

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

Wednesday, April 22, 2020

***PURSUANT TO STATE OF TENNESSEE EXECUTIVE ORDER NO. 16 SIGNED BY GOVERNOR  
BILL LEE ON MARCH 20, 2020, THIS WILL BE A STREAMED MEETING WITH ELECTRONIC  
VOTING***

The telephonic meeting of the Memphis & Shelby County Board of Adjustment was held at 2:00 p.m., April 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
Ms.	Portia Trass Scurlock

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

Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Ms.	Somer Smith, OPD
Mr.	John Zeanah, DPD

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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 February 26, 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.

**2. DOCKET:** **B.O.A. 20-10 (County)**

**APPLICANT(S):** Paul Brasfield

**PREMISES AFFECTED:** 2242 St. Paul Rd.

**USE DISTRICT:** Conservation Agriculture (CA)

**REQUESTING:** Variance from Sub-Section 3.6.1A to allow a 16ft. side yard encroachment for an attached garage

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

**Conditions:**

1. The attached garage shall not encroach more than 16ft. into the side (interior) setback.
2. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS,** Paul Brasfield filed an application with the Board of Adjustment for a Variance to allow a 16ft. side yard encroachment for an attached garage and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 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. 20-20 (City)**

**APPLICANT(S):** Octapharma Plasma, Inc.

**PREMISES AFFECTED:** 7124 Winchester

**USE DISTRICT:** Conservation Agriculture (CA) and PD 97-311 with an underlying zoning of Planned Commercial (C-P)

**REQUESTING:** Conditional use permit for a blood plasma donation center

**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. No window signs, banner signs, roof signs, feather signs, reader board signs, changeable copy signs, portable signs, or temporary signs shall be permitted.
3. No detached signs shall be permitted; except for the use of one tenant slot, east and west facing, in the existing on-site integrated center sign located along Winchester Road shall be permitted.
4. A maximum of one wall, awning, canopy, or marquee sign shall be permitted.
5. The Market of Riverdale Bend PD Phase 1 Part of Area A Final Plat shall be rerecorded to reflect this action.

**THE RESOLUTION:**

**WHEREAS**, Octapharma Plasma, Inc. filed an application with the Board of Adjustment for a conditional use permit for a blood plasma donation center and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 22, 2020**, after due notice; and

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

**WHEREAS**, The Board has determined that said conditional use permit 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 conditional use permit 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

**5. DOCKET:** **B.O.A. 20-21 (City)**

**APPLICANT(S):** Octapharma Plasma, Inc.

**PREMISES AFFECTED:** 4212 Elvis Presley Blvd.

**USE DISTRICT:** Commercial Mixed Use – 3

**REQUESTING:** Conditional Use Permit for a blood plasma donation center

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

AGAINST MOTION: .....0

FOR MOTION:.....7 (Baker, Claybrook, Doss, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED: .....0

**6. DOCKET:** **B.O.A. 20-22 (City)**

**APPLICANT(S):** Jamie Russell-Bell

**PREMISES AFFECTED:** 687 Melrose St.

**USE DISTRICT:** Residential Urban – 2 (RU-2), Historic Overlay (H)

**REQUESTING:** Variance from Item 2.7.3B(1)(b) to allow an accessory dwelling unit on a lot of a size that does not permit such units

**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. Height of the accessory dwelling unit will not exceed 20 feet.
3. Both the northern and western sides of the accessory dwelling unit will only be allowed clerestory windows.
4. All exterior design aspects must be approved by the Memphis Landmarks Commission.

**THE RESOLUTION:**

**WHEREAS**, Jamie Russell-Bell filed an application with the Board of Adjustment for a Variance from Item 2.7.3B(1)(b) to allow an accessory dwelling unit on a lot of a size that does not permit such units and;

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

- 8. **DOCKET:** **B.O.A. 20-24 (City)**
- APPLICANT(S):** Shelby County Schools
- PREMISES AFFECTED:** 3209 Poplar Ave. (East High School)
- USE DISTRICT:** Residential Single-Family – 6 (R-6)
- REQUESTING:** Variance from Paragraph 2.7.2A(4) to allow an accessory structure to extend forward of the front building

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

**Conditions:**

1. The submitted site 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.
2. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS,** Shelby County Schools filed an application with the Board of Adjustment for a Variance from Paragraph 2.7.2A(4) to allow an accessory structure to extend forward of the front building and;

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

RECUSED:.....0

- 9. **DOCKET:** **B.O.A. 20-25 (City)**
- APPLICANT(S):** Lindley Martens
- PREMISES AFFECTED:** 680 South Perkins Road
- USE DISTRICT:** PD 09-314 with the referenced Office General (OG) and Residential Single-Family – 15 (R-15)
- REQUESTING:** Variance from Paragraph 4.9.7B(1) to allow a pole sign in a planned development with a referenced R-15 zoning district for sign regulations
- ACTION OF THE BOARD:** Approval with conditions

**Conditions:**

1. The sign shall have a minimum setback of 5ft.
2. The sign’s height shall not exceed 6ft. above ground.
3. No pole cover or jacket around the support pole shall be required.
4. Supplemental wayfinding signs that meet the requirements of the UDC shall be permitted on the subject property.
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.

**THE RESOLUTION:**

**WHEREAS,** Lindley Martens, Inc filed an application with the Board of Adjustment for Variance from Paragraph 4.9.7B(1) to allow a pole sign in a planned development with a referenced R-S15 zoning district for sign regulations, and;

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

<b>10. DOCKET:</b>	<b><u>B.O.A. 20-26 (City)</u></b>
<b>APPLICANT(S):</b>	Memphis Zoo
<b>PREMISES AFFECTED:</b>	Northwest corner of Poplar and Kenilworth
<b>USE DISTRICT:</b>	Commercial Mixed Use – 3 (CMU-3), Residential Urban – 3 (RU-3), Residential Single Family – 6 (R-6), Historic Overlay (H), and Midtown Overlay (MD)
<b>REQUESTING:</b>	Variance from Sub-Section 4.9.8A to allow an off-premise sign on a lot with another principal use and to be located farther than 300 feet to an U.S. Interstate Highway
<b>ACTION OF THE BOARD:</b>	Approval with conditions

**Conditions:**

1. The sign shall be setback 14ft. from Kenilworth and 7ft. from Poplar.
2. The sign area shall not exceed +/-129 sf. in size.

3. Any change or deviation from the current size or setback of the existing sign, 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**, the Memphis Zoo filed an application with the Board of Adjustment for a Variance from Sub-Section 4.9.8A to allow an off-premise sign on a lot with another principal use and to be located farther than 300 feet to an U.S. Interstate Highway and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 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. 20-27 (County)**

**APPLICANT(S):** Kenneth L. & Pamela S. Pousson

**PREMISES AFFECTED:** 6109 Pleasant Ridge Road

**USE DISTRICT:** Conservation Agriculture (CA) District

**REQUESTING:** Variances from Sub-Section 2.7.1.A, E & H & 2.7.10A to allow an accessory structure and recreational vehicle as a dwelling unit and from Item 9.7.3.B(1)(b) to allow a reduction to forty-eight (48) feet in the required lot width and frontage

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

**Conditions:**

1. Variances are hereby approved for an accessory structure to be built prior to the principal structure and a recreational vehicle shall be used as a temporary dwelling unit.
2. The recreational vehicle shall be used as a temporary dwelling unit for a period of one (1) year with an expiration date of April 22nd, 2021
3. The principal dwelling and temporary dwelling unit shall be subject to Health Department approval for a septic system.
4. A reduction to forty-eight (48) feet in lot width shall be permitted in the required width and public road frontage of fifty (50) feet.
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,** Kenneth L. & Pamela S. Pousson filed an application with the Board of Adjustment for Variances from Sub-Section 2.7.1.A, E & H & 2.7.10A to allow an accessory structure and recreational vehicle as a dwelling unit and from Item 9.7.3.B(1)(b) to allow a reduction to forty-eight (48) feet in the required lot width and frontage and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 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 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 to impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is hereby 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

<b>12. DOCKET:</b>	<b><u>B.O.A. 20-28 (City)</u></b>
<b>APPLICANT(S):</b>	Courtyard by Marriott
<b>PREMISES AFFECTED:</b>	6015 Park Avenue
<b>USE DISTRICT:</b>	PD 85-312 and underlying Office General (OG)
<b>REQUESTING:</b>	Variance from Paragraph 4.9.7C(2) to permit an illuminated wall sign with 125 square feet where 35 square feet is allowed
<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. If approved, a statement shall be added on the PD 85-312 plat that states the Board of Adjustment approved a wall sign with 125 square feet on April 22, 2020.

**THE RESOLUTION:**

**WHEREAS,** Courtyard by Marriott filed an application with the Board of Adjustment for a Variance from Paragraph 4.9.7C(2) to permit an illuminated wall sign with 125 square feet where 35 square feet is allowed and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 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. 20-29 (City)**

**APPLICANT(S):** Summerfield Missionary Baptist Church

**PREMISES AFFECTED:** 1383 Boxwood

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

**REQUESTING:** Variance from Section 3.6.2A to allow a reduction of the 20’ feet rear setback for the south existing building and a reduction of the rear setback from 20’ feet to 6.8’ feet for the construction of an addition to the north building

**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,** Summerfield Missionary Baptist Church filed an application with the Board of Adjustment for Variance from Section 3.6.2A to allow a reduction of the 20’ feet rear setback for the south existing building and a reduction of the rear setback from 20’ feet to 6.8’ feet for the construction of an addition to the north building and;

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

<b>16. DOCKET:</b>	<b><u>B.O.A. 20-33 (County)</u></b>
<b>APPLICANT(S):</b>	Joseph B. Friskillo
<b>PREMISES AFFECTED:</b>	1277 Locke-Cuba Road
<b>USE DISTRICT:</b>	Conservation Agriculture (CA) District
<b>REQUESTING:</b>	Conditional Use Permit to allow a mobile home structure and a variance from Sub-Section 3.1.4.A to allow two (2) principal structures for single-family homes
<b>ACTION OF THE BOARD:</b>	Approval with Conditions

**Conditions:**

1. A Conditional Use Permit is hereby approved for a mobile home to be located on the same exempt tract as the single-family home and to allow two (2) principal structures on one (1) tract for a period of four (4) years with an expiration date being April 22<sup>nd</sup>, 2024 and subject to Health Department approval for a septic system.
2. The final site plan shall be subject to review and approval by staff and any change or deviation to the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS**, Joseph B. Friskillo filed an application with the Board of Adjustment for a Conditional Use Permit to allow a mobile home structure and a variance from Sub-Section 3.1.4.A to allow two (2) principal structures for single-family homes and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 22, 2020**, after due notice; and

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

**WHEREAS**, The Board has determined that said Conditional Use Permit and 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 to impair the public health, safety, comfort, morals or welfare of the inhabitants of the County of Shelby; and, therefore, this application is hereby approved with conditions on the consent agenda.

**NOW THEREFORE**, Be it resolved that the application be and it hereby is granted for the requested Conditional use Permit and 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



**CASE REHEARD**

**1. DOCKET:**

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

**PETITIONER(S):**

Cathedral of Praise Ministries

**PREMISES AFFECTED:**

235 West Shelby Drive

**USE DISTRICT:**

Residential Single Family - 6 (R-6)

**REQUESTING:**

Rehearing for 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

**ACTION OF THE BOARD:**

Approval with conditions

**APPEARANCES:**

Support: Kenneth and Coretta Jones

Opposition: Carlos Ortiz  
Debbie Kemp

**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 homes.
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. 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.
5. The church shall provide a parking attendant on-duty during Sunday services and special events to ensure parking is in accordance with the site plan.

**THE RESOLUTION:**

**WHEREAS**, Cathedral of Praise Ministries filed an application with the Board of Adjustment for 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 and;

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

RECUSED: .....0

3.     **DOCKET:**                                     **B.O.A. 20-19 (County)**
- APPLICANT:**                                 Shelby County Government
- PREMISES AFFECTED:**                     8130 Shake Rag Road
- USE DISTRICT:**                             Residential Single Family (R-6) District
- REQUESTING:**                             Use Variance from Section 2.5.2 to allow a communications tower
- ACTION OF THE BOARD:**                   Approval with Conditions
- APPEARANCES:**                           Support:         Belinda Bodie
- Opposition:     Jesse Smith

**Conditions:**

1. A Use Variance to allow a lattice tower two-hundred twenty (220) feet in height for an emergency services facility shall be permitted and setback as illustrated on the submitted site plan.
2. The fence, including materials and height shall be as illustrated on the plans, but to include one (1) row of Evergreen Shrub B (Needlepoint, Box Leaf or Brilliant Holly) installed around the perimeter fencing and base of the tower compound.
3. 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,** Shelby County Government filed an application with the Board of Adjustment for a Use Variance from Section 2.5.2 to allow a communications tower and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 22, 2020**, after due notice; and

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

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

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

**NOW THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested Use Variance. Provided, however, that the Use Variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION TO APPROVE:.....7 (Baker, Claybrook, Doss, Malasri, Rainey, Savage-Townes, and Scurlock)

FOR MOTION TO APPROVE:.....0

RECUSED:.....0

7. **DOCKET:** **B.O.A. 20-23 (City)**

**APPLICANT(S):** Union Avalon Partners LLC

**PREMISES AFFECTED:** 1609-13 Monroe Ave.

**USE DISTRICT:** Residential Urban – 4 (RU-4), Midtown Overlay

**REQUESTING:** Use variance from Section 2.5.2 to allow the legitimization and expansion of commercial parking lot in a residential zoning district

**APPEARANCES:** Support: Cindy Reaves  
Opposition: None

**ACTION OF THE BOARD:** Approved

**Conditions:**

1. Both rows of parking spaces shall terminate on the northern side of the property with a curbed landscape island with a minimum square footage of 150’ that meets the requirements of Item 4.5.5D (3)(a).

2. A landscape plan shall be submitted to the Office of Planning and Development for administrative review and approval.
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**, Union Avalon Partners LLC. filed an application with the Board of Adjustment for Use variance from Section 2.5.2 to allow the legitimization and expansion of commercial parking lot in a residential zoning district and;

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

RECUSED:.....0

14. **DOCKET:** **BOA 20-30 (City)**

**LOCATION:** 3619 Kearney Avenue

**APPLICANT(S):** WO SFR, LLC – Cameron Ellis

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

**REQUEST:** Variance from Section 3.6.1A to allow a reduction to the minimum lot width and lot size requirements

**APPEARANCES:** Support: Tim McCaskill

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. The final lot widths and square footages shall be set by the Land Use Control Board through the subdivision process and subsequently the final plat process.

**THE RESOLUTION:**

**WHEREAS,** WO SFR, LLC. filed an application with the Board of Adjustment for variance from Section 3.6.1A to allow a reduction to the minimum lot width and lot size requirements and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, April 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 variances would not be unduly detrimental to the other properties in the vicinity of the subject premises; and

**WHEREAS,** The Board is further of the opinion that to allow the request will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or

welfare of the inhabitants of the City of Memphis and County of Shelby; and, therefore, this application is approved with conditions.

**NOW THEREFORE,** Be it resolved that the application be and it hereby 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, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:.....0

- 15. **DOCKET:** **BOA 20-32 (City)**
- LOCATION:** 4599 Mill Branch Road
- APPLICANT(S):** Moatesem Itayem
- USE DISTRICT:** Commercial Mixed Use – 3
- REQUEST:**
  - Variances from:
    - Section 2.5.2 to permit container buildings in the Commercial Mixed Use – 3 zoning district
    - Sub-Section 2.7.1J to permit shipping containers to be used as accessory structures in a commercial zoning district
    - Paragraph 2.7.2A(1) to permit accessory structures to be located closer than five feet to side and rear property lines
    - Paragraph 2.7.2A(2) to permit accessory structures to be located closer than five feet to other structures on the same lot
    - Paragraphs 2.7.2A(3), 2.7.2A(5), and 2.7.2B(2) to permit accessory structures to encroach into required side and rear setbacks
    - Sub-Section 2.7.2C to permit the cumulative square footage of accessory structures to exceed 75% of the total square footage of the principal structure

**APPEARANCES:** Support: Cindy Reaves

Opposition: None

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

AGAINST MOTION TO APPROVE:.....0

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

RECUSED:.....0

**ADJOURMENT:**

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY