

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

Wednesday, September 23, 2020

***PURSUANT TO STATE OF TENNESSEE EXECUTIVE ORDER NO. 34 SIGNED BY
GOVERNOR BILL LEE ON JULY 22, 2020, THIS WAS A STREAMED MEETING WITH
ELECTRONIC VOTING***

Present:

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

Mr.	Josh Whitehead, Secretary
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Also Present:

Mr.	Brian Bacchus, OPD
Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Mr.	Seth Thomas, OPD
Mr.	John Zeanah, DPD Director

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Savage-Townes made the motion to approve the minutes from the August 26, 2020, Board Meeting; Baker seconded the motion. The Minutes from the previous meeting were approved.

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

1. **DOCKET:** **Resolution of the Memphis and Shelby County Board of Adjustment**

APPLICANT(S): Josh Whitehead

PREMISES AFFECTED:

USE DISTRICT:

REQUESTING: Resolution of the Board of Adjustment that continuation of meeting telephonically is necessary to protect the health, safety and welfare of the citizens of Memphis and Shelby County in the light of the COVID-19 outbreak, pursuant to Sec B of Governor Lee’s Executive Order No. 60.

ACTION OF THE BOARD: Approval

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: Approval with conditions

Conditions:

1. A non-use variance shall be allowed for a swimming/lap pool to run parallel to the east property line and side porch and to encroach the required side yard setback to be illustrated on the revised site plan. The front yard setbacks for the fence and swimming/lap pool shall be setback behind the front façade of the home, subject to review and approval by the Memphis Landmarks Commission.
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 Zoning Administrator 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, Jarad Bingham filed an application with the Board of Adjustment for a variance pursuant to Section 2.7.6 to allow a swimming/lap pool to encroach the required yard setback of five (5) feet and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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:.....7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:0

7. DOCKET: B.O.A. 20-81 (City)

APPLICANT(S): Jennifer Johnson and Douglas Leininger

PREMISES AFFECTED: 331 N. McElroy

USE DISTRICT: Residential -6 (R-6)

REQUESTING: Variance pursuant to Sub-Section 3.2.9F to allow a house to encroach into a platted front yard setback

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, Jennifer Johnson and Douglas Leininger filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow a house to encroach into a platted front yard setback and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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:.....7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:0

11. DOCKET: **B.O.A. 20-87 (City)**

APPLICANT(S): John and Jamie Wilson

PREMISES AFFECTED: 4971 Minden Road

USE DISTRICT: Residential – 10 (R-10)

REQUESTING: Variance from a Platted front yard setback through Sub-Section 3.2.9F of the Unified Development Code from 75 feet to 55 feet

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, John and Jamie Wilson filed an application with the Board of Adjustment for a variance from a Platted front yard setback through Sub-Section 3.2.9F of the unified Development Code from 75 feet to 55 feet and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:0

12. DOCKET: B.O.A. 20-88 (City)

APPLICANT(S): Kelly Townsend Revocable Trust

PREMISES AFFECTED: 1760 Vinton Avenue (2030)

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

REQUESTING: Variance from Sub-Section 3.6.1A to allow the expansion of an existing garage to encroach the required rear and side yard setbacks

ACTION OF THE BOARD: Approval with conditions

Conditions:

1. A non-use variance to allow an expansion to a one-story accessory garage structure (380 sq. ft.) to encroach the required side and rear yard setbacks as illustrated on the site plan.
2. The final site plan shall be subject to review and approval by the Memphis Landmarks Commission and any change or deviation to the site plan upon the determination of the Zoning Administrator 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, Kelly Townsend Revocable Trust filed an application with the Board of Adjustment for a variance from Sub-Section 3.6.1A to allow the expansion of an existing garage to encroach the required rear and side yard setbacks and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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:.....7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:0

13. DOCKET:	<u>B.O.A. 20-89 (City)</u>
APPLICANT(S):	Hospitality Hub – Jarad Bingham
PREMISES AFFECTED:	590 Washington Avenue
USE DISTRICT:	Central Business District (CBD) and Residential Urban -4 (RU-4)
REQUESTING:	Use variance from Section 2.5.2 to allow a social service institution (Hospitality Hub and Women’s shelter)
ACTION OF THE BOARD:	Approval with conditions

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. The applicant shall submit a final site plan, elevations, landscape plan, etc. for administrative review and approval by the Land Use and Development Services Department of the Division of Planning and Development.

THE RESOLUTION:

WHEREAS, Jarad Bingham filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow a social service institution (Hospitality Hub and women’s shelter) and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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:7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes, and Scurlock)

RECUSED:0

14. DOCKET:	<u>B.O.A. 20-90 (City)</u>
APPLICANT(S):	Amin Zaki
PREMISES AFFECTED:	2701 Union Avenue Extended
USE DISTRICT:	Employment (EMP), Commercial Mixed Use -3, (CMU-3), BOA 1995-55
REQUESTING:	Use variance from Section 2.5.2 to permit multi-family uses in a light industrial (EMP) zone
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 Engineering comments, the applicant shall submit proposed discharge rates to City Engineering/ Sewer Design to ensure the capacity of the system.

THE RESOLUTION:

WHEREAS, Amin Zaki filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to permit multi-family uses in a light industrial (EMP) zone and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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:.....7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:0

4. **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 front yard parking for an apartment complex located within a RU-3 zoning district

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

AGAINST MOTION:.....0

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

RECUSED:0

5. **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

AGAINST MOTION:.....0

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

RECUSED:.....0

6. 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:.....7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

RECUSED:.....0

8. DOCKET: BOA 20-82 (City)

LOCATION: 1481 Hester Road

APPLICANT: Memphis City Schools

USE DISTRICT: Residential Single Family – 10 (RU-10)

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

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.

2. A detached electronic message board shall be permitted adjacent to Claudette Road. The overall sign dimensions shall not exceed twelve (12) feet in height or six feet in width and the electronic message board portion of the sign shall not exceed eighteen (18) 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, Memphis City Schools 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, September 23, 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 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:7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

FOR MOTION:.....0

RECUSED:0

- 9. **DOCKET:** BOA 20-83 (City)
- LOCATION:** 4350 Chuck Avenue
- APPLICANT:** Memphis City Schools
- USE DISTRICT:** Residential Single Family -6 (R-6)
- 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

Conditions:

1. Any change or deviation from the site plan upon the determination of the Zoning Administrator shall be submitted to the Board of Adjustment for review and approval or administrative review and approval by the Division of Planning and Development.
2. A detached electronic message board shall be permitted adjacent to Claudette Road. The overall sign dimensions shall not exceed twelve (12) feet in height or six feet in width and the electronic message board portion of the sign shall not exceed eighteen (18) 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, Memphis City Schools 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, September 23, 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 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:7 (Baker, Doss, Jackson, Malasri, Rainey, Savage-Townes and Scurlock)

FOR MOTION:.....0

RECUSED:0

2. **DOCKET:** **BOA 20-43 (City)**
- LOCATION:** SE corner of Broad and Hollywood
- APPLICANT:** Reconnect Memphis, LLC
- USE DISTRICT:** Commercial Mixed Use -1 (CMU-1) and Single Family Residential -6 (R-6), Historic District Overlay (H)
- REQUEST:** Use variance from Section 2.5.2 to allow accessory uses for a gas station to be located in the R-6 (H) district
- ACTION OF THE BOARD:** Approval with conditions
- APPEARANCES:** Support: J.T Jackson
- Opposition: Paul Brown and Pat Brown

Conditions:

1. The curb cut on Broad Ave. shall be a right out only exit. A freestanding sign shall be installed on the eastern side of the Broad Ave. curb cut alerting drivers to watch for cyclists and pedestrians.
2. The curb cut on Hollywood shall only be used for ingress to the site. No vehicle traffic is permitted to exit the site onto Hollywood.
3. The existing off-premise sign shall be removed.
4. Any new street trees along Sam Cooper shall be the same type of tree that has already been established along Sam Cooper to the west.
5. Bicycle parking shall be shown on the site plan.
6. If the final elevations for Hollywood and Broad do not meet the reduced setback requirements provided in Paragraph 3.10.2B(1) of the UDC, a new variance request shall be made to the Board of Adjustment.
7. 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, Reconnect Memphis, LLC. filed an application with the Board of Adjustment for a use variance from Section 2.5.2 allow accessory uses for a gas station to be located in the R-6 (H) district and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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 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 TO APPROVE:5 (Baker, Doss, Jackson, Savage-Townes and Scurlock)

FOR MOTION TO APPROVE:1 (Malasri)

RECUSED:1 (Rainey)

10. **DOCKET:** **BOA 20-84 (City)**

LOCATION: 552 North Manassas Street

APPLICANT: Monroe and JoAnn Ballard

USE DISTRICT: Mixed Use District (Uptown)

REQUEST: Variance from Section 7.3.4C to allow a single-family residence within the MU uptown district, as well as a variance to 3.9.2H for relief from the contextual infill standards to allow for a front facing garage

ACTION OF THE BOARD: Approval with conditions as amended

APPEARANCES: Support: Monroe Ballard and JoAnn Ballard

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. All design standards of the Uptown Special Purpose District, except for the garage variance granted herein, must be adhered to.
3. A front facing garage shall not be permitted facing North Parkway; however, access is permitted from North Parkway.

THE RESOLUTION:

WHEREAS, Monroe and JoAnn Ballard filed an application with the Board of Adjustment for a variance from Section 7.3.4C to allow a single0family residence within the MU uptown district, as well as a variance to 3.9.2H for relief from the contextual infill standards to allow for a front facing garage and;

WHEREAS, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, September 23, 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 be not 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 TO APPROVE:0

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

RECUSED:0

ADJOURMENT:

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

MINUTES APPROVED:_____

CHAIRMAN

SECRETARY