

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

Wednesday, February 26, 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., February 26, 2020.

**Present:**

Ms.	Mary Baker
Mr.	Carson Claybrook
Ms.	Joy Doss
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
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
Mr.	Brett Ragsdale, OPD
Ms.	Teresa Shelton, OPD
Mr.	Lucas Skinner, OPD
Ms.	Somer Smith, OPD
Mr.	Seth Thomas, OPD
Ms.	Robert Rowling, County Attorney's Office

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A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Claybrook made the motion to approve the minutes from the January 22, 2020, Board Meeting. 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. 19-124 (City)**
- APPLICANT(S):** Keithely Enterprises, Inc
- PREMISES AFFECTED:** 657 Baltic Street
- USE DISTRICT:** Residential Urban (RU-1) District
- REQUESTING:** Use Variance to allow the continuation of contractor's storage, outdoor and accessory commercial parking
- ACTION OF THE BOARD:** Approval with conditions

**Conditions:**

1. A Use Variance to allow a contractor's storage, outdoor with commercial vehicle parking shall be permitted incorporating the provisions for Items 4.8.4.B(3)(a)&(b) for General Outdoor Storage. The landscaping shall be as illustrated on the site plan.
2. The fence along Baltic Street shall be setback thirteen (13) feet from the right-of-way line of Baltic Street. The dilapidated fencing shall be removed and replaced; including new landscaping installed within the front yard setback.
3. The existing sidewalk shall be repaired and the sidewalk shall be inspected for ADA compliance and internal circulation shall be maintained to the adjacent office building.
4. The existing curb-cut shall be maintained with a wood gate six (6) feet in height to open as illustrated on the site plan.
5. 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,** Keithely Enterprises, Inc filed an application with the Board of Adjustment for a Use Variance to allow the continuation of contractor's storage, outdoor and accessory commercial parking and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

4. **DOCKET:** **B.O.A. 20-9 (City)**

**APPLICANT(S):** Jackson Mystik Inc

**PREMISES AFFECTED:** 3795 Jackson Avenue

**USE DISTRICT:** Commercial Mixed Use -3 (CMU-3), BOA 78-70

**REQUESTING:** Modification to BOA 78-70 to continue the site as a gas station with retail bays; variance from UDC Item 2.6.3J(1)(f) to allow a gas station at an intersection not consisting of an arterial and a collector

**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 5-foot brick wall on the eastern side of the lot shall be included into the Class III buffer, with an additional 1-foot height of wood pickets added to satisfy the required 6-foot wall height.
3. Any existing sidewalks shall be inspected and updated to comply with ADA standard.
4. The site shall have 2 curb cuts along Jackson Avenue and 1 curb cut along Gragg Avenue. Any other cuts shall be closed.
5. 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 Class III Type B landscape buffers along the eastern and northern property lines.

**THE RESOLUTION:**

**WHEREAS**, Jackson Mystik Inc. filed an application with the Board of Adjustment for a modification to BOA 78-70 to continue the site as a gas station with retail bays; variance from UDC Item 2.6.3J(1)(f) to allow a gas station at an intersection not consisting of an arterial and a collector and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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: .....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**6. DOCKET: B.O.A. 20-14 (City/County)**

**APPLICANT(S):** Michael A. Lightman & Steven L. Black

**PREMISES AFFECTED:** North side of Raleigh LaGrange Rd, approximately 1800 feet west of Pisgah Rd

**USE DISTRICT:** Conservation Agriculture (CA) – BOA 2014-30 CO

**REQUESTING:** 1) Variance from 9.7.7I(1) to allow a 3-year Time extension to 15-lot subdivision (OPD Case No. S 14-004) and;  
2) 3-year Time extension (BOA 2014-30 CO) to create a lot without road frontage

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

**Conditions:**

Lots

1. Setback of any residential structure from Raleigh-LaGrange Road shall be 80 feet.
2. Plat must show the required finish floor elevations at least 2 feet above the 100 year base flood elevations shown on the FEMA flood map.
3. A FEMA LOMR-F (letter of map revision) is to be applied for and approve by FEMA case number and the new 100 year floodplain boundary is to be shown on the plat.

4. The Memphis and Shelby County Health Department and the Shelby County Fire Department shall sign the Final Plat indicating approval of individual septic tanks for each lot and that adequate fire protection has been provided to the site
5. All common opens space lots shall be labeled as COS with appropriate letter. All commons open space shall be owned and maintained by a Home Owners Association. A Master Deed setting up the association shall be recorded prior to the recordation of the Final Plat and the instrument number for the Deed shall be indicated on the Final Plat.
6. The preliminary/outline plan shall reflect a minimum 25-fppt rear yard, exclusive of the easement along the natural drainage way, as well as a buildable area and front yard

#### Roads

7. Dedicate 30 feet from centerline of Raleigh-LaGrange Road in accordance the requirements of the Unified Development Code.
8. All private drives/rear service drives shall be constructed to meet pavement requirements of the Unified Development Code, applicable City Standards, and provide a minimum width of twenty feet (20’).
9. A driveway culver table is required on the plat of all lots.
10. Lots 1 and 13 shall convey their right of access to Shelby County Government. The only direct access to Raleigh Lagrange Road shall be via the private drive.
11. The following note shall be added to the Final Plat that “The City or County has absolutely no obligation or intention to ever accept such streets as public right-of-way.”

#### Environmental

12. Location of the floodplain compensating storage for filling in the floodplain as required by the Memphis and Shelby County drainage manual must be identified before plat approval.
13. An appropriate stream buffer restricting any earthwork needs to be show on the plat.
14. Plat must demonstrate compliance with the Tree ordinance, Chapter 6.1 of the Unified Development Code.
15. Add a note to the area identified as Floodway :no fill allowed in this area”
16. Add a note on the plat stating that all maintenance of Mary’s Creek to keep it flowing properly is the responsibility of the property owners abutting the creek.
17. Plat shall demonstrate conformance with Chapter 6.3 Steep Slope Protection of the UDC.

**THE RESOLUTION:**

**WHEREAS**, Michael A. Lightman and Steven L. Black filed an application with the Board of Adjustment for variances from 1) variance from 9.7.7I(1) to allow a 3-year Time extension to 15-lot subdivision (OPD Case No. S 14-004) and 2) 3-year Time extension (BOA 2014-30 CO) to create a lot without road frontage, and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

<b>7. DOCKET:</b>	<b><u>B.O.A. 20-15</u></b>
<b>APPLICANT(S):</b>	Thomas R. Gill
<b>PREMISES AFFECTED:</b>	3625 Covington Pike
<b>USE DISTRICT:</b>	Residential Urban -2
<b>REQUESTING:</b>	Major Modification to BOA 81-80 to permit all office uses
<b>ACTION OF THE BOARD:</b>	Approval with conditions

**Conditions:**

1. All office uses shall be permitted in addition to by-right uses.
2. The site shall either be brought into conformance with the existing approved site plan or a revised site plan shall be submitted to the Office of Planning and Development that conforms with the development standards of the Unified Development Code or an equivalent alternative, subject to administrative review and approval.
3. Any sidewalk along Scheibler Road or Covington Pike that is in disrepair shall be repaired or replaced.

**THE RESOLUTION:**

**WHEREAS**, Thomas R. Gill filed an application with the Board of Adjustment for a Major Modification to BOA 81-80 to permit all office uses and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**8. DOCKET:** **B.O.A. 20-16 (City)**

**APPLICANT(S):** Alison Restivo

**PREMISES AFFECTED:** 2511 Yale Avenue

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

**REQUESTING:** Variance from Sub-Section 3.6.1A of the Unified Development Code and Item 4.5.2C(1) to encroach into the front setback of the property

**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. Parking pad should be constructed using concrete, brick, or a combination of the two.

**THE RESOLUTION:**

**WHEREAS,** Alison Restivo filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A of the Unified Development Code and Item 4.5.2C(1) to encroach into the front setback of the property and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

<b>9. DOCKET:</b>	<b><u>B.O.A. 20-17 (City)</u></b>
<b>APPLICANT(S):</b>	Merge Memphis, Inc
<b>PREMISES AFFECTED:</b>	1755 Eldridge Avenue
<b>USE DISTRICT:</b>	Residential Urban -1
<b>REQUESTING:</b>	Use variance from Section 2.5.2 to allow a social service institution
<b>ACTION OF THE BOARD:</b>	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. This approval is limited to the principal uses of group shelter and shelter for the homeless and accessory uses which are customary and incidental to said principal uses.
3. A final site plan shall be submitted for administrative review and approval by the Office of Planning and Development including, but not limited to, landscaping, refuse container location and enclosure, parking spaces, fencing, etc.
4. All chain-link fencing must be removed from the site.
5. A site-proof wooden fence of at least six (6) feet in height shall be added along the eastern, southern, and western property boundary in order to screen the area behind the front façade of the principle structure.
6. This entitlement shall not be subject to the comments from City Engineering included herein.

**THE RESOLUTION:**

**WHEREAS**, Merge Memphis, Inc filed an application with the Board of Adjustment for use variance from Section 2.5.2 to allow a social service institution and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**10. DOCKET: B.O.A. 20-18 (City)**

**APPLICANT(S):** Ashley Bonds

**PREMISES AFFECTED:** 444 Stonewall Street

**USE DISTRICT:** Residential Historic (R-6[H]) District Overlay in Evergreen Historic District

**REQUESTING:** Variance from Paragraph 2.7.2B(2) to allow a side yard encroachment of one-and-a-half (1'-6") feet for an accessory garage structure

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

**Conditions:**

1. A non-use variance shall be allowed for a side yard setback of three-and-a-half feet along the north property line for a garage structure as illustrated site plan.
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**, Ashley Bonds filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2B(2) to allow a side yard encroachment of one-and-a-half (1’-6’’) feet for an accessory garage structure and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**2. DOCKET:** **B.O.A. 20-2 (City)**

**APPLICANT(S):** Valvoline Instant Oil Change

**PREMISES AFFECTED:** 1615 Union Avenue

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

**REQUESTING:**

Variances from:

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

**ACTION OF THE BOARD:**

Approval with conditions

**APPEARANCES:**

Support: Cindy Reaves  
Richard Giegos

Opposition: Gordon Alexander  
Charles Belenky  
Keith Kays  
Robert Gordon  
Natalie Cathey  
Nicki Neuberger

**(Did not speak)**

Mark Jones  
Berry Jones  
Cary Schwartz  
June West

**Conditions:**

1. The Midtown District general frontage standards shall apply. A masonry frontage wall may be included in the calculation of minimum building frontage.
2. The applicant shall provide a minimum 15-foot streetscape plate, including a 10-foot landscape strip and a five-foot sidewalk. The landscape strip shall include three native Type A trees. A pedestrian easement shall be recorded for that section of the streetscape that is not within the right-of-way.
3. The owner shall record a shared access easement with a minimum paving width of 22 feet along this site's eastern border. This shall serve as the site's single curb cut and driveway.
4. The applicant shall submit a revised site plan that demonstrates compliance with these conditions, all other development regulations, and the conceptual site plan – or an equivalent alternative – to be approved by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS**, Valvoline Instant Oil Change filed an application with the Board of Adjustment for variances from 1) Bickford’s Union Terrace Subdivision to permit an encroachment into the platted front setback, per Sub-Section 3.2.9F, and 2) Section 8.4.11 to reduce the minimum width of the required streetscape and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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 TO APPROVE: .....1 (Baker)

FOR MOTION TO APPROVE: .....6 (Claybrook, Doss, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**CASE REHEARD**

3. **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 Avenue

**USE DISTRICT:** Moderate-Density Residential (MDR)

**REQUESTING:** Rehearing for a use variance from Section 7.3.11 to allow a supportive living facility

**ACTION OF THE BOARD:** Failed

**APPEARANCES:** Support: Shelly Rorie and Darrell Brown

Opposition: Stephanie Walker  
Dr. Leon Freeman  
Austin Egedegbe

**(Did not speak)**  
Olivia Hawthorne  
Mike Walker

**THE RESOLUTION:**

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

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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: .....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock

FOR MOTION TO APPROVE: .....0

RECUSED: .....0



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

**APPLICANT(S):** Christopher Bates

**PREMISES AFFECTED:** 359 North Hollywood Street

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

**REQUESTING:** Variances from Paragraph 2.6.1A(1) to allow a side yard house adjacent to a conventional single family house, Sub-Section 3.6.1A to allow a 5 foot side setback on the southern side of the lot, and Sub-Section 3.9.1C to allow a front facing garage

**APPEARANCES:** Support: Christopher Batts  
Opposition: None

**ACTION OF THE BOARD:** Approved

**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 variance from Sub-Section 2.6.1A also needs to be included as the demolition and subsequent construction of a new house would move a currently existing legal nonconforming structure into nonconformity.
3. The front setback can be no greater than 30 feet so that it follows the contextual infill standards established by the Unified Development Code stated in Sub-Section 3.9.2E.
4. The front façade of the house shall be approved administratively by the Office of Planning and Development in a manner to minimize the appearance of a front-loading garage and maximize the appearance of the front door, while considering the other facades in the area.
5. The driveway shall be 50 percent pervious by utilizing a “ribbon” design.

**THE RESOLUTION:**

**WHEREAS,** Christopher Batts filed an application with the Board of Adjustment for variances from Paragraph 2.6.1A(1) to allow a side yard house adjacent to a conventional single family house, Sub-Section 3.6.1A to allow a 5-foot side setback on the southern side of the lot, and Sub-Section 3.9.1C to allow a front facing garage and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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 TO APPROVE: .....0

FOR MOTION TO APPROVE: .....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)

RECUSED: .....0

**PETITION TO REHEAR**

<b>11. DOCKET:</b>	<b><u>BOA 19-132 (City)</u></b>
<b>LOCATION:</b>	235 W. Shelby Drive
<b>PETITIONER(S):</b>	Debbie Kemp/ Carlos R. Ortiz
<b>USE DISTRICT:</b>	Residential Single-Family -6 (R-6)

**REQUEST:** Petition to rehear a 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 approved by the Board during its regular meeting on January 22, 2020

**APPEARANCES:** For Petitioner: Carlos Ortiz

Opposition: None

**ACTION OF THE BOARD:** Approved

**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,** petitioners Debbie Kemp and Carlos R. Ortiz Martinez 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 approved by the Board during its regular meeting on January 22, 2020, and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, February 26, 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 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 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 TO APPROVE: .....0

FOR MOTION TO APPROVE: .....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey and Scurlock)

RECUSED: .....0

**ADJOURMENT:**

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY