

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

Wednesday, January 22, 2020

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., January 22, 2020.

Present:

Ms.	Mary Baker
Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
Ms.	Madeline Savage-Townes, Vice Chair
Ms.	Portia Trass Scurlock

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
Mr.	Lucas Skinner, OPD
Ms.	Somer Smith, OPD
Mr.	Seth Thomas, OPD
Ms.	Esther Sykes-Woods, County Attorney's Office
Ms.	Felecia Campbell, Office of Construction Code Enforcement

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Savage-Townes made the motion to approve the minutes from the December 18, 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 Fischer 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ACTION OF THE BOARD: Withdrawn

5. **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 (ZC-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ACTION OF THE BOARD: Withdrawn

3. **DOCKET:** **B.O.A. 19-126 (City)**

APPLICANT(S): Rosecrest, LLC

PREMISES AFFECTED: 45 South Idlewild Street

USE DISTRICT: Residential Urban -4 (RU-4), Midtown Overlay, PD 82-018, SUP 95-208, SUP 01-219, and S

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: Approval with conditions, as amended

Conditions:

1. Any change or deviation from the site plan or exterior architectural details or finishes of the buildings 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. This entitlement shall not subject to the comments from City Engineering include herein.
3. Building height will be allowed “as-built.”

THE RESOLUTION:

WHEREAS, Rosecrest, LLC filed an application with the Board of Adjustment for 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, and:

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

4. DOCKET: B.O.A. 19-127 (City)

APPLICANT(S): Kimbrough, LLC

PREMISES AFFECTED: Southeast corner of Union Avenue and Kimbrough Street

USE DISTRICT: Commercial Mixed Use -3 (CMU-3), Residential Single Family -6 (R-6), Central Gardens Historic District, BOA 78-095, and BOA 85-113

REQUESTING: Use variance from Section 2.5.2 to legitimize the existing parking, drive aisle, 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, +/-3 feet into the side (street) setback, and +/-6.2 feet into the rear setback; and variance from Section 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: Approval with conditions

Conditions:

1. Any change or deviation from the site plan or exterior architectural details or finishes of the buildings 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. This entitlement shall not subject to the comments from City Engineering included herein.

THE RESOLUTION:

WHEREAS, Kimbrough, LLC filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to legitimize the existing parking, drive aisle, 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, +/-3 feet into the side (street) setback, and +/-6.2 feet into the rear setback; and variance from Section 4.5.3 to legitimize the existing on-site parking ratio that is deficient by 56 spots—172 required 116 provided and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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 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 (Baker, Claybrook, Doss, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

7. DOCKET: B.O.A. 20-1 (City)

APPLICANT(S): Obispo Ramos-Ledezma

PREMISES AFFECTED: 735 N. Holmes Street

USE DISTRICT: Residential Urban -1 (RU-1)

REQUESTING: Variance from Item 3.7.2B to allow an interior side setback of 3’ where 5’ is required and a rear setback of 8’ where 20’ is required

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. The addition shall be constructed of brick or other masonry material consistent with the principle structure.
2. The concrete drive shall be continued into the rear yard and shall connect to the vehicle entrance of the garage.
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, Obispo Ramos-Ledezma filed an application with the Board of Adjustment for a variance from Item 3.7.2B to allow an interior side setback of 3’ where 5’ is required and a rear setback of 8’ where 20’ is required and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

10. DOCKET: **B.O.A. 20-4 (City)**

APPLICANT(S): Carlos Ortiz

PREMISES AFFECTED: 2499 Haisch Road

USE DISTRICT: Residential Single Family -6 (R-6), Residential Urban -1 (RU-1), and Commercial Mixed Use -2 (MU-2)

REQUESTING: Encroachment into platted front yard pursuant to Sub-Section 3.2.9F

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. Any change or deviation from the site plan or exterior architectural details or finishes of the building 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, Carlos Ortiz filed an application with the Board of Adjustment for an encroachment into platted front yard pursuant to Sub-Section 3.2.9F and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

11. DOCKET: **B.O.A. 20-5 (City)**

APPLICANT(S): Overton High School/Reginald R. Williams

PREMISES AFFECTED: 1770 Lanier Lane

USE DISTRICT: Residential -6 (R-6), SUP 98-218

REQUESTING: Variance from Sub-Item 4.9.6E(2)(g)(iii) to replace existing sign with digital new and improved sign

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 digital portion of the sign shall be dimmed at times of low light (evenings, cloudy, etc.)

THE RESOLUTION:

WHEREAS, Overton High School/Reginald R. Williams filed an application with the Board of Adjustment for a variance from Sub-Item 4.9.6E(2)(g)(iii) to replace existing sign with digital new and improved sign and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

13. DOCKET: B.O.A. 20-7 (City)

APPLICANT(S): Eric A. Clauson/Revocable Trust

PREMISES AFFECTED: 621 S. Willett Street

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

REQUESTING: Variance from Paragraph 2.7.2B(2); Item 2.7.2D(1), and Paragraph 2.7.2D(6) to allow an accessory garage/dwelling unit to encroach into the required rear yard setback and to exceed the maximum height and floor area

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. Non-use variances to allow a maximum height of thirty-two and a half (32.5) feet; rear yard setback of three and a half (3.5) feet and a maximum sq. ft. of 1,640 sq. ft. for an accessory garage/dwelling unit as illustrated on the floor plans and survey.
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, Eric A. Clauson/Revocable Trust filed an application with the Board of Adjustment for a Variance from Paragraph 2.7.2.B(2); Item 2.7.2.D(1), and Paragraph 2.7.2D(6) to allow an accessory garage/dwelling unit to encroach into the required rear yard setback and to exceed the maximum height and floor area and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

14. **DOCKET:** **B.O.A. 20-8 (City) (Correspondence to Dockets BOA 65-22 (CO) and BOA 68-75 (City)**

APPLICANT(S): Wheel Estate MHP Memphis TN, LLC

PREMISES AFFECTED: 1520 E. Brooks Rd

USE DISTRICT: Employment (EMP) District

REQUESTING: Modification of BOA 65-22 (CO) and 65-75 (City) to legitimize the expansion of Wheel Estates

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 final site plan shall be submitted for administrative review and approval by the Office of Planning and Development that incorporates the entire mobile home park.
3. The entire mobile home park, as shown on the final site plan, is hereby approved.

THE RESOLUTION:

WHEREAS, Wheel Estate MHP Memphis TN, LLC filed an application with the Board of Adjustment for a modification of BOA 65-22 (CO) and 65-75 (City) to legitimize the expansion of Wheel Estates and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

2. **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: Tawanda Schife
Opposition: Dennis Rutledge and Bruce Brooks

ACTION OF THE BOARD: Failed

THE RESOLUTION:

WHEREAS, Aundra L. White filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow vehicle sales, and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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 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 rejected.

AGAINST MOTION TO APPROVE:4 (Baker, Malasri, Rainey, and Scurlock)

FOR MOTION TO APPROVE:3 (Claybrook, Doss, and Savage-Townes)

RECUSED:0

6. **DOCKET:** **BOA 19-132 (City)**

LOCATION: 235 W. Shelby Drive

APPLICANT: Mars Hill Baptist Group/Neeraj Kumar

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

REQUEST: Variance from sub-Section 3.6.2A to permit encroachment of existing church building into the rear setback, a variance from Paragraph 2.6.2G(3) to permit offsite parking, and a variance from Paragraph 2.6.2G(5) for a class II buffer along any residential lines

APPEARANCES: Support: Kenny Jones and Coretta Jones

Opposition: Eileen Spain, Debbie Kemp, and Kristina Kemp

ACTION OF THE BOARD: Approval with conditions, as amended

Conditions:

1. A 6-foot sight proof fence shall be erected on the western and eastern perimeters of the existing church property, in lieu of the Class II buffer, to provide privacy to the abutting residential home.
2. A Class III Type B buffer shall be placed along the western, southern, and eastern sides of the parking area to provide privacy to the nearby residences. Existing vegetation shall be utilized when possible.
3. The City Engineer shall approve the design, number and location of curb cuts.
4. Prior to forwarding this item to the Office of Construction and Code Enforcement, the applicant shall submit a final Site Plan to the Office of Planning and Development to indicate the 6-foot sight proof fence and Class III Type B landscape buffer for the parking area
5. 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.
6. The church shall provide a parking attendant on duty during Sunday service and special events to ensure parking is in accordance with the site plan.

THE RESOLUTION:

WHEREAS, Mars Hill Baptist Group/Neeraj Kumar filed an application with the Board of Adjustment for variances from Sub-Section 3.6.2A to permit encroachment of existing church building into the rear setback, a variance from Paragraph 2.6.2G(3) to permit offsite parking, and a variance from Paragraph 2.6.2G(5) for a class II buffer along any residential lines, and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

- 8. **DOCKET:** **BOA 20-2 (City)**
- LOCATION:** 1615 Union Avenue
- APPLICANT:** Valvoline Instant Oil Change
- USE DISTRICT:** Commercial-Mixed Use -3 (CMU-3), with Midtown District Overlay

REQUEST: Variance from:

- Bickford’s Union Terrace Subdivision to permit an encroachment into the platted front setback, per Sub-Section 3.2.9F
- Section 8.4.11 to reduce the minimum width of the required streetscape plate

APPEARANCES: Support: Cindy Reaves
Opposition: Robert Gordon

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

9. **DOCKET:** **BOA 20-3 (City)**

LOCATION: Henry Ave, N. Front St., and Saffarans Ave

APPLICANT: Keel Street, LLC and Wolf River Harbor Holdings, LLC

USE DISTRICT: Industrial (IH), Heavy Industrial/Flood Plain (IH/FP), and High Density Residential (HDR)

REQUEST: Use variance from Section 2.5.2 and bulk variances from Sections 4.3.2 and 3.10.2B to allow redevelopment of two parcels

APPEARANCES: Support: Mike Fahy
Opposition: Charles Belenky

ACTION OF THE BOARD: Approval with conditions, as amended

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 building height not to exceed eighty feet (80’) for both parcels.
3. There shall be a modified landscape plate along N. Front Street frontage of the Conwood North parcel subject to approval by the Office of Planning and Development.

4. There shall be a 0' side yard setback along Saffarans Ave. and Keel Ave., and a 0' rear yard setback along the railroad frontage for both parcels as shown on graph for Conwood South and Conwood North. Also reduce the required front setback to 10 feet along N. Front Street for Conwood North and South (both) parcels (see pg. 8 & 9)

THE RESOLUTION:

WHEREAS, Keel Street, LLC and Wolf River Harbor Holdings, LLC filed an application with the Board of Adjustment for a use variance from Section 2.5.2 and bulk variances from Sections 4.3.2 and 3.10.2B to allow redevelopment of two parcels and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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 (Baker, Claybrook, Doss, Rainey, Savage-Townes, and Scurlock)

RECUSED:1 (Malasri)

12. **DOCKET:** **B.O.A. 20-6 (City) (Correspondence to Docket BOA 18-10)**

APPLICANT(S): Gerardo Romero

PREMISES AFFECTED: 4200-10 Prescott Rd

USE DISTRICT: Residential Single-Family -8 (R-8) and BOA 18-10

REQUESTING: Time extension to Docket Number BOA 18-10 to allow horses on a permanent basis

APPEARANCES: Support: Luis Romero
Gerardo Romero (didn't speak)

Opposition: None

ACTION OF THE BOARD: Approval with one (1) condition, as amended

Conditions:

1. All horses shall be removed from the premises within six (6) months.

THE RESOLUTION:

WHEREAS, Gerardo Romero filed an application with the Board of Adjustment for a time extension to Docket Number BOA 18-10 to allow horses on a permanent basis and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, January 22, 2020**, 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 Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

15. **DOCKET:** **B.O.A. 19-134 (City) (originally filed as SUP 19-32)**

APPLICANT(S): Shelly Rorie/A Dwelling Place, LLC

PREMISES AFFECTED: 618 Looney

USE DISTRICT: Moderate-Density Residential (MDR)

REQUESTING: Petition to rehear a request for a use variance from Section 7.3.11 to allow an assisted living facility

APPEARANCES: Support: Shelly Rorie and Daryl Brown

Opposition: None

ACTION OF THE BOARD: Passed

THE RESOLUTION:

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

WHEREAS, The Board is of the opinion, and finds from the records on file, that a rehearing is warranted in this case.

AGAINST MOTION:.....1 (Baker)

FOR MOTION:.....5 (Claybrook, Doss, Malasri, Rainey, and Scurlock)

RECUSED:1 (Savage-Townes)

ADJOURMENT:

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

MINUTES APPROVED:_____

CHAIRMAN

SECRETARY