allow 0’ front setback, 5’ side setbacks, and 5’ rear setback, and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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:.....7 (Baker, Claybrook, Doss, Jackson, Pritchard, Rainey, and Savage-Townes)

RECUSED: .....1 (Malasri)

- 6. **DOCKET:** **BOA 19-118 (City)**
- LOCATION:** 2925 Walker Avenue
- APPLICANT:** Scovell Walker Huey
- USE DISTRICT:** Residential Single-Family -6 (R-6)

**REQUEST:** Variance from Item 2.7.2D(1)(b) to exceed the maximum allowed square footage of 700 sq. ft. for an accessory dwelling unit

**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.

**THE RESOLUTION:**

**WHEREAS,** Scovell Walker Huey filed an application with the Board of Adjustment for a variance from Item 2.7.2D(1)(b) to exceed the maximum allowed square footage of 700 sq. ft. for an accessory dwelling unit; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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:.....8 (Baker, Claybrook, Doss, Jackson, Malasri, Pritchard, Rainey, and Savage-Townes)

RECUSED: .....0

7. **DOCKET:** **BOA 19-119 (City) (companion case to S 19-28)**

**LOCATION:** 1348 Madison Ave

**APPLICANT:** Delinor Smith

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

**REQUEST:** Variance from Sub-Section 3.10.2B to allow a lot width of 42' in the CMU-3 zoning district where 50' is required

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

**Conditions:**

1. A final plat shall be submitted to the Office of Planning and Development reflecting the proposed lots.

**THE RESOLUTION:**

**WHEREAS,** Delinor Smith filed an application with the Board of Adjustment for variance from Sub-Section 3.10.2B to allow a lot width of 42' in the CMu-3 zoning district where 50' is require; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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 sign 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 Doss, Jackson, Malasri, Pritchard, Rainey, and Savage-Townes)

RECUSED: .....0

8.     **DOCKET:**                                     **BOA 19-120 (City)**

**LOCATION:**                                   1044 South Yates Road

**APPLICANT:**                             Erling Jensen Restaurant LLC

**USE DISTRICT:**                         Office General (OG), BOA 77-138, BOA 92-06, BOA 96-14, and UV 10-06

**REQUEST:**                               Modification to Docket BOA 96-14 to allow expansion of the principle structure

**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. The existing mechanical equipment and/ or utility appurtenance adjacent to Murray Avenue that is currently fence on three sides (east, north, and west) with a site-proof wooden fence shall also be screened with a site-proof wooden fence or gate on the south side.
3. This entitlement shall not be subject to the comments from City Engineering included herein.

**THE RESOLUTION:**

**WHEREAS**, Erling Jensen Restaurant LLC filed an application with the Board of Adjustment for a modification to Docket BOA 96-14 to allow expansion of the principle structure, and:

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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:.....8 (Baker, Claybrook, Doss, Jackson, Malasri, Pritchard, Rainey, and Savage-Townes)

RECUSED: .....0

- 9. **DOCKET:** **B.O.A. 19-121 (City)**
- APPLICANT(S):** William and Julia Gibbons
- PREMISES AFFECTED:** 1591 Harbert Avenue
- USE DISTRICT:** Residential Single Family Historic (R-6[H]) District

**REQUESTING:** Variance from Sub-Section 3.6.1A to allow a rear yard setback of one (1) foot for the principle structure

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

**Conditions:**

1. A bulk variance to allow a one-story 1,145.25 sq. ft. addition one (1) foot from the rear property line shall be constructed adjacent to a public alley, subject easement encroachments, local and national clearance requirements by MLGW.
2. 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,** William and Julia Gibbons filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A to allow a rear yard setback of one (1) foot for principal structure, and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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:.....8 (Baker, Claybrook, Doss, Jackson, Malasri, Pritchard, Rainey, and Savage-Townes)

RECUSED: .....0

10. **DOCKET:** **B.O.A. 19-122 (City)**

**APPLICANT(S):** GFK Construction, Inc

**PREMISES AFFECTED:** 4973 Verne Road

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

**REQUESTING:** Variance from Item 4.2.5C(1)(b) to allow required parking to be located within the required front setback

**ACTION OF THE BOARD:** Approval with conditions 1

**Conditions:**

1. The driveway may be no wider than 16 feet at the right-of-way.
2. 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.
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**, GFK Construction, Inc filed an application with the Board of Adjustment for variances from Item 4.2.5C(1)(b) to allow required parking to be located within the required front setback; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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 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, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

11. **DOCKET:** **B.O.A. 19-123 (City)**

**APPLICANT(S):** Issac and Maria Choy

**PREMISES AFFECTED:** south side of Thor between Cassabella and Milano Coves

**USE DISTRICT:** Conservation Agriculture (CA), Residential -6 (R-6), PD 18-027, and PD 98-399

**REQUESTING:** Variances from Sub-Section 3.6.1A which establishes the front yard setback for homes within the CA district shall be 60 feet; and Sub-Section 3.6.2A, which establishes that the parking setback within the CA district shall be 60 feet

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

**Conditions:**

- 1. Grading and Drainage plan be submitted to Engineering.

**THE RESOLUTION:**

**WHEREAS**, Isaac and Maria Choy filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A which establishes the front yard setback for homes within the CA district shall be 60 feet; and Sub-Section 3.6.2A, which establishes that the parking setback within the CA district shall be 60 feet; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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 variances. 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, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

16. **DOCKET:** **B.O.A. 19-129 (City)**

**APPLICANT(S):** First Horizon National Corporation

**PREMISES AFFECTED:** 1750 North Germantown Parkway

**USE DISTRICT:** CA

**REQUESTING:** variance from Sub-Section 2.7.1A of the Unified Development Code to allow the ATM/Canopy, accessory structures, without the principle structure present

**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. Landscaping shall be provided along the N. Germantown Parkway frontage and Dexter Road that is consistent with the S-10 Plate.

**THE RESOLUTION:**

**WHEREAS,** First Horizon National Corporation filed an application with the Board of Adjustment for a variance from Sub-Section 2.7.1A of the Unified Development Code to allow the ATM/ Canopy, accessory structures, without the principle structure present; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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 variances. 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, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

18. **DOCKET:** **B.O.A. 19-131 (City)**

**APPLICANT(S):** Alan W. Moltz

**PREMISES AFFECTED:** 1650 Getwell Road and New Willow Road

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

**REQUESTING:** Modify the conditions of approval of Docket BOA 19-45 to allow parking and access changes to the existing lot

**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 maximum of two commercial curb cuts are approved for this site.
3. The City Engineer shall determine the size and location of the curb cuts and shall suggest which of the two curb cuts is most appropriate for ingress and egress.
4. The applicant shall close any nonconforming curb cuts and install curb, gutter and sidewalk.
5. Sidewalks shall be inspected for compliance with the Americans with Disabilities Act.

**THE RESOLUTION:**

**WHEREAS**, Alan W. Moltz filed an application with the Board of Adjustment for a Site Plan Modification to the conditions of approval of Docket BOA 19-45 to allow parking and access changes to the existing lot; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 18, 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 variances. 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, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

- 2 DOCKET:** **B.O.A. 19-110 (City)**
- APPLICANT(S):** Richard B. Gaston/ Charles H. Richardson, Jr.
- PREMISES AFFECTED:** 1032 West Perkins and 1047 Perkins Terrace
- USE DISTRICT:** Residential (R-10)

**REQUESTING:** To appeal an administrative decision by the Office of Construction Code Enforcement to issue a citation for violating Sub-Section 2.6.1F operating a house for recovering addicts

**APPEARANCES:** Support: Caleb Brooks, Amanda Walker, Robert Lundin, Porter Field, Nicolas Oddo, Joseph Gaston, Rufus Baker, Rozalyn Hinely, Judy Groft, Jay Corruan, and Chasity Owens

Opposition: Brandon Ellenburg and Joe Sankey

**ACTION OF THE BOARD:** Failed

**THE RESOLUTION:**

**WHEREAS,** Richard B. Gaston/ Charles H. Richardson, Jr. filed an application with the Board of Adjustment to appeal an administrative decision by the Office of Construction Code Enforcement to issue a citation for violating Sub-Section 2.6.1F operating a house for recovering addicts; and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday December 18, 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 not being met; and;

**WHEREAS,** The Board has determined that said variance would 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 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 rejected.

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

FOR MOTION:.....0

RECUSED: .....0

**SECOND RESOLUTION:**

**WHEREAS,** The Board hereby remands this case to Environmental Court.

AGAINST MOTION:.....0

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

RECUSED: .....0

**3. DOCKET:** **B.O.A. 19-111 (City)**

**APPLICANT(S):** Clearview Residences

**PREMISES AFFECTED:** 8218, 8222 and 8226 Town and Country Drive

**USE DISTRICT:** Residential Urban (RU-3)

**REQUESTING:** To appeal an administrative decision by the Office of Construction Code Enforcement to issue a citation for violating Sub-Section 2.6.1F operating a house for recovering addicts

**APPEARANCES:** Support: Porter Field, Rufus Baker, Rozalyn Hinely  
Robert Lundin, Nicolas Oddo, Joseph Gaston  
Judy Groft, Jay Corrian, Caleb Brook, and Porter Field

Opposition: None

**ACTION OF THE BOARD:** Failed

**THE RESOLUTION:**

**WHEREAS,** Clearview Residences filed an application with the Board of Adjustment to appeal an administrative decision by the Office of Construction Code Enforcement to issue a citation for violating Sub-Section 2.6.1F operating a house for recovering addicts; and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday December 18, 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 not being met; and;

**WHEREAS**, The Board has determined that said variance would 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 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 rejected.

AGAINST MOTION OF APPROVAL:.....8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

FOR MOTION OF APPROVAL: .....0

RECUSED: .....0

**SECOND RESOLUTION:**

**WHEREAS**, The Board hereby remands this case to Environmental Court.

AGAINST MOTION:.....0

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

RECUSED: .....0

**4. DOCKET: B.O.A. 19-114 (City)**

**APPLICANT(S):** Aundra L. White

**PREMISES AFFECTED:** 956 S. Third Street

**USE DISTRICT:** Commercial Mixed Use-1 (CMU-1) and Residential Urban-3 (RU-3)

**REQUESTING:** Use variance from Section 2.5.2 to allow vehicle sales

**APPEARANCES:** Support: None

Opposition: Dennis Ratledge and W. Ray Jamieson

**ACTION OF THE BOARD:** Hold for one (1) month

**17 DOCKET:**

**B.O.A. 19-130 (City)**

**APPLICANT(S):**

Teen Care, LLC

**PREMISES AFFECTED:**

634 Leacrest Ave

**USE DISTRICT:**

Residential -6

**REQUESTING:**

Conditional Use Permit for a rooming house

**APPEARANCES: Support:**

David Bray and Sean Burke

Opposition:

Charles Everett

**ACTION OF THE BOARD:**

Passed

**Conditions:**

1. All chain link shall be removed. Any new fencing shall be of high-quality material.
2. One tree, type A, shall be installed in the front yard.
3. A site plan shall be submitted that demonstrates compliance with these conditions, to be reviewed and approved by the Office of Planning and Development.
4. This rooming house shall meet all relevant state licensing requirements, to be confirmed by the Office of Planning and Development.
5. This rooming house shall be owned and/ or operated by Mr. Sean Burke, a company or organization that is owned by no less than 30% by Mr. Sean Burke.

**THE RESOLUTION:**

**WHEREAS**, Teen Care, LLC filed an application with the Board of Adjustment for a Conditional Use Permit for a rooming house; and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday December 18, 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 OF APPROVAL:.....0

FOR MOTION OF APPROVAL: .....8 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

**20. DOCKET:** **B.O.A. 19-133 (City)**

**APPLICANT(S):** Anastasia Davis

**PREMISES AFFECTED:** 2489 Park Avenue

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

**REQUESTING:** Use Variance from Section 2.5.2 to allow a crematorium

**APPEARANCES:** Support: Anastasia Davis

Opposition: Charles Johnson, Rev. Reggie Tucker, Esther Cook, Magaret Barnes, Denise Green, Ann Morris, Hazel Glover, Claudett Boyd, Jamita Swearinger, Reginald Milton, and Angela Barksdale

**ACTION OF THE BOARD:** Failed

**THE RESOLUTION:**

**WHEREAS**, Anastasia Davis filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow a crematorium; and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday December 18, 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 not being met; and;

**WHEREAS**, The Board has determined that said variance would 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 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 rejected.

AGAINST MOTION OF APPROVAL:.....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, and Savage-Townes,)

FOR MOTION OF APPROVAL: .....0

RECUSED:.....0

<b>21. DOCKET:</b>	<b><u>B.O.A. 19-134 (City)</u></b>
<b>APPLICANT(S):</b>	Shelly Rorie/ A Dwelling Place, LLC
<b>PREMISES AFFECTED:</b>	618 Looney
<b>USE DISTRICT:</b>	Moderate-Density Residential (MDR)
<b>REQUESTING:</b>	Use variance from Section 7.3.11 to allow an assisted living facility
<b>APPEARANCES:</b>	Support: Shelly Rorie
	Opposition: Stephanie Walker, Meegan Adair, and Leon Freeman
<b>ACTION OF THE BOARD:</b>	Failed

**THE RESOLUTION:**

**WHEREAS**, Shelly Rorie/ A Dwelling Place Place, LLC filed an application with the Board of Adjustment for a use variance from Section 7.3.11 to allow an assisted living facility; and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday December 18, 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 not being met; and;

**WHEREAS**, The Board has determined that said variance would 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 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 rejected.

AGAINST MOTION OF APPROVAL:.....4 (Baker, Claybrook, Doss, and Jackson)

FOR MOTION OF APPROVAL: .....2 (Malasri and Rainey)

RECUSED:.....1 (Savage-Townes)

**ADJOURMENT:**

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY