

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

Wednesday, December 16, 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
Mrs.	Carson Claybrook
Ms.	Joy Doss
Mr.	John Jackson, III
Mr.	J.T. Malasri
Mr.	Timothy D. Rainey, Chairman
Ms.	Madeline Savage-Townes

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

Mr.	John Zeanah, DPD Director
Mr.	Jeffrey Penzes, OPD
Mr.	Brian Bacchus, OPD
Mr.	Lucas Skinner, OPD
Ms.	Clarke Shupe-Diggs,

A quorum being present, the Board proceeded to consideration of the day's agenda. Board Member Jackson made the motion to approve the minutes from the November 18, 2020, Board Meeting; Board Member Malasri 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 Zoning Administrator 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. 20-112 (City)**

**APPLICANT:** Belz Investment Company  
(representatives: Morris Thomas and Doug Baker)

**LOCATION:** 140 East Mitchell

**USE DISTRICT:** Commercial Mixed Use 3 (CMU-3)

**REQUESTING:** Variance from Sub-Section 2.7.1A to allow an accessory structure, an ATM, without a principal structure

**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,** Belz Investment Company filed an application with the Board of Adjustment for a variance from Sub-Section 2.7.1A to allow an accessory structure, an ATM, without a principal structure; and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 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.

**NOW THEREFORE,** Be it resolved that the application be and it hereby is granted for the requested variances. Provided, however, that the variances are granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any

future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

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

RECUSED: .....0

4. **DOCKET:** **BOA 20-114 (City) (correspondence to Docket BOA 66-49))**

**APPLICANT:** Gill Property-Humes GP

**PREMISES AFFECTED:** 2847 Poplar Ave, SW corner of Poplar and Humes

**USE DISTRICT:** Commercial Mixed Use – 3 (CMU-3) and Residential Urban – 3 (RU-3)

**REQUESTING:** Site plan modification to Docket Number BOA 66-49 (City) to allow an area of land that was a drive with parking originally intended to serve a multi-family use to be incorporated into a commercial development

**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 general category of “All retail sales and service, except as listed below:” of Section 2.5.2 of the Unified Development Code shall be permitted on the subject site that is approximately fifty (50) feet wide by one hundred fifty (150) feet long and currently zoned Residential Urban – 3 (RU-3).
3. This entitlement shall not be subject to the comments from City Engineering included herein.

**THE RESOLUTION:**

**WHEREAS,** the Gill Property-Humes GP filed an application with the Board of Adjustment for a site plan modification to Docket Number BOA 66-49 (City) to allow an area of

land that was a drive with parking originally intended to serve a multi-family use to be incorporated into a commercial development; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 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:.....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, and Savage-Townes)

RECUSED: .....0

- 7. **DOCKET:** **BOA 20-118 (City)**
- APPLICANT:** My Sistah’s House  
(representative: Kayla Rena Gore)
- LOCATION:** 1444 Evelyn Avenue
- APPLICANT:** My Sistah’s House  
(representative: Kayla Rena Gore)
- USE DISTRICT:** Residential Urban 1 (RU-1)

**REQUEST:** Variance from Section 3.7.2 to allow a duplex on a lot of less than 8000 square feet.  
**ACTION OF THE BOARD:** Approval with Conditions

**Conditions:**

1. Any change or deviation from this plan, shall, upon the determination of the Planning Director, be resubmitted to the Board for its review and reaffirmation or addressed administratively by the Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS,** My Sistah’s House filed an application with the Board of Adjustment for a variance Section 3.7.2 to allow a duplex on a lot of less than 8000 square feet, and:

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, after due notice; and

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

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

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

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

AGAINST MOTION:.....0

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

RECUSED: .....0

8. **DOCKET:** **BOA 20-119 (City)**

**APPLICANT:** Joe Wiseman of Harris & Associates Land Surveyors  
(representative: William Mitchell of Crye-Leike)

**LOCATION:** 3890 Homewood Road

**USE DISTRICT:** Heavy Industrial (IH)

**REQUEST:** Variances from: 1) Sub-Section 3.10.2B to reduce the minimum front setback of the proposed Lot 2 from 30 to 14 feet; and 2) Paragraphs 2.7.2A(1), 2.7.2A(5), and 2.7.2B(2) to legitimize two existing, nonconforming accessory structures on the proposed Lot 2.

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

**Conditions:**

1. Modifications to the approved site plan – only as concern the two subject accessory structures on the proposed Lot 2 – shall be subject to the approval of the Zoning Administrator per Section 9.22.9.

**THE RESOLUTION:**

**WHEREAS,** Joe Wiseman and William Mitchell filed an application with the Board of Adjustment for Variances from: 1) Sub-Section 3.10.2B to reduce the minimum front setback of the proposed Lot 2 from 30 to 14 feet; and 2) Paragraphs 2.7.2A(1), 2.7.2A(5), and 2.7.2B(2) to legitimize two existing, nonconforming accessory structures on the proposed Lot 2.

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 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:.....7 (Baker, Claybrook, Doss, Jackson, Malasri, Rainey, and Savage-Townes)

RECUSED: .....0

10. **DOCKET:** **BOA 20-121 (City)**

**APPLICANT:** Riverside Missionary Baptist Church  
(representative: Rick Winchester, Jr.)

**LOCATION:** 3560 S. Third Street

**USE DISTRICT:** Residential Urban 3 (RU-3) and Office General (OG)

**REQUEST:** Variance from Item 4.9.7C(2)(b) to allow a digital sign exceeding the permitted size.

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

**Conditions:**

1. A detached monument style sign with a maximum height of 16 feet and a maximum of 56 square feet of sign area per side is permitted. The sign must be architecturally compatible with the principal structure.
2. The approved sign may be illuminated but not flash, revolve, oscillate, be animated, or create an illusion of continuous movement.
3. The electronic component of the approved sign shall conform to the requirements of Sub Section 4.9.6E of the Unified Development Code.
4. The site plan shall be revised to show a landscaped area equivalent to two times the area of the permitted sign, around the immediate base area of the sign.

**THE RESOLUTION:**

**WHEREAS**, Riverside Missionary Baptist Church filed an application with the Board of Adjustment for a Variance from Item 4.9.7C(2)(b) to allow a digital sign exceeding the permitted size., and:

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, after due notice; and

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

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

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

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

AGAINST MOTION:.....0

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

RECUSED: .....0

- 11. **DOCKET:** **BOA 20-122 (City)**
- APPLICANT(S):** Richard and Linda Caughron
- LOCATION:** 3875 Tutwiler Avenue
- USE DISTRICT:** Residential – 6 (R-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 Conditions

**Conditions:**

1. Modifications to the approved site plan – only as concern the subject accessory structure – shall be subject to the approval of the Zoning Administrator per Section 9.22.9.

**THE RESOLUTION:**

**WHEREAS**, Richard and Linda Caughron 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, December 16, 2020**, after due notice; and

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

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

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

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

AGAINST MOTION:.....0

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

RECUSED: .....0

12. **DOCKET:** **BOA 20-123 (City) (correspondence to Docket BOA 18-90)**
- PREMISES AFFECTED:** West side of Brister Street between Mynders Avenue and Midland Avenue
- APPLICANT:** Stella Student Services  
(representative: Henry Minor, Kimley-Horn)
- USE DISTRICT:** Residential Urban 3 (RU-3) and Commercial Mixed Use 1 (CMU-1) within the University District Overlay
- REQUESTING:** Time extension to Docket BOA 18-90 (City)

**ACTION OF THE APPLICANT:** 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. A pedestrian easement along the proposed sidewalk on Brister Street shall be dedicated.

**THE RESOLUTION:**

**WHEREAS,** Stella Student Services filed an application with the Board of Adjustment for a time extension to Docket BOA 18-90 (City); and

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 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.

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

AGAINST MOTION:.....0

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

RECUSED: .....0

- 13. **DOCKET:** BOA 20-124 (City)
- APPLICANT:** D.R. Horton, Inc.
- LOCATION:** 861 Ruby Creek Cove
- USE DISTRICT:** Residential Single-Family (R-6) District
- REQUESTING:** Variance pursuant to Sub-Section 3.2.9F to allow a principal structure to encroach a platted front yard setback six (6) feet.
- ACTION OF THE BOARD:** Approval with Conditions

**Conditions:**

1. Non-use variance shall be allowed for a front yard setback of twenty-one (21) feet as illustrated on the site plan. The site plan shall be revised to orient the home and lot in the north direction.
2. The final site plan shall be subject to review and approval by the staff and any change or deviation to 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 Office of Planning and Development.

**THE RESOLUTION:**

**WHEREAS,** D.R. Horton, Inc. filed an application with the Board of Adjustment for a variance pursuant to Sub-Section 3.2.9F to allow a principal structure to encroach a platted front

yard setback six (6) feet; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 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 variances. Provided, however, that the variances are granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

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

RECUSED: .....0

- 1. **DOCKET:** **BOA 20-111 (City)**
- LOCATION:** 1988 Young Avenue
- APPLICANT:** Mark L. Morrison
- USE DISTRICT:** Residential Single Family Historic (R-6[H]) District
- REQUESTING:** Variance from Paragraph 2.7.2A(1) to allow a detached garage closer than five (5) feet from a side yard property line.
- APPEARANCES:** Support: Mark L. Morrison

Opposition: None

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

**Conditions:**

1. A non-use variance to allow a side yard setback of three (3) feet for a detached accessory garage structure (616 sq. ft.) in area 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**, Mark L. Morrison filed an application with the Board of Adjustment for a variance from Paragraph 2.7.2A(1) to allow a detached garage closer than five (5) feet from a side yard property line.; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, after due notice; and

**WHEREAS**, The Board is of the opinion, and finds from the records on file, that the standards for a 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 variance. Provided, however, that the variance is granted for the specific purpose herein specified and shall not otherwise be deemed to vary or modify any of the provisions of any Zoning Ordinance, City/County Ordinance or State law applicable to these premises nor to any future use or development of said property, and provided further that a building permit and/or Certificate of Occupancy permit in conformity herewith shall be obtained from the Memphis and Shelby County Office of Construction Code Enforcement within two (2) years.

AGAINST MOTION:.....0

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

RECUSED: .....0

3. **DOCKET:** **BOA 20-113 (City) (correspondence to Docket BOA 18-88 (City))**

**APPLICANT:** 2166 Central, LLC

**LOCATION:** 2158, 2164, and 2166 Central Avenue

**USE DISTRICT:** Commercial Mixed Use 1 (CMU-1), Employment (EMP), and Midtown District Overlay

**REQUESTING:** Time extension to BOA 18-88 to allow the continuation of the applicable previously granted variances (bar, tavern, outdoor entertainment, storage containers, etc.) associated with the Railgarten entertainment facility

**APPEARANCES:** Support: Malcom B. Futhey, III and Mason Jambon  
Opposition: Steve Karnes

**ACTION OF THE BOARD:** Approval as amended

**Conditions:**

1. A bar/tavern with outdoor recreation and the installation and placement of metal shipping containers shall be permitted to include live entertainment and outdoor seating areas. The site shall not be allowed to operate exclusively as a bar, tavern, cocktail lounge or nightclub.
2. The days and hours of operation shall be Monday-Thursday until 9:30 PM and Friday-Sunday until 10:30 PM for live outdoor entertainment and shall be adequately staffed to monitor all patrons, including the security of the buildings inside and outside of the premises.
3. Any landscaped areas shall be fully refurbished with shrubs, small understory trees and Bermuda sod to compliment the building and surroundings subject to review and approval by staff.
4. Any and all garbage dumpsters shall be screened from residential property and the public

right-of-ways.

5. This facility shall operate in accordance with all State statutes and local ordinances and all official policies and procedures adopted pursuant thereto.
6. These approvals are contingent upon the submitted site plan. Any modification to the site plan shall be submitted to the Office of Planning & Development for review in accordance with UDC Section 9.22.9.
7. This approval is conditioned upon the applicant securing at least 100 off-site parking spaces, with the minimum term of said leases being a period of two years. The initial two-year leases, which were submitted to Josh Whitehead on May 18, 2017, by Malcolm B. Futhey, III, account for approximately 162 spaces:
  - i. 682 Cox (Schwartz Electric Co.): 58 spaces
  - ii. 2178 Central (Carwile Cleaners): 21 spaces
  - iii. 2189 Central and 693 S. Cox (Central Automotive): 6 spaces
  - iv. 2192 Central (Central Animal Hospital): 15 spaces
  - v. 741 S. Cox, 749 S. Cox and 2215 Central (Market Central and Memphis Waterworks): 30 spaces
  - vi. 2169 Central (Palladio): 18 spaces
  - vii. 2197 Central (Party Concepts): 9 spaces
  - viii. 2200 Central (Xanadu Music and Books): 5 spaces
8. If any of the leases cited above are terminated, the applicant shall enter into a lease with another property so at all times there are active parking leases for at least 100 off-site spaces during all operating hours after 5:00 PM.
9. All leases, including renewals, shall be submitted to the Office of Planning and Development to place with the official records for this case. In addition, the Office of Planning and Development shall be notified of any lease terminations.
10. This approval shall expire on December 31, 2018. Time extensions not to exceed a period of two years may be requested through the correspondence application process. Such applications shall be submitted and approved prior to the expiration date(s) in order for this operation to remain open. Any amendment to this condition shall require action by the Board of Adjustment through the submittal of a new application.
11. A two-year time extension is hereby granted in accordance with Condition 10 and shall expire on December 31, 2022.
12. At 2166 Central Avenue, a restaurant/bar with indoor recreation shall be permitted to include live entertainment and ping pong, but excluding pinball machines and foosball tables. The building shall not be allowed to operate exclusively as a bar, tavern, cocktail lounge, or nightclub.
13. The applicant shall pay for trash collection in the immediate vicinity to the subject site each

evening that the establishment is operating. In addition, the applicant shall monitor patron parking to ensure customers are parking in those off-site areas that are under active lease agreements or in the public right-of-way.

14. The three poles and any associated base which are remnants from previously existing detached signs shall be removed.

15. One portable menu board style detached sign shall be allowed in lieu of other detached signage.

**THE RESOLUTION:**

**WHEREAS**, 2166 Central, LLC filed an application with the Board of Adjustment for a time extension to BOA 18-88 to allow the continuation of the applicable previously granted variances (bar, tavern, outdoor entertainment, storage containers, etc.) associated with the Railgarten Entertainment Facility.

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, 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 a 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.

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

AGAINST MOTION:.....0

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



RECUSED: .....0

5. **DOCKET:** **BOA 20-116 (City)**
- PREMISES AFFECTED:** 405-409 Ayers Street
- APPLICANT(S):** Christian Methodist Episcopal Church  
(representatives: Juan Self and Corbin Carpenter)
- USE DISTRICT:** Office General (OG) and Residential Single-Family  
6 (R-6)
- REQUESTING:** Use variance from Section 2.5.2 to allow a social  
service institution.
- APPEARANCES:** Support: Corbin Carpenter, Paul Young, Dr.  
Anderson , and Juan Self
- Opposition: Stephanie Walker, Gwendolyn Boykin,  
and Mary Warren
- ACTION OF THE BOARD:** Approval 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. Parking for the Social Service Institution shall be at a ratio of 1.0 per employee plus 1.0 per 250 SF office area.
3. Given the intent for the original use as a “skilled nursing facility”, this site shall also allow uses including office, assisted living and medical facilities, and any associated accessory use as a part of this approval.
4. The use of homeless shelter and hospital shall be approved for a maximum of 2 years and may be renewed by the Board of Adjustment before December 31, 2022.
5. There shall be no walk-up intake or emergency shelter (one night at a time) allowed at this site.
6. There shall be a maximum of 14 families and 21 individuals at any one time.
7. There shall be one person on staff designated to security at all times, unless an outside security personnel is provided.

**THE RESOLUTION:**

**WHEREAS**, Christian Methodist Episcopal Church filed an application with the Board of Adjustment for a use variance from Section 2.5.2 to allow a social service institution; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, 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 a 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.

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

AGAINST MOTION:.....0

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

RECUSED: .....0

- 6. **DOCKET:** **BOA 20-117 (City)**
- LOCATION:** 2419 Kimbark Woods Cove
- APPLICANT:** Monique Cooper
- USE DISTRICT:** Residential Single-Family 8 (R-8)

**REQUESTING:** Appeal of Zoning Administrator’s rejection of an administrative deviation (Case AD 20-25) related to a fence exceeding the height limits of Sub-Section 4.6.7C

**APPEARANCES:** Support: Monique Cooper  
Opposition: None

**ACTION OF THE BOARD:** Approval as amended

**Conditions:**

1. If the fence is ever torn down, the fence shall be rebuilt per the regulations of the Unified Development Code in Sub-Section 4.6.7C.

**THE RESOLUTION:**

**WHEREAS,** Monique Cooper filed an application with the Board of Adjustment for an appeal of the Zoning Administrator’s rejection of an administrative deviation (Case AD 20-25) related to a fence exceeding the height limits of Sub-Section 4.6.7C

**WHEREAS,** a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, 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 a 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.

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

AGAINST MOTION:.....0

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

RECUSED: .....0

9. **DOCKET:** **BOA 20-120 (City) (correspondence to Docket BOA 98-68))**

**LOCATION:** 3300 Pearson Road

**APPLICANT(S):** Woody and Joyce Welch Family LLC  
(representative: Ryan Gram)

**USE DISTRICT:** Employment (EMP)

**REQUESTING:** Site plan modification to Docket Number BOA 98-68 (City) to allow commercial parking improvements on a site with an existing off-premise advertising sign (billboard) and industrial/warehouse structure.

**APPEARANCES:** Support: Ryan Gram and Linsey Hearon

Opposition: None

**ACTION OF THE BOARD:** Approval as amended

**Conditions:**

1. Any change or deviation from the site plan or elevations 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 billboard (off-premise advertising sign) on the site shall remain a nonconformity; no additional rights are granted to the billboard (off-premise advertising sign) by this approval.

**THE RESOLUTION:**

**WHEREAS,** Woody and Joyce Welch Family LLC filed an application with the Board of Adjustment for a site plan modification to Docket Number BOA 98-68 (City) to allow commercial parking improvements on a site with an existing off-premise advertising sign (billboard) and industrial/warehouse structure; and

**WHEREAS**, a public hearing on this application was held by the Board at its regular meeting on **Wednesday, December 16, 2020**, 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 a 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.

**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:.....1 (Baker)

FOR MOTION:.....5 (Claybrook, Doss, Jackson, Malasri, and Savage-Townes)

RECUSED: .....0

**ADJOURMENT:**

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

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

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY