



CITY APPOINTEES  
TIMOTHY RAINEY, ESQ., CHAIR  
JOY DOSS  
JOHN JACKSON III  
AARON PETREE

# BOARD OF ADJUSTMENT

CITY BOARD EST. 1925 – COUNTY BOARD EST. 1931 – MERGED, 1970

JOSH WHITEHEAD, AICP, SECRETARY

CITY HALL - 125 N. MAIN ST., STE. 468 - MEMPHIS, TENNESSEE 38103 - (901) 576-6601



COUNTY APPOINTEES  
MADELEINE SAVAGE-TOWNES, ESQ., VICE CHAIR  
CARSON CLAYBROOK  
DANIEL DOW  
PORTIA SCURLOCK

Date: January 17, 2018

To: Timothy Rainey, Chairman  
Madeleine Savage-Townes, Vice Chair  
Carson Claybrook, Member  
Joy Doss, Member  
Daniel Dow, Member  
John Jackson, III, Member  
Aaron Petree, Member  
Portia Scurlock, Member

From: Josh Whitehead, Secretary

RE: 2017 Annual Report

Mr. Chairman and Members of the Board:

It has been a pleasure to serve as your Secretary this past year. This Annual Report summarizes the attendance and case load of the Board during 2017.

## 1. Attendance

Tim Rainey served as Chairman during 2017 and Madeleine Savage-Townes served as Vice Chair. The attendance of all members is as shown below.

### Regular Members

Chairman Rainey attended 11 of 12 meetings.  
Vice Chair Savage-Townes attended 10 of 12 meetings.  
Mr. Claybrook attended 11 of 12 meetings  
Ms. Doss attended 10 of 12 meetings.  
Mr. Dow attended 8 of 12 meetings.  
Mr. Jackson attended 11 of 12 meetings.  
Mr. Petree attended 11 of 12 meetings.  
Ms. Scurlock attended 9 of 12 meetings.

### Alternates

The following current members of the Land Use Control Board, all of whom are on the approved eligibility list to serve as alternates to the Board of Adjustment, attended accordingly:

Rob Norcross attended 2 meetings.  
Margaret Pritchard attended 1 meeting.  
Mary Sharp attended 2 meetings.  
James Toles attended 1 meeting.

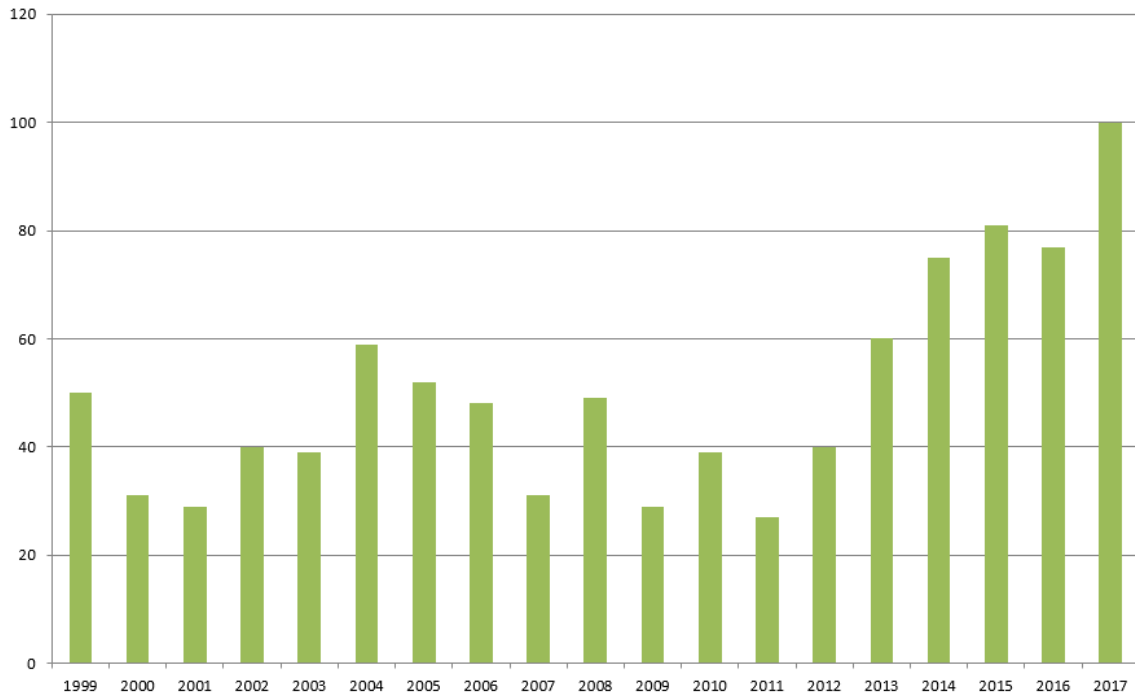
## 2. Caseload

100 cases were filed with the Board in 2017; 92 of these requests were heard during the calendar year:

- The Board heard **7 appeals** of an administrative opinion of either the Office of Planning and Development, the Office of Construction Code Enforcement or the Memphis or Shelby County Engineering Divisions. All were approved by the Board.
- The Board heard **4 conditional use permit** requests for the use of shipping containers; 3 were approved and 1 was rejected.
- The Board heard **22 residential bulk variance** requests that did not involve categories described below. 17 were approved and 1 was rejected. In addition, one case was filed (case BOA 17-78) that dealt only with a setback described in a narrative subdivision plat restriction and was subsequently withdrawn since such a restriction is only privately enforceable.
- The Board heard **3** requests to allow **residential front-yard parking pads**; 2 were rejected and 1 was approved.
- The Board heard **3** requests for **residential accessory dwelling units** that exceeded the permissible size for such structures under the zoning code; all 3 were approved.
- The Board heard **15 commercial, multi-family and place of worship bulk variance** requests that did not involve categories described below. 10 were approved; 2 were withdrawn.
- The Board heard **7 on-site sign variance** requests. 4 of these involved requests to exceed the maximum number of signs on a single commercial façade. The 3 others involved requests to digitize signs. 6 of these requests were approved by the Board; 1 was withdrawn.
- The Board heard **6 off-site sign (billboard) variance** requests. 2 of these did not involve the billboard themselves, but instead the expansion or reconstruction of other buildings that shared the lots with the billboards; these cases were approved. 1 case involved the moving of a nonconforming billboard due to government action (widening of Lamar); it was approved. The 3 others involved the digitization of 2 signs; all 3 were withdrawn.
- The Board heard **21 use variance** requests; 16 were approved; 2 were withdrawn and 1 was rejected.
- The Board heard **2 lot size variance requests**; both were approved.
- The Board heard **2 site plan modification or time extension** requests (correspondence cases). Both were approved.

- Of the **92** requests made by property owners in 2017, **86** were located in the City and **6** were located in the County.

The table below indicates annual caseload 1999 to 2017. 2017 represents the busiest year for the Board during this time period. Note: in an effort to create a historically accurate comparison, the figures below indicate cases filed with the Board but not necessarily heard. For example, 100 cases were filed with the Board in 2017 but only 92 were heard.

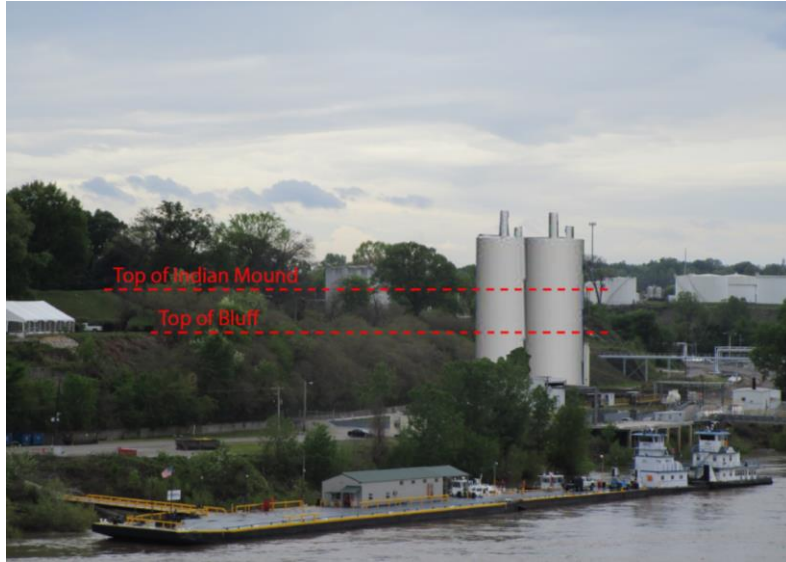


### 3. Significant Cases, 2017

The following significant cases were filed with the Board in 2017, organized by topic:

#### Height variances

- **Cases BOA 17-18:** This case involved a height variance to allow industrial silos on Illinois Street near Metal Museum Drive; it was withdrawn by the applicant before action could be taken by the Board.



*Proposed silos along the Mississippi River on Illinois Street (Case BOA 17-18)*

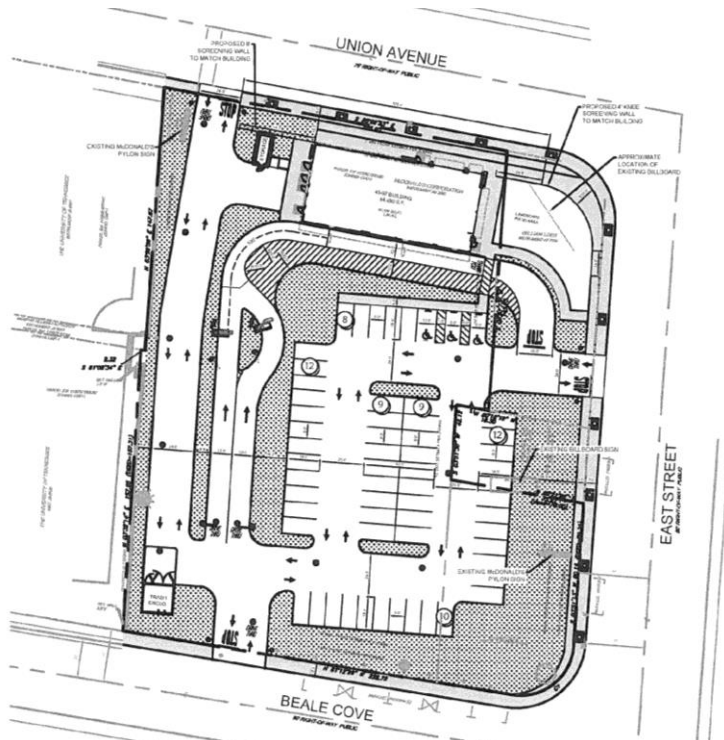
- **Cases BOA 17-58:** This case involved a four-story apartment building at 999 S. Cooper across the street from First Congo Church. It was approved by the Board.



*Apartment building at 999 S. Cooper (Case BOA 17-58)*

#### Setback variances

- **Case BOA 17-44:** This case involved a variance from the maximum setbacks of the Medical District Overlay for the reconstruction of the McDonald's at Union and East. The restaurant respected the urban streetscape of the maximum setbacks, but was unable to meet all of the metrics for such buildings found in the Overlay. The application was approved.



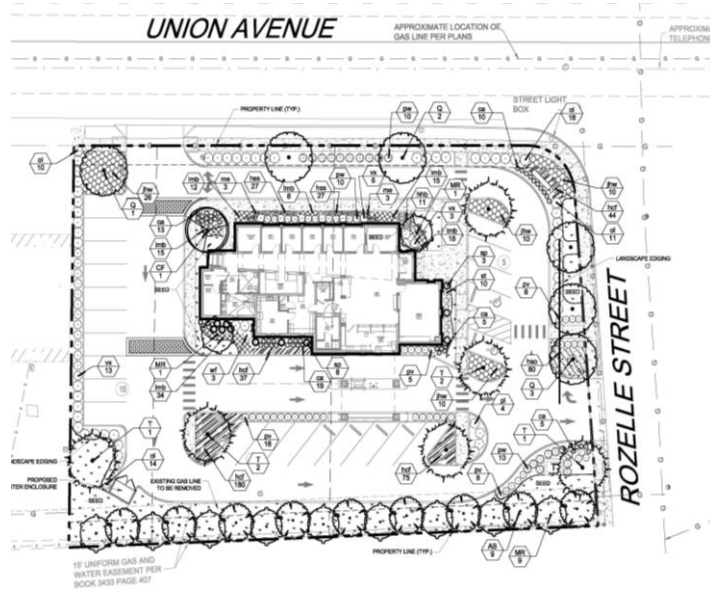
*New McDonald's at Union and East (BOA Case 17-44)*

- **Case BOA 17-61:** This case involved the new Hollywood Feed at Sam Cooper and Collins. It was approved by the Board.



*New Hollywood Feed building at Collins and Sam Cooper (Case BOA 17-61)*

- **Case BOA 17-68:** This case involved a variance from the minimum setback found on the plat for the shopping center on the south side of Union between Avalon and Rozelle. The applicant, Pinnacle Bank, eventually presented a plan that actually encroached further into the setback than had been originally planned at the behest of the Central Gardens neighborhood. It was approved.



*New Pinnacle Bank at Union and Rozelle (Case BOA 17-68)*

- **Case BOA 17-100:** This case involved a new facility for the Shelby County Health Dept. Like BOA 17-44 on Union, the Health Dept. sought relief from the strict interpretation of the maximum setback requirements of the Medical District Overlay.

Billboard cases

- **Cases BOA 17-27 and 17-33:** These cases involved the renovation or construction of buildings that sat on the same lot as billboards. BOA 17-27 involved the new Hopdoddy restaurant at Madison and Cooper; BOA 17-33 involved a new Dollar General at Holmes between Summer and Broad/Sam Cooper. Both were approved.



*Hopdoddy (Case BOA 17-27)*

- **Case BOA 17-30:** This case involved the relocation of a non-conforming billboard on Lamar near the state line that was within property taken by TDOT for the widening of Lamar. This relocation was approved by the Board.
- **Cases BOA 17-03/17-71 and 17-69:** These cases involved the digitization of non-conforming billboards; 17-03/17-71 were two separate requests for a billboard on US 64, just west of I-40 and 17-69 was a request for a billboard at Poplar and Colonial. Both requests were withdrawn, based partially on the fact that the sign code portion of the Unified Development Code may be amended within the year to allow for the digitization of certain non-conforming billboards, provided a certain number of other non-conforming billboards are removed.
- **Case 17-94:** This case involved reusing the Holiday Ham sign at Poplar and Erin Way across the street from the Holiday Ham restaurant. It will be heard by the Board in 2018.

#### Shipping container cases

- **Case BOA 17-23/17-24:** These companion cases dealt with, in part, the use of shipping containers for Railgarten at Central and Cooper. These cases, which addressed the western portion of the Railgarten complex, were approved not long after the Memphis City Council approved a Special Use Permit for the eastern portion. The latter was the subject of a revocation rehearing by the Memphis City Council; the minutes on that matter have been held in abeyance by the Council since.
- **Case BOA 17-25:** This case involved the reuse of an old liquor store on Broad, east of Collins, to a restaurant and the installation of a shipping container to act as its kitchen. This case was approved.



*2655 Broad (Case BOA 17-25)*

- **Case BOA 17-45:** This case involved the installation of several shipping containers to act as outdoor art and storage for a food truck venue in the Edge neighborhood, specifically on the south side of Monroe, west of Marshall. This proposal was approved by the Board.



*Food truck venue on Monroe (Case BOA 17-45)*

- **Case BOA 17-53:** This case involved the use of a shipping container for storage for the Levitt Shell at Overton Park. It was rejected by the Board.
- **Case BOA 17-95:** This case involved an apartment building to be constructed of shipping containers on Bellevue Blvd. It was held in abeyance for a period of one month by the Board during its December meeting.



*Shipping container apartments on Bellevue (Case BOA 17-95)*



### Adaptive reuse

- **Case BOA 17-13:** This case involved three properties near the intersection of Peabody and Bellevue Blvd. to be renovated by the Dorothy Day House as apartments for homeless families. It was approved by the Board.
- **Case BOA 17-55:** This case involved the adaptive reuse of the old TVESCO (Tennessee Valley Electric Supply Co.) building at Adams and Fourth to be the new home of the downtown Abra Auto Body and Glass. It was approved by the Board.
- **Case BOA 17-59:** This case involved the reuse of the old Baptist Brotherhood building on Poplar (later the home of the Memphis Leadership Foundation) into office space; it was approved.

### Event centers

- **Case BOA 17-42:** This case involved the use of the recently renovated warehouse at Rozelle and the railroad tracks in Central Gardens as an event space. The Board approved the request.



*802 Rozelle (Case BOA 17-42)*

- **Case BOA 17-67:** This case involved the use of a portion of a 99-acre tract on Reid Hooker in Fisherville as a wedding and event space. It was approved by the Board and has been appealed in Circuit Court.

### Front yard parking

- **Case BOA 17-28:** This case involved a request to retroactively approve parking pads that encumbered the entirety of the front yards of two new homes on Spottswood near the University of Memphis. This case was rejected by the Board and the front yard parking pads have since been removed.

- **Case BOA 17-70:** This case involved a request to retroactively approve a front yard parking pad in front of a historic duplex on McLean, north of Poplar in the Evergreen historic overlay district. The Board rejected the application, which would have also required positive action by the Memphis Landmarks Commission, but has been appealed to Chancery Court.

#### **4. Staff, 2017**

As has been the case since 2001, the Board of Adjustment has been staffed by the Land Use section of the Office of Planning and Development. In 2017, this included the following individuals: Burk Renner and Chip Saliba, managers; and Brian Bacchus, Don Jones, Marion Jones, Jeffrey Penzes, Kirstin Kettley and Staci Tillman, staff planners. Mr. Renner is embedded in the Office of Construction Code Enforcement on Mullins Station to ensure zoning code compliance on projects that do not require zoning review by the Board of Adjustment, Land Use Control Board or Landmarks Commission. Since July 1, Mr. Bacchus has largely been responsible for staffing the Landmarks Commission. Also since July 1, Mr. Saliba and Ms. Kettley have been responsible for providing support to the new OPD service counter. This has resulted in the following four primary staff planners who have reported to the Board of Adjustment (and Land Use Control Board) since July 1: Mr. and Ms. Jones, Mr. Penzes and Mr. Tillman.