



BOARD OF ADJUSTMENT
ORDER OF ITEMS
March 14, 2016

The DeSoto County Board of Adjustment met at 7:00 p.m. on Monday, March 14, 2016, in the Board Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Rudy Davis, Mike Duncan, Phillip Steward, Earl Ward, and Tom Williams. Staff members present included Bennie Hopkins, Austin Cardosi, Lynn Ford (minute taker), and Robert Quimby, Board Attorney.

Board of Adjustment Chairman Phillip Steward called the meeting to order and asked whether any member of the Board recommended changes to the Minutes dated February 8, 2016. Mr. Williams made a motion to approve the minutes as presented. Mr. Davis seconded the Motion. The Motion was passed with a unanimous vote.

Planning Director Bennie Hopkins explained the meeting process, the provisions for Board approval of a Conditional Use and a Variance under the DeSoto County Zoning Ordinance, and the appeal process. He stated the deadline to file an appeal on items heard at this meeting is March 24, 2016 at 5:00 p.m. He then stated any appeals filed for Board actions taken at this meeting will be heard by the Board of Supervisors on April 18, 2016, at 11:00 a.m.

Mr. Hopkins announced to the public that the Standard Construction application has been tabled until the Board of Supervisors takes action on approval of the 2016 Zoning map and update to the zoning ordinance.

NEW BUSINESS

Variance

Application by Chelsea Malone (1451) for a Variance to allow a front setback of less than 50 in accordance with Article V, Paragraph 2, Section D Page 29 of the DeSoto County Zoning Ordinance. Subject property is located at 1980 Ingram Cove, on the east side of Ingram Cove and south of Bethel Road Parcel #2-06-9-29-02-0-00002-00 in Section 29, Township 2, Range 6 and is zoned Agricultural-Residential (A-R). (District 5)

The application #1451 by Chelsea Malone was tabled as the applicant was not present. Mr. Duncan made a Motion to table application #1451 by Chelsea Malone. Mr. Davis seconded the motion. The Motion was passed with a unanimous vote.

Application by Michael Moses (1452) for a Variance to allow a fence to be taller than 3 ft in the front yard of a double frontage lot in accordance with Article X, Paragraph 2, Section (a) Page 101 of the DeSoto County Zoning Ordinance. Subject property is located at 1940 Radley Road, on the east side of Radley Road and south of Lester Road Parcel #2-07-8-28-00-0-00002-10 in Section 28, Township 2, Range 7 and is zoned Agricultural-Residential (A-R). (District 5)

Mr. Hopkins presented the application by Michael Moses for a Variance to allow a fence to be taller than 3 ft. in the front yard of a double frontage lot. He stated Mr. Moses was present to present the application.

Mr. Moses said he would like to align his fence with the neighbor's 6 ft. fence. He stated his fence will have brick or stone pillars and wrought iron. Mr. Moses stated the fence will not block the view onto Lester Rd. He produced a picture of the west side of his property and the neighbor's property. Mr. Steward asked the staff to confirm the fence would not block sight lines. Mr. Cardosi stated that a 43 foot set-back should not present any obstructions.

Mr. Steward asked if there was anyone to speak for or against the item. There was no one present. Mr. Ward made the Motion to approve the fence variance requested by Mr. Moses based upon a finding that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of the DeSoto County Zoning Regulations would deprive Mr. Moses of rights commonly enjoyed by other properties in the same district; that special conditions and circumstances do not result from the actions of Mr. Moses; and that granting the variance requested will not confer on Mr. Moses any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same district. Mr. Williams seconded the Motion. The Motion was passed with a unanimous vote.

Application by Bill Clark (1453) for a Variance to allow a front setback of less than 50 feet in accordance with Article V, Paragraph 1, Section D, Page 26 of the DeSoto County Zoning Ordinance. Subject property is located at 7770 Holly Springs Road, on the north side of Holly Springs Road and east of Edwards Place Road Parcel #3-06-4-20-00-0-00006-00 in Section 20, Township 3, Range 6 and is zoned Agricultural (A). (District 5)

Mr. Hopkins presented application #1453 by Mr. Bill Clark for a Variance to allow a front setback of less than 50 feet. Mr. Hopkins stated that the terrain of the property will not allow a set-back of 50 ft. without a lot of heavy dirt work. He stated Mr. Clark was present to present the application.

Mr. Clark stated he wants to build a house for his mother-in-law about 400 – 500 feet from his house. He stated this spot is the only flat spot not in a flood zone to build her a house. Mr. Clark stated the home will be 1356 sq ft. Mr. Ward asked how far from the center of the road this would be. Mr. Cardosi stated that it would be about 35 – 40 ft to right-of-way plus Mr. Clark's 35 foot he is requesting. Mr. Steward asked how far Mr. Clark's home was from the road. Mr. Clark stated that it is closer than his request. He stated he bought the home that had been built in the 70's.

Mr. Steward asked if there was anyone to speak for or against the item. There was no one present. Mr. Duncan made the motion to approve the Variance requested by Mr. Clark to build a home with a 35 ft set-back based upon a finding that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of the DeSoto County Zoning Regulations would deprive Mr. Clark of rights commonly enjoyed by other properties in the same district; that special conditions and circumstances do not result from the actions of Mr. Clark; and that granting the variance requested will not confer on Mr. Clark any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same district. Mr. Davis seconded the motion. The motion was passed with a unanimous vote.

Application by Chris Lewis (1454) for a Variance to allow an accessory building larger than 50% of the square footage of the primary structure in accordance with Article X, Paragraph 7, Page 102 of the DeSoto County Zoning Ordinance. Subject property is located at 4040 Green Meadow, on the east side of Green Meadow and north of Green Village Parcel #3-08-7-26-01-0-00009-00 in Section 26, Township 3, Range 8 and is zoned Agricultural (A). (District 5)

Mr. Hopkins presented the application by Chris Lewis for a Variance to allow an accessory building larger than 50% of the square footage of the primary structure. Mr. Hopkins informed the Board this is in the airport community south of Hernando. Mr. Cardosi informed the Board this application had been reviewed and approved by the Homeowner's Association. Mr. Hopkins stated Mr. Lewis is present to present the application.

Mr. Lewis stated that he just moved to Hernando from Drew and he needs a large shop to store his vehicles and do his own maintenance. He stated that the home across the street has a similar building to what he is asking for. Mr. Ward asked if Mr. Lewis intended to do any commercial work. Mr. Lewis stated he only worked on his own vehicles, changing oil and doing routine maintenance.

Mr. Steward asked if there was anyone to speak for or against the item. There was no one. Mr. Williams made a Motion to approve the Variance for an accessory building larger than 50% of the square footage of the primary structure based upon a finding that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of the DeSoto County Zoning Regulations would deprive Mr. Lewis of rights commonly enjoyed by other properties in the same district; that special conditions and circumstances do not result from the actions of Mr. Lewis; and that granting the variance requested will not confer on Mr. Lewis any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same district. Mr. Ward seconded the Motion. The motion was passed with a unanimous vote.

Conditional Use

Application by William Baker (1480) for a conditional use under Article V, Paragraph 1, Section C, (18), Page 23 of the DeSoto County Zoning and Subdivision Regulations to allow an extension of a Conditional Use for a mobile home for hardship. Subject property is located at 5261 Belmont Road, on the west side of Belmont Road and north of Belmont Estates Drive, Parcel # 3-07-9-31-00-0-00007-00 in Section 31, Township 3, Range 7 and is zoned Agricultural. (District 5)

Mr. Hopkins presented the application by William Baker for a renewal of conditional use #1331 to allow a mobile home for hardship. He stated Mr. Baker is here to present the application.

Mr. Baker stated he has lived on this property since 1977. Both he and his wife are disabled and neither can drive very far. He said his granddaughter and her husband live in the mobile home, and they maintain the grass, take them to the grocery, and help with weekly errands. Mr. Baker stated that without help he does not think they would be able to stay there and they would like very much to stay. Ms. Lynn Shultz, Mr. Baker's daughter, stated that not only do Mr. & Mrs. Baker live in the house, but her aunt and cousin who is completely disabled live there also.

Mr. Steward asked if there was anyone to speak for or against the item. Natalie & Drew Hardin requested to speak against the Variance. Mrs. Hardin had several complaints regarding the property. Mr. Robert Quimby reminded the Board and Mrs. Hardin that the purpose of this meeting was to address the extension of the mobile home hardship. Mrs. Hardin said the trailer used to be a travel trailer and had been replaced with a mobile home. She stated there are three people living in the trailer. She said this is affecting the property values for them and Belmont Estates across the road. Mr. Steward asked Mrs. Hardin if all the structures she was concerned with were there when they purchased their house. Mrs. Hardin said they were but they were told that the trailer would only be there a couple of years. Mr. Duncan asked about the legality of replacing the trailer. Mr. Cardosi stated you can replace a mobile home with another mobile home under the ordinance. They are now applying for an extended conditional use for the existing mobile home. Mrs. Hardin stated she has seen the people drive and does not understand what their hardship is.

Mr. Duncan asked if anything has changed since the last conditional use was permitted. Mr. Baker said the original trailer was a FEMA trailer and that his granddaughter now has a 1 year old and they got a larger trailer. Mr. Duncan asked if his needs changed. Mr. Baker said his wife used to drive a little, but she cannot drive now due to a rotator cuff problem. Mr. Ward asked if the Bakers had considered planting some shrubbery to shield the trailer from the Hardin's driveway. Mr. Baker said no, but he would do that. Mr. Steward asked if the people in the trailer move out if that changed the conditional use. Mr. Cardosi said that would change the hardship. Mr. Quimby informed the Board that they can make specific residents a condition of the approval.

Mr. Ward made the Motion to approve the conditional use permit for 5 years, conditioned upon Mr. Barker putting in a fast growing shrub in as a screen for the Hardins' driveway. Additionally, the conditional use shall expire when the following residents cease to reside on the property: William Baker, Twanda Baker, Lisa Giardina (Mrs. Baker's sister), and Brandon Finley (Mrs. Giardina's son who had brain trauma and is completely disabled). The motion was based upon a finding that the conditional use will not substantially increase traffic hazards, congestion, or fire hazards, adversely affect the character of the neighborhood or general welfare of the County, overtax public utilities or community facilities, or conflict with the Comprehensive Plan. Mr. Williams seconded the Motion. The Motion was passed with a unanimous vote.

Application by Memphis Stone & Gravel Company (1482) for a conditional use under Article V, Paragraph 2, Section C, (12), Page 28 of the DeSoto County Zoning and Subdivision Regulations to allow the renewal of an existing gravel mining operation. Subject property is located at 3410 Robertson Road North, Parcel # 2-08-6-14-00-0-00002-02 on the east side of Robertson Road and north of Star Landing Road, in Section 14, Township 2, Range 8 and is zoned Agricultural-Residential. (District 4)

Mr. Hopkins presented the application by Memphis Stone & Gravel Company for a renewal of conditional use to allow sand and gravel mining. He informed the Board that the Planning Staff met on-site with Mr. Williams, Road Department representatives, Supervisor Caldwell, some neighbors, and the applicant's representatives. Mr. Hopkins said the applicants have met with neighbors and have addressed the concerns brought 6 months ago at the Board of Adjustment meeting. He said Mr. Hal Williford, Mr. Alan Parks, and Mr. Taylor Buntin are here to present the application.

Mr. Buntin said the permitted area is 140 acres. All is not being mined, part will never be mined. Approximately 28 acres remain to be mined, and that is what the continuation of conditional use permit is being asked for. Mr. Buntin said the methods will be the same as the conditional use was granted for originally. He also addressed the conditions related to a conditional use permit:

Memphis Stone is willing to follow the conditions previously set for hours of operation.

Traffic activity will not increase.

There will be no fire risks.

The neighborhood has developed well with the pit in place.

There are no public utilities.

The pit operates in compliance with the comprehensive plan.

Mr. Steward asked how many years until the completion of mining on this property. Mr. Parks stated it will be 10 years based on current estimates. Mr. Parks stated that the concerns of the neighbors had been addressed, and some work had been done on the neighbors' properties to help with some drainage problems they were having that were not related to the pit operations. He stated the pumps are not running at night and a good neighbor trucking policy specifically states no jake braking on the trucks. He said that non-compliance could lead to Memphis Stone refusing to load trucks for individuals. Mr. Parks said the dust issue that had been brought up was a surprise. The material being hauled has a natural moisture content and does not generate dust. Mr. Ward expressed concern regarding the condition of the County road. Mr. Parks stated they are not tracking out a lot of material. He said loose material could be swept off the road with a sweeper truck if necessary in the future.

Mr. Steward asked the Planning Department staff about dust and increased traffic. Mr. Hopkins stated that the day the group met on-site, everyone was walking in the middle of Robertson Road and Hinds Lane. He stated he did not observe excess dirt or gravel in the street. He also stated that the group looked at a property on Hinds Lane and determined beavers had a ditch dammed up in a low area. Mr. Williford stated that the foreman of the pit had gone over and cleaned out that ditch and it was not beavers, but just a lot of vegetation that had stopped the flow. He said the foreman took a track hoe and cleaned the ditch and the ditch bank. Mr. Hopkins said the group was on-site for about 45 minutes and there was no traffic.

Mr. Steward asked if anyone was present to speak for or against the conditional use permit. Mr. Robert Tipton of 3831 Robertson Rd. North stated that he had the same concerns as he did 6 months ago: Safety from the trucks speed, health from dust and fumes caused by the trucks, and noise. Mr. Tipton said it was hard to visit on his front porch because of the noise the trucks make. He stated that he wanted to walk and ride bikes on the road and did not feel safe doing so. Mr. Tipton said he felt like the on-site visit with the Planning staff was staged because no trucks were running that afternoon. He said that one day was not a real testimony of what actually goes on. Mr. Tipton also stated that Mr. Parks had shown him an alternate plan and he could live with that. He stated he is willing to work with Memphis Stone if they can get their new plan in, but if they did not, he would have no recourse.

Mr. Steward recalled that the Board of Adjustment had to give Mr. Tipton a variance on his new home, and said that he was comfortable enough there to build. Mr. Tipton stated he did not know how big a problem it was until the house was being built. He said his father and brother had problems with the trucks. Mr. Ward asked why after talking with his father and brother, Mr. Tipton still chose to build. Mr. Tipton stated it was free land, his family home and land.

Mr. Steward asked Mr. Parks to share the plan Mr. Tipton was speaking of. Mr. Parks stated he has been working with railroad to gain permission to extend an overhead conveyor over the railroad tracks to the new facility east of the railroad tracks to send the gravel there to be hauled out. He said there would still be some sand and dirt hauled out, but it would decrease by about 80%. He stated this would be a good situation for all parties.

Mr. Steward said that there were no others at the meeting to object because Memphis Stone had taken due diligence to do what they said they would do and what the neighbors and Board asked them to do. He stated that Memphis Stone is now taking a final step to reduce traffic even more, and he thought the effort was fantastic.

Mr. Tipton stated that even though Memphis Stone says these things, there is still a problem with dust and speeding trucks. Mr. Steward stated that Mr. Tipton was making allegations with no proof.

Mr. Hopkins stated that Robertson Road is bonded with the County over and above for use of that road. He stated that the staff has been out to this road on other occasions besides the one day. They have been out to observe traffic multiple times and did not see numerous amounts of trucks. Mr. Hopkins further stated that Robertson Road is a two lane road and is for vehicle traffic. It is not set up for foot traffic. Mr. Parks stated that Mr. Tipton has his cell phone number and all he needs is a tag number and a photo or video if Mr. Tipton can get it. He stated they will take care of any problems, but they have to know about the problems. Mr. Tipton also expressed concerns that the reflectors are worn down on Robertson Road. Mr. Steward told him he needed to contact the County Road Department about that.

Mr. Williams made a Motion to extend the conditional use permit to allow sand and gravel mining for 10 years. Mr. Ward seconded the Motion.

Mr. Davis stated he would like for Memphis Stone to come back in 18 months and give a progress report on getting the conveyor system set up. Mr. Williford requested the Board to give the 10 year approval.

He stated if the deal with the railroad goes through the mining will not take the full ten years. Mr. Williams stated they have been on an extension for 6 months and did everything they were supposed to do. Mr. Williams asked how long the plant had been in operation. Mr. Williford stated it started in the early 1970s. Mr. Williams withdrew his Motion.

Mr. Williams amended his Motion to extend the conditional use permit to allow sand and gravel mining for 10 years and for Memphis Stone & Gravel to come back to the Board of Adjustment in 18 months with a progress report on the conveyor system. The motion was based upon a finding that the conditional use will not substantially increase traffic hazards, congestion, or fire hazards, adversely affect the character of the neighborhood or general welfare of the County, overtax public utilities or community facilities, or conflict with the Comprehensive Plan. Mr. Ward seconded the amended Motion. The Motion passed with a unanimous vote.

Application by Kody Bumpous (1483) for a conditional use under Article V, Paragraph 1, Section C, (23, Page 23 of the DeSoto County Zoning and Subdivision Regulations to allow a restaurant in the Agricultural zone. Subject property is located at 3443 Red Banks Road, Parcel # 3-05-4-19-00-0-00020-01 on the west side of Red Banks Road and south of Cathey Road, in Section 19, Township 3, Range 5 and is zoned Agricultural. (District 1)

Mr. Hopkins presented the application by Kody Bumpous to allow a renewal of the conditional use permit to allow a restaurant in an Agricultural zone. He stated Mr. Bumpous was present to represent the application.

Mr. Bumpous stated that he bought the Chatterbox Restaurant from his grandparents and did not realize that there was a conditional use permit in place, so he did not renew it. He was asked by the Board how his business was, and he stated that business has doubled. He was very pleased with the winter business which has been very slow in the past.

Mr. Ward made the Motion to approve the conditional use permit to allow a restaurant in an Agricultural zone for 20 years. The motion was based upon a finding that the conditional use will not substantially increase traffic hazards, congestion, or fire hazards, adversely affect the character of the neighborhood or general welfare of the County, overtax public utilities or community facilities, or conflict with the Comprehensive Plan. Mr. Duncan seconded the Motion. The Motion was passed with a unanimous vote.

Mr. Duncan made the Motion to adjourn the meeting. Mr. Davis seconded the Motion. The Motion was passed with a unanimous vote.