

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

January 23, 2013

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 1:30 p.m., Wednesday, January 23, 2013.

Present:

Mr.	Jimmy Burditt
Mr.	Frank Colvett, Jr., Chairman
Mr.	John Jackson, III
Ms.	Lynda Raiford,
Mr.	Timothy Rainey, Vice Chairman
Mr.	Daniel Dow
Ms.	Madeleine Savage-Townes

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Gregory Love, OPD
Mr.	Brian Bacchus, OPD
Mrs.	Keva Jackson, OPD
Mr.	Nate Taylor, City Engineering
Mr.	Bob Evans, County Engineering
Mr.	Robert Rolwing, Assistant County Attorney

A quorum being present, the Board proceeded to consideration of the days agenda. The minutes from the previous meeting were approved.

In some of the following cases, the application for a special exception, building permit, or sign permit was rejected by the Memphis and Shelby County Building Official or Office of Planning and Development 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. The Board approved the minutes from November 28, 2013.

NEW CASE:

1. **DOCKET:** **B.O.A 13-01 (CITY)**

APPLICANT: **RDC VI Memphis, LLC**

PREMISES AFFECTED: **3641, 3655, 3665 Southern Avenue**
(South side of Southern Av., between Patterson and Houston)

USE DISTRICT: Residential Urban(RU-3) District

REQUESTING: A variance to Sub-section 8.3.6D (University District Overlay); said variances address reductions in; Ground floor elevation, floor to ceiling heights, and transparency for the proposed 4 story, 74 Unit Multiple-family development

ACTION OF THE BOARD: Approved

APPEARANCES: For Applicant: Brenda Solomito, & Jared Cooper,

Community Comments: Tony Poteet, U.M., & Eddie Dattle

THE RESOLUTION:

WHEREAS, Memphis Cellular Telephone Company filed an application with the Board of Adjustment on, December 26, 2012 requesting a variance to Sub-section 8.3.6D (University District Overlay); said variances address reductions in; Ground floor elevation, floor to ceiling heights, and transparency for the proposed 4 story, 74 Unit Multiple-family development; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, January 23, 2013 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances in Chapter 9.22 of 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 this 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 County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that the requested variation be and it hereby is granted. Provided, However, that the variation 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 or State law applicable to these premises nor to any future use or development of said property further that a building permit and/or Certificate of Occupancy permit in conformity herewith be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the Application.

AGAINST MOTION: 0

FOR MOTION: 7
Chairman Colvett, Jr., Raiford, Savage-Townes, Burditt,
Dow, Jackson III, and Rainey

NOT VOTING: 0

ACTION IS TO APPROVE WITH CONDITIONS

CONDITIONS:

1. The width of all existing off-street sewer or drainage easements shall be widened to meet current city standards.
2. The City Engineer will require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee on this project. Minor alterations to the site plan, provided no additional variances are required for site alterations, shall be permitted as presented to the board.
3. This site will require additional sewer connections to support the proposed use. The developer will also be required to pay sewer development fees for each unit.
4. This site is located within the Black Bayou drainage basin which has been designated as a sensitive drainage area subject to intermittent local flooding during heavy storms. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
5. The open-air staircases shall be redesigned to include building material consistent with that of the principal structure that will form a frame around the staircases on Patterson and Houston Streets. This design revision shall apply to all floors and shall meet the approval of OPD.
6. A landscape plate S-1, S-2, S-3, or S-4 shall be installed along both Patterson and Houston Streets. A minimum 2 foot grass strip shall be added along Southern Avenue immediately behind the sidewalk abutting the proposed principal structure resulting in a 5 foot building setback

NEW CASE:

2. **DOCKET:** **B.O.A 13-02 (CITY)**
- APPLICANT:** **KMA MFG, LLC**
- PREMISES AFFECTED:** **1495 Harbor Avenue**
 (Southeast side of Harbor Avenue; +/-1,358 feet
 southwest of Port Street)
- USE DISTRICT:** Heavy Industrial (I-H) District
- REQUESTING:** Variance to Sub-Section 3.10.2 B to allow a rear yard setback
 encroachment of 3.7 feet in Heavy Industrial (I-H) District
- ACTION OF THE BOARD:** Approved
- APPEARANCES:** For Applicant: Michael A. Morris
- For Opposition: None

THE RESOLUTION:

WHEREAS, Mr. William H. Woods filed an application on behalf of KMA MFG, LLC with the Board of Adjustment On December 26, 2012 requesting a variance to Sub-Section 3.10.2 B to allow a rear yard setback encroachment of 3.7 feet in Heavy Industrial (I-H) District; and,

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on Wednesday, January 23, 2013 after due notice; and

WHEREAS, The Board is of the opinion, and finds from the sworn testimony of the witness at the hearing, and the records on file, that the standards for variances in Chapter 9.22 of 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 this 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 County of Shelby; and, therefore, this application is approved as submitted.

NOW, THEREFORE, Be it resolved that the requested rear yard setback variance be and it hereby is granted. Provided, however, that the variation 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 be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years from the granting of the Application.

AGAINST MOTION:0

FOR MOTION:7
Chairman Colvett, Jr., Raiford, Savage-Townes, Burditt,
Dow, Jackson III, and Rainey

NOT VOTING:0

ACTION IS TO APPROVE

NEW CASE:

3. DOCKET:	<u>Amendment to Rules and Procedure</u>
APPLICANT:	Josh Whitehead
REQUESTING:	Amendment to the Memphis and Shelby County Board of Adjustment Rules of procedure to add a new Rule V.4 to stipulate the length of time an applicant shall comply with a rejection
ACTION OF THE BOARD:	Approved
APPEARANCES:	For Applicant: Josh Whitehead
	For Opposition: None

MOTION TO APPROVE

AGAINST MOTION:0
FOR MOTION:7 Chairman Colvett, Jr., Raiford, Savage-Townes, Burditt, Dow, Jackson III, and Rainey
NOT VOTING:0

ACTION IS TO APPROVE

NEW CASE:

4. **DOCKET:** **B.O.A Amendment to Rules and Procedure IV.5**

APPLICANT: **Josh Whitehead**

REQUESTING: Amendment to Memphis and Shelby County Board of Adjustment Rules of Procedure to amend Rule IV.5 to clarify the process in which applications are heard

ACTION OF THE BOARD: Held

APPEARANCES: For Applicant: Josh Whitehead

For Opposition: None

MOTION TO HOLD


AGAINST MOTION:0

FOR MOTION:7
Chairman Colvett, Jr., Raiford, Savage-Townes, Burditt,
Dow, Jackson III, and Rainey


NOT VOTING:0

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

MINUTES APPROVED: Feb 27, 2013



CHAIRMAN



SECRETARY