

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

Wednesday, November 18, 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
Mr.	John Jackson
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
Ms.	Portia Trass Scurlock

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

Mr.	Brian Bacchus, OPD
Mr.	Jeffrey Penzes, OPD
Mr.	Brett Ragsdale, OPD
Mr.	Seth Thomas, OPD

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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 October 28, 2020, Board Meeting; Jackson 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**
- 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 A(1) of Governor Lee’s Executive Order No. 65.
- ACTION OF THE BOARD:** Approval
3. **DOCKET:** **B.O.A. 20-104 (City)**
- APPLICANT(S):** Frank and Amber Fournier
- PREMISES AFFECTED:** 3795 Philwood Ave.
- USE DISTRICT:** Residential – 6
- REQUESTING:** Variances from Paragraphs 2.7.2A(1), 2.7.2A(5), and 2.7.2B(2) to permit an accessory structure within five feet of a side property line
- ACTION OF THE BOARD:** Approval with one (1) condition

**Conditions:**

1. Modifications to the approved site plan shall be subject to the approval of the Zoning Administrator per Section 9.22.9.

**THE RESOLUTION:**

**WHEREAS**, Frank and Amber Fournier filed an application with the Board of Adjustment for variances from Paragraphs 2.7.2A(1), 2.7.2A(5), and 2.7.2B(2) to permit an accessory structure within five feet of a side property line; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 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 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 one condition 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, Jackson, Malasri, Rainey, and Scurlock)

RECUSED: .....0

**4. DOCKET: B.O.A. 20-105 (City)**

**APPLICANT(S):** Erskine and Gwendolyn Caldwell

**PREMISES AFFECTED:** Garnet Road, 306 feet west of Ward Road

**USE DISTRICT:** Conservation Agriculture

**REQUESTING:** Variances from Sub-Section 3.6.1A and Paragraph 3.6.1B(1) to reduce the minimum area of a proposed lot from 2.0 acres to 1.8 acres, per Paragraph 3.6.1B(3)

**ACTION OF THE BOARD:** Approval with one (1) condition

**Conditions:**

1. The applicant shall provide a written opinion from the Health Department that the proposed lot is acceptable for a septic tank.

**THE RESOLUTION:**

**WHEREAS**, Erskine and Gwendolyn Caldwell filed an application with the Board of Adjustment for variances from Sub-Section 3.6.1A and Paragraph 3.6.1B(1) to reduce the minimum area of a proposed lot from 2.0 acres to 1.8 acres, per Paragraph 3.6.1B(3); and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 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 variances, 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

**6. DOCKET: B.O.A. 20-107 (City)**

**APPLICANT(S):** Red Door Memphis, LLLC Midtown Restoration, LLC

**PREMISES AFFECTED:** 1805 Jackson Avenue

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

**REQUESTING:** Variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit

**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 by the Division of Planning and Development.

**THE RESOLUTION:**

**WHEREAS**, Red Door Memphis, LLC & Midtown Restoration, LLC filed an application with the Board of Adjustment for a variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 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

**7. DOCKET:** **B.O.A. 20-108 (City)**

**APPLICANT(S):** Red Door Memphis, LLC & Midtown Restoration, LLC

**PREMISES AFFECTED:** 1811 Jackson Avenue

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

**REQUESTING:** Variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit

**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.

**THE RESOLUTION:**

**WHEREAS,** Red Door Memphis, LLC & Midtown Restoration, LLC filed an application with the Board of Adjustment for a variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 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

**8. DOCKET: B.O.A. 20-109 (City)**

**APPLICANT(S):** Red Door Memphis, LLC & Midtown Restoration, LLC

**PREMISES AFFECTED:** 1815 Jackson Avenue

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

**REQUESTING:** Variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit

**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.

**THE RESOLUTION:**

**WHEREAS,** Red Door Memphis, LLC & Midtown Restoration, LLC filed an application with the Board of Adjustment for a use variance from Item 2.7.2D(1)(a) to allow an accessory dwelling unit and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 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

<b>2. DOCKET:</b>	<b><u>B.O.A. 20-101 (City)</u></b>
<b>APPLICANT(S):</b>	MGR Memphis 3, LLC
<b>PREMISES AFFECTED:</b>	210 Hawthorne Street
<b>USE DISTRICT:</b>	Residential Urban Historic (RU-3) District
<b>REQUESTING:</b>	Variance from Item 4.5.2C(1)(b) to allow parking within the required front yard setback
<b>ACTION OF THE BOARD:</b>	Rejection
<b>APPEARANCES:</b>	Support: Cindy Reaves and Dustin Hamilton Opposition: Don Jones

**THE RESOLUTION:**

**WHEREAS,** MGR Memphis 3, LLC filed an application with the Board of Adjustment for a variance from Item 4.5.2C(1)(b) to allow parking within the required front yard setback and;

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 2020**, after due notice; and

**WHEREAS,** The Board is of the opinion, and finds from the records on file, that the standards for variances in the Unified Development Code are not being met; and;

**WHEREAS,** The Board has determined that said variance would be unduly detrimental to the other properties in the vicinity of the subject premises; and



**WHEREAS**, The Board is further of the opinion that to allow the request will unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect 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 rejected.

AGAINST MOTION OF APPROVAL:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey, and Scurlock)

FOR MOTION OF APPROVAL: .....0

RECUSED: .....0

5. **DOCKET:** **B.O.A. 20-106 (City)**
- APPLICANT(S):** TMR Enterprises, LLC
- PREMISES AFFECTED:** 1941 Vinton Avenue
- USE DISTRICT:** Residential Single Family Historic (R-6[H]) District
- REQUESTING:** Variance from Item 4.5.2C(1)(b) to allow front yard parking
- ACTION OF THE BOARD:** Rejection
- APPEARANCES:** Support: David Mah
- Opposition: Sandra Murphy, Becky Paulk, Shelly Rainwater and Michael Hawthorn

**THE RESOLUTION:**

**WHEREAS**, TMR Enterprises, LLC filed an application with the Board of Adjustment for a variance from Item 4.5.2C(1)(b) to allow front yard parking and;

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, November 18, 2020**, after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the records on file, that the standards for variances in the Unified Development Code are not being met; and;

**WHEREAS**, The Board has determined that said variance would be unduly detrimental to the other properties in the vicinity of the subject premises; and

**WHEREAS**, The Board is further of the opinion that to allow the request will unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect 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 rejected.

AGAINST MOTION OF APPROVAL:.....6 (Baker, Claybrook, Jackson, Malasri, Rainey, and Scurlock)

FOR MOTION OF APPROVAL: .....0

RECUSED: .....0

**ADJOURMENT:**

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY