

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

Wednesday, August 26, 2020

***PURSUANT TO STATE OF TENNESSEE EXECUTIVE ORDER NO. 34 SIGNED BY
GOVERNOR BILL LEE ON AUGUST 26, 2020, THIS WAS A STREAMED MEETING WITH
ELECTRONIC VOTING***

Present:

Ms.	Mary Baker
Mr.	Carson Claybrook
Mr.	John Jackson
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
Ms.	Portia Trass Scurlock

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Brett Davis, OPD
Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Ms.	Lucas Skinner, OPD
Mr.	Seth Thomas, OPD
Mr.	Robert Rowling, County Attorney's Office

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Baker made the motion to approve the minutes from the July 22, 2020, Board Meeting; Scurlock seconded the motion. The Minutes from the previous meeting were approved.

In some of the following cases, the application for a building permit or sign permit was rejected by the Memphis and Shelby County Building Official or Planning Director because the request is prohibited by the applicable Unified Development Code. The interested party has filed an appeal within the time provided by statute and written notice of public hearing has been sent to the property owners in the neighborhood.

2. **DOCKET:** **B.O.A. 20-43 (City)**
- APPLICANT(S):** Reconnect Memphis, LLC
- PREMISES AFFECTED:** SE corner of Broad and Hollywood
- USE DISTRICT:** Commercial Mixed Use -1 (CMU-1) and Single Family Residential -6 (R-6), Historic District Overlay (H)
- REQUESTING:** Use variance from Section 2.5.2 allow accessory uses for a gas station to be located in the R-6 (H) District
- ACTION OF THE BOARD:** Hold for one (1) month
3. **DOCKET:** **B.O.A. 20-59 (City)**
- APPLICANT(S):** Jarad Bingham
- PREMISES AFFECTED:** 1502 Harbert Avenue
- USE DISTRICT:** Two-story single-family home in ‘Matthews Park’ subdivision in Central Gardens Residential Single Family Historic (R-6[H]) District
- REQUESTING:** Variance pursuant to Section 2.7.6 to allow a swimming/lap pool to encroach the required side yard setback of five (5) feet.
- ACTION OF THE BOARD:** Hold for one (1) month
5. **DOCKET:** **B.O.A. 20-68 (City)**
- APPLICANT(S):** NCE Realty LLC
- PREMISES AFFECTED:** 528 East Parkway
- USE DISTRICT:** Residential Urban -3 (RU-3)
- REQUESTING:** Variance from Item 4.5.2 C(2)(c) to allow a front yard parking for an apartment complex located within a RU-3 zoning district
- ACTION OF THE BOARD:** Hold for one (1) month

6. DOCKET: **B.O.A. 20-69 (City)**
APPLICANT(S): Luis Toro
PREMISES AFFECTED: 2655 Broad Avenue
USE DISTRICT: Commercial Mixed Use -1 (CMU-1)
REQUESTING: Variance from Item 4.9.3
ACTION OF THE BOARD: Hold for one (1) month

8. DOCKET: **B.O.A. 20-72 (City)**
APPLICANT(S): Michael Morgan and Anne-Morgan Brookfield
PREMISES AFFECTED: 4457 Normandy Road
USE DISTRICT: Residential-10
REQUESTING: Appeal of decision of Building Official Bobby Decker to permit an addition to an accessory structure
ACTION OF THE BOARD: Hold for one (1) month

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED: 0

7. DOCKET: **B.O.A. 20-71 (City)**
APPLICANT(S): CNCT Development
PREMISES AFFECTED: 316-324 S Front Street
USE DISTRICT: South Main (South Central Business Improvement District)
REQUESTING: Variance from Item 7.2.2E(2)(a) to permit an apartment building with 165 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. Per Section 7.2.2 of the UDC, if parking is viewable from the street level (i.e. garage, parking lot) then it shall be screened with either an A-6 or A-7 landscape buffer (see Section 7.2.8 for examples).
3. Per Section 7.2.2 of the UDC, facades along Front Street and Vance Avenue shall be articulated to provide visual interest and a human scale by incorporating any combination of the following features: columns, pilasters, balconies, piers, variation of material building and setback variations of at least 3 feet.
4. Prior to any permits being granted from the Office of Construction Code Enforcement, the applicant shall submit a final site plan for review from the Office of Planning and Development, as well as submit any necessary documents to the City Engineer for an Administrative Site Plan Review.
5. Any commercial or office use on this site shall be in accordance with the uses permitted in the South Main district.

THE RESOLUTION:

WHEREAS, CNCT Development, filed an application with the Board of Adjustment for a variance from Item 7.2.2E(2)(a) to permit an apartment building with 165 units and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 26, 2020**, after due notice and;

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

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

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

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

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

10. DOCKET: B.O.A. 20-74 (City)

APPLICANT(S): Nathan Bicks and Andrea Beinstock

PREMISES AFFECTED: 427 Meadvale Street

USE DISTRICT: Residential -6 with Planned Development 83-49

REQUESTING: Variance from Red Oaks Planned Development to permit an unenclosed porch to encroach 11 feet into the planned 25-foot rear setback, per Sub-Section 3.2.9F

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. The subject porch may not be enclosed.
2. This variance shall not be constructed to permit any encroachments besides that shown in the approved site plan. (Changes to said site plan are subject to the review and approval of either the Board of Adjustment or the Office of Planning and Development, depending upon the determination of the Planning Director.)

THE RESOLUTION:

WHEREAS, Nathan Bicks and Andrea Bienstock filed an application with the Board of Adjustment for a variance from Red Oaks Planned Development to permit an unclosed porch to encroach 11 feet into the planned 25-foot rear setback, per Sub-Section 3.2.9F and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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 to 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 was 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 variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

12. DOCKET:	<u>B.O.A. 20-76 (City)</u>
APPLICANT(S):	LPI Memphis, Inc.
PREMISES AFFECTED:	3139 Poplar Avenue
USE DISTRICT:	Neighborhood shopping center in ‘James C. Jones’ subdivision in Commercial Mixed Use (CMU-1) District
REQUESTING:	Variance from Item 4.9.15F(1)(c) to continue the use of a nonconforming sign
ACTION OF THE BOARD:	Approval with conditions

Conditions:

1. A non-use variance shall be allowed for one (1) detached legal nonconforming pole sign to remain in size, location and design not to exceed thirty-five (35) square feet in area with landscaping to remain and shall be maintained at the base of the sign.
2. The sign plan shall be submitted for review and approval by staff and any change or deviation to the approved 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, LPI Memphis, Inc. filed an application with the Board of Adjustment for a variance from Item 4.9.15F(1)(c) to continue the use of a nonconforming sign and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

14. **DOCKET:** **B.O.A. 20-78 (City)**

APPLICANT(S): Wittenberg Construction

PREMISES AFFECTED: 8601 The Island at Southwind

USE DISTRICT: Employment with Planned Development 15-304

REQUESTING: Variance from Southwind Planned Development to permit two additions to encroach no more than 13 feet into the planned 40-foot rear setback, per Sub-Section 3.2.9F

ACTION OF THE BOARD: Conditional approval

Conditions:

1. This variance shall not be constructed to permit any encroachment besides those shown in the approved site plan. (Changes to said site plan are subject to the review and approval of either the Board of Adjustment or the Office of Planning and development, depending upon the determination of the Planning Director.)

THE RESOLUTION:

WHEREAS, Wittenberg Construction filed an application with the Board of Adjustment for an variance from Southwind Planned Development to permit two additions to encroach no more than 13 feet into the planned 40-foot rear setback, per Sub-Section 3.2.9F and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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 to 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 was 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 variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

15. DOCKET: B.O.A. 20-79 (City)

APPLICANT(S): Andrew I. Roland, III

PREMISES AFFECTED: 1531 Carr Avenue

USE DISTRICT: Two (2) story frame single family home in 'Matthews Park' subdivision in Residential Single Family Historic Overlay (R-6[H]) District in Central Gardens Historic District

REQUESTING: Variance from Item 2.7.2D(1) to allow an accessory Dwelling unit on a single family lot less than 10,000sq. ft. in area

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. A non-use variance to allow a two-story accessory structure garage (568 sq. ft.) with accessory dwelling unit (528 sq. ft.) of floor area, subject to a revised site plan illustrating the revised location and height relative to the overhead power line with an increased side yard setback, including the horizontal distance to the home.
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, Andrew I. Roland, III filed an application with the Board of Adjustment for a variance from Item 2.7.2D(1) to allow an accessory dwelling unit on a single family lot less than 10, 000 sq. ft. in area and;

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

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

RECUSED:0

9. DOCKET: **B.O.A. 20-73 (City)**

APPLICANT(S): Williams Sign Co.

PREMISES AFFECTED: 3000 Claudette Road

USE DISTRICT: Residential Single-Family-6 (R-6) and BOA 2018-29

REQUESTING: Variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board

ACTION OF THE BOARD: Approval with conditions as amended

Conditions:

1. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
2. A detached electronic message board shall be permitted adjacent to Claudette Road. The overall sign dimensions shall not exceed five (5) feet in height or six (6) feet in width and the electronic message board portion of the sign shall not exceed twelve (12) square feet in area per sign face.
3. A final site plan with a landscape plan for the required landscaped area around the base of the detached sign shall be submitted for administrative review and approval by the Office of Planning and development.
4. The requirement for irrigation, if not irrigated, a reduction of sign area required pursuant to Paragraph 4.9.6M(3) and Sub-Sub-Item 4.9.7D(2)(b)(1)(2) of the Unified Development Code shall not be required.

THE RESOLUTION:

WHEREAS, Williams Sign Co. filed an application with the Board of Adjustment for a variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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 to 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 was 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 variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

FOR MOTION:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

11. **DOCKET:** **B.O.A. 20-75 (City)**
APPLICANT(S): Stewart Signs
PREMISES AFFECTED: 5292 Banbury Avenue
USE DISTRICT: Residential Single-Family-10 (R-10)
REQUESTING: Variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board
ACTION OF THE BOARD: Approval as amended with conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
2. A detached electronic message board shall be permitted adjacent to Claudette Road. The overall sign dimensions shall not exceed five (5) feet in height or six (6) feet in width and the electronic message board portion of the sign shall not exceed twelve (12) square feet in area per sign face.
3. A final site plan with a landscape plan for the required area around the base of the detached sign shall be submitted for administrative review and approval by the Office of Planning and Development.
4. The requirement for irrigation or, if not irrigated, a reduction of sign area required pursuant to Paragraph 4.9.6M(3) and Sub-Sub-Item 4.9.7D(2)(b)(1)(2) of the Unified Development Code shall not be required.

THE RESOLUTION:

WHEREAS, Stewart Signs filed an application with the Board of Adjustment for a variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

13. **DOCKET:** **B.O.A. 20-77 (City)**
- APPLICANT(S):** Bruce Balton Signs.
- PREMISES AFFECTED:** 1750 Alcy Road
- USE DISTRICT:** Residential Single Family-6 (R-6) and BOA 2018-66
- REQUESTING:** Variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board
- ACTION OF THE BOARD:** Approval with conditions as amended

Conditions:

1. Any change or deviation from the site plan upon the determination of the Planning Director shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Office of Planning and Development.
2. A detached electronic message board shall be permitted adjacent to Stern Lane. The overall sign dimensions shall not exceed five (5) feet in height or six (6) feet in area per sign face.
3. A final site plan with a landscape plan for the required landscaped area around the base of the detached sign shall be submitted for administrative review and approval by the Office of Planning and Development.
4. The requirement for irrigation, if not irrigated, a reduction of sign area required pursuant to Paragraph 4.9.6M(3) and Sub-Sub-Item 4.9.7D(2)(b)(1)(2) of the Unified Development Code shall not be required.

THE RESOLUTION:

WHEREAS, Bruce Balton Signs filed an application with the Board of Adjustment for a variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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:.....6 (Baker, Claybrook)

RECUSED:.....0

1. DOCKET:	<u>B.O.A. 20-51 (City)</u>
APPLICANT(S):	Townsend Development, LLC
PREMISES AFFECTED:	2432 Summer Avenue
USE DISTRICT:	Commercial Mixed Use -3 (CMU-3), Residential Urban (RU-1), BOA 1959-59
REQUESTING:	Use variance from Section 2.5.2 to continue the use commercial structure
ACTION OF THE BOARD:	Approval with conditions
APPEARANCES:	Support: Cindy Reaves and Bill Townsend Opposition: Raniah Morgan

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 applicant shall improve the curb cut on Faxon Avenue to meet City of Memphis standards.
3. The applicant shall replace the curb and gutter along Summer Avenue.
4. The applicant shall install a Class III Type A landscape buffer, or equivalent, along the northern property line on the rear parking lot to screen vehicles from the adjacent residential uses.
5. The following uses shall not be permitted on the property in the CMU-3 zoning:
 - a. Convenience store with gas pumps, gas station, commercial electric charging station
 - b. Convenience store without gas pumps
 - c. Tattoo, palmist, psychic or medium
 - d. Vehicle parts and accessories
 - e. Vehicle wash establish
 - f. All vehicle service
 - g. All vehicle repair
 - h. All vehicle sales, rentals, and leasing
 - i. Manufactured housing
 - j. Any use permitted with a Special Use Permit
6. The property frontage along Faxon Avenue shall only be used as accessory parking to the theater and shall be labeled as accessory parking on an approved site plan. The parking lot shall be detailed with parking stalls, drive aisles, and landscaping as required by the UDC. Also, RU-1 uses are permitted in the northwestern portion of the parcel (where the parking lot is located) provided they meet the provisions of the UDC.
7. This variance is revoked if the building is demolished.

THE RESOLUTION:

WHEREAS, Townsend Development, LLC filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to continue the use of a commercial structure and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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:6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

4. **DOCKET:** **BOA 20-67 (City)**
- LOCATION:** 1330 Stern Lane
- APPLICANT:** Williams Sign Co.
- USE DISTRICT:** Conservation Agriculture and Fletcher Creek Overlay
- REQUEST:** Variance from Sub-Item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board
- ACTION OF THE BOARD:** Approval with conditions as amended
- APPEARANCES:** Support: None
- Opposition: None

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 detached electronic message board shall be permitted adjacent to Stern Lane. The overall sign dimensions shall not exceed five (5) feet in height or six (6) feet in width and the electronic message board portion of the sign shall not exceed twelve (12) square feet in area per sign face.
3. A final site plan with a landscape plan for the required landscaped area around the base of the detached sign shall be submitted for administrative review and approval by the Office of Planning and Development.
4. The requirement for irrigation or, if not irrigated, a reduction of sign area required pursuant to Paragraph 4.9.6M(3) and Sub-Sub-Item 4.9.7D(2)(b)(1)(2) of the Unified Development Code shall not be required.

THE RESOLUTION:

WHEREAS, Williams Sign Co. filed an application with the Board of Adjustment for a variance from Sub-item 4.9.6E(2)(h)(i) to allow a detached sign with an electronic message board and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

RECUSED:0

16. **DOCKET:** **BOA 20-80 (City)**

LOCATION: 4200 and 4210 Prescott Road

APPLICANT: Louis Romero

USE DISTRICT: Residential Single-Family

REQUEST: Use variance from Section 2.5.2 to allow the raising of horses for six (6) months

ACTION OF THE BOARD: Rejection

APPEARANCES: Support: Louis Romero

Opposition: Philip Looney

Conditions:

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

THE RESOLUTION:

WHEREAS, Louis Romero filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow the raising of horses for six (6) months and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, August 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 variances 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:6 (Baker, Claybrook, Jackson, Malasri, Rainey and Scurlock)

FOR MOTION:.....0

RECUSED:0

ADJOURMENT:

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

MINUTES APPROVED: _____

CHAIRMAN

SECRETARY