



STAFF REPORT

AGENDA ITEM: 5

CASE NUMBER: N/A

B.O.A. MEETING: November 16, 2016

APPLICANT:

Josh Whitehead, Secretary

REQUEST:

Amend the Rules of Procedure to add a Show Cause Hearing Process

This amendment would add a show cause hearing process to the Board's Rules of Procedure. Show cause hearings would be initiated by the Planning Director/Board Secretary when he or she determines that an applicant who has received past approval by the Board is not meeting the conditions placed upon the property by the Board. The proposed language is included below. During its initial discussion of this item on October 26, the Board requested that the language be amended to be more focused on the types of violations that would warrant a show case hearing.

Article XVI: Show Cause Hearings

1. All applicants whose requests are approved by the Board are expected to comply with the Code of Ordinances of the City of Memphis and/or the County of Shelby, including the Memphis and Shelby County Unified Development Code. Furthermore, applicants are expected to honor and abide by representations and guarantees made before the Board, as well as any conditions placed upon their approval by the Board.
2. If the Secretary determines that there have been three (3) or more infractions to the zoning ordinance or any other city or county ordinance, or to any of the conditions approved by the Board, at a property within any twelve (12) month period, he or she may place a show cause hearing on the next available docket of the Board, in accordance with the notice requirements of the Memphis and Shelby County Unified Development Code.
3. Show case hearings shall be limited to those citations related to the following purported violations: noise, litter, hours of operation, outdoor storage, unpermitted principal and/or accessory uses and any other similar violations unrelated to permanent structures and improvements placed on or made to the property.
4. During a show cause hearing, the Secretary shall provide, and the Board shall consider, a complete record of any and all zoning and other code enforcement actions made on the property and the facts and circumstances that the Secretary deems to be inconsistent with representations and guarantees made by the applicant before the Board, or any conditions placed upon the approval by the Board. After the Board has conducted a public hearing on the matter, it may then revoke or modify its original approval, but only as it relates to the violations listed in Paragraph 3 above and only if a finding of fact is made that such a revocation or modification will ameliorate the activities related to the purported code violations.
5. Notice for a show cause hearing shall be consistent with the notice requirements for appeals as provided by the Memphis and Shelby County Unified Development Code. If an applicant fails to attend a show cause hearing, the Board shall hold the hearing in abeyance until its next regular meeting to allow the Secretary to send notice of the meeting through certified mail. If the applicant fails to attend the second meeting, the Board may take any action it deems appropriate in the applicant's absence.

STAFF RECOMMENDATION

Approval

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