



**BOARD OF ADJUSTMENT  
ORDER OF ITEMS  
FEBRUARY 12, 2018**

**CALL TO ORDER: 7:00**

**APPROVAL OF MINUTES: January 8, 2018**

**NEW BUSINESS**

**Variance**

Application by **Gilmore Yackey (1516)** for a Variance to allow a bed and breakfast on less than 1.5 acres and less than a 2500 sq. ft. structure in accordance with Article V, Paragraph 2, Section C(16) Page 30 of the DeSoto County Zoning Ordinance. Subject property is located at 2601 Delta Crest Cove, on the east side of Delta Crest Cove and east of Kelly Road, Parcel #3-09-4-18-04-0-00036-00 in Section 18, Township 3, Range 9 and is zoned Agricultural-Residential (A-R). (District 4)

**Conditional Use**

Application by **Minor Memorial UMC School Program/Tina Patrick (1515)** for a Conditional Use to allow a Day care center in accordance with Article V, Paragraph 2, Section C(1) Page 29 of the DeSoto County Zoning Ordinance. Subject property is located at 6120 Goodman Road W., on the north side of Goodman Road W and west of Hwy 301, Parcel #1-09-7-25-00-0-00012-04 in Section 25, Township 1, Range 9 and is zoned Agricultural-Residential (A-R). (District 3)

Application by **Gilmore Yackey (1517)** for a Conditional Use to allow a bed and breakfast in accordance with Article V, Paragraph 2, Section C(16) Page 30 of the DeSoto County Zoning Ordinance. Subject property is located at 2601 Delta Crest Cove, on the east side of Delta Crest Cove and east of Kelly Road, Parcel #3-09-4-18-04-0-00036-00 in Section 18, Township 3, Range 9 and is zoned Agricultural-Residential (A-R). (District 4)

The DeSoto County Board of Adjustment met at 7:00 p.m. on Monday, February 12, 2018, in the Planning Commission Conference Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Mike Duncan, Phillip Steward, Tom Williams, Earl Ward and Rudy Davis. Staff members present included Bennie Hopkins, Austin Cardosi, Ashley Hendricks and Sam Barber, Board Attorney.

Board of Adjustment Chairman Mr. Steward called the meeting to order and asked whether any member of the Board recommended changes to the Minutes dated January 8, 2018. Mr. Ward made a Motion to approve the minutes as presented. Mr. Williams seconded the Motion. The Motion was passed with a unanimous vote.

Ms. Ashley Hendricks 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. She stated the deadline to file an appeal on items heard at this meeting is February 22, 2018, at 5:00 p.m. She then stated any appeals filed will be heard by the Board of Supervisors on March 19, 2018, at 11:00 a.m.

## **NEW BUSINESS**

### **Conditional Use**

**Application by Minor Memorial UMC School Program/Tina Patrick (1515) for a Conditional Use to allow a Day care center in accordance with Article V, Paragraph 2, Section C(1) Page 29 of the DeSoto County Zoning Ordinance. Subject property is located at 6120 Goodman Road W., on the north side of Goodman Road W and west of Hwy 301, Parcel #1-09-7-25-00-0-00012-04 in Section 25, Township 1, Range 9 and is zoned Agricultural-Residential (A-R). (District 3)**

Mr. Hopkins presented the application for an extension of an existing Conditional Use by Minor Memorial UMC to allow a day care center. Ms. Tina Patrick was present to present the application.

Ms. Patrick came forward and stated they currently operate a daycare at Minor Memorial as an outreach program for school age children. She stated they have been operating the after school program since 1993. She stated the daycare can accommodate up to 50 children. Ms. Patrick stated the hours of operation are Monday through Friday from 2:00 p.m. to 5:00 p.m. during the school year and Monday through Friday from 7:00 a.m. to 6:00 p.m. during the summer.

Mr. Duncan asked if there have been complaints or violations concerning the daycare. Ms. Patrick stated that they have not received any complaints nor have they had any violations from the state. Staff stated the Planning Department has not received any complaints on this operation.

Mr. Steward asked if there was anyone to speak for or against this item. There was no one.

Mr. Duncan made a Motion and Mr. Davis seconded the Motion to approve the Conditional Use application by Minor Memorial UMC to allow a day care center for ten (10) years until February 12, 2028. The Motion was passed with a unanimous vote.

**Application by Gilmore Yackey (1517) for a Conditional Use to allow a bed and breakfast in accordance with Article V, Paragraph 2, Section C(16) Page 30 of the DeSoto County Zoning Ordinance. Subject property is located at 2601 Delta Crest Cove, on the east side of Delta Crest Cove and east of Kelly Road, Parcel #3-09-4-18-04-0-00036-00 in Section 18, Township 3, Range 9 and is zoned Agricultural-Residential (A-R). (District 4)**

#### **Variance**

**Application by Gilmore Yackey (1516) for a Variance to allow a bed and breakfast on less than 1.5 acres and less than a 2500 sq. ft. structure in accordance with Article V, Paragraph 2, Section C(16) Page 30 of the DeSoto County Zoning Ordinance. Subject property is located at 2601 Delta Crest Cove, on the east side of Delta Crest Cove and east of Kelly Road, Parcel #3-09-4-18-04-0-00036-00 in Section 18, Township 3, Range 9 and is zoned Agricultural-Residential (A-R). (District 4)**

Mr. Hopkins presented the Conditional Use application to allow a bed and breakfast and Variance application to allow a bed and breakfast on less than 1.50 acres and less than a 2500 sq. ft. structure by Gilmore Yackey. Mr. Gilmore Yackey and Mrs. Amy Oyler were present to present the application.

Mrs. Amy Oyler came forward and presented a slideshow presentation that indicated the proximity of their home to the home to be used as a bed and breakfast, the parking area, before and after pictures of the home proposed to be a bed and breakfast. She stated they wish to advertise that the bed and breakfast can accommodate 8 guests. She stated they would like to make it clear that they value being good neighbors and will have guest rules. She then stated the guest will be made aware that use of the lake is that the risk of the guests. Mrs. Oyler stated the site is very secluded.

Mr. Yackey stated that he formerly worked as a liability expert in Maryland. He then stated that the company they wish to use for bookings of the bed and breakfast carries insurance for liability of the bed and breakfast. He stated the booking company pays the Mississippi State tax.

Mrs. Oyler stated they wish to be a benefit for the County and have together a guidebook for guest that includes information about local restaurants and businesses.

Mr. Hopkins stated that when the County found out, staff met with the applicant to discuss that the County does not have a permitted or Conditional use that allows for an Air B&B, but the applicant can apply for a bed and breakfast.

Mr. Duncan asked how many bedrooms the proposed site has. Mrs. Oyler stated that there are 2 bedrooms and a pullout couch in the TV room.

Mr. Duncan asked how the bed and breakfast is rented; is the house rented as a whole or is each room rented individually. Mr. Yackey stated they would ideally rent to families and business professionals who are in the area for business. He stated he feels this is more of a family retreat. He then stated the house will be rented as a whole and not by the room.

Mr. Hopkins clarified that this application is for a bed and breakfast; the County does not have a provision for an Air B&B.

Mr. Yackey stated they are not set on using Air B&B to advertise and book the bed and breakfast.

Mr. Steward asked if there was anyone to speak for or against this item.

James Francis – 11014 Beech Dr – came forward and stated he is concerned that this is not a bed and breakfast; he stated this sounds like a VRBO short term rental.

Mr. Hopkins clarified this application is for a bed & breakfast.

Roland Harris – 3205 Woodlake Rd. – came forward and stated he is speaking on behalf of the Board of Improvements for Woodland Lake Subdivision and has the following concerns:

- No boundaries between Woodland Lake Properties and Delta Crest Properties
- Guest of the bed and breakfast will go on to Woodland Lake Properties and Woodland Lakes home owners would be liable
- That the applicant will build additional weekend rentals on various properties he owns in Woodland Lakes Subdivision, where it is prohibited
- That if allowed will set a precedent

Shirley Harris – 3205 Woodlake Rd – came forward and stated she is President of the Woodland Lakes Board of Improvement and has the following concerns:

- The dam on the lake is classified as a high hazard dam
- Someone could get hurt if they walked on the dam
- If approved will have to cancel homeowners Insurance on the lake properties and purchase commercial insurance

Steve Lansing – 2525 Pine Dr. – came forward and had the following concerns:

- Concerned with liability
- Strangers coming on to personal property

Susan Sparks – 11410 Lakeview Dr. – came forward and has the following concerns:

- Wants the area to remain quiet and peaceful
- Wants the area to remain residential

Rodger Thornton – 11404 S. Lakeview Dr. – came forward and stated that his opinion is the property in question sat in a state of disrepair and has been remodeled and improved by the current owners. He stated he is concerned that no one complained about the derelict property when it was an eyesore and that he feels what they have done with the property is amazing. He stated he feels this if approved will add value to the neighborhood. Mr. Thornton stated the property is well screened and will cater to people who are looking to stay in a peaceful place. He then stated if the Conditional Use is approved it can be revoked if there are any problems. He stated if not approved will be missing an opportunity to see property in disrepair to be restored in other areas. Mr. Thornton stated that a fence could be built to keep people of the dam.

David Young – 9390 Coryelle – came forward and stated he has property in both Delta Crest and Woodland Lakes. He stated he thinks the applicant took a property that was in disrepair and made something nice of it. He then stated he feels no one would want to cross the dam due to the tall grass and snakes.

Glen King – 11475 Lakeview Dr. – came forward and had the following concerns:

- The wording in the advertisement for the property, first stated that use of three lakes was included and now says use of one lake is included
- Will create an opportunity for the applicant to do this on other property he has purchased
- The applicant started this business on Air B&B before anyone knew of the business
- Applicant states that he has no intent to do an Air B&B type business on the other eight properties he owns in Woodland Lakes but concerned that those properties will also be changed to Air B&B properties in the future
- Air B&B has rules concerning having authority from the HOA and the HOA knew nothing about the business when it started
- The property has been rented listed and rented on Air B&B since at least Thanksgiving 2017

Larry Gingery – 11015 Beech – came forward and has the following concerns:

- The properties Mr. Yackey owns in Woodland Lakes are beside his property
- If he is allowed to do this in Delta Crest he will be allowed to do this in Woodland Lakes
- The applicant has done all of this work with no permits and no approval
- The lot size is not the correct size for this type of use
- The house is not the correct size for this type of use

Madeline Warman – 3010 Woodland Lake – came forward and has the following concerns:

- The use is a fire hazard

- Concerned with children swimming in the lake
- Liability
- Concerned with what this could lead to
- Don't want commercial
- Fire trucks have difficulty getting to properties in this subdivision]

Nancy Christian – 2540 1<sup>st</sup> Lakeview Cove – came forward and is concerned with the following:

- The property will be rented to a lot of different people that will be in their neighborhood
- Feels fence will be an eyesore
- Doesn't want a hotel in their neighborhood

Mr. Yackey came forward and presented a letter from the President of the Homeowners Association of Delta Crest granting approval of a weekend rental property. He stated he has given his word that the properties in Woodland Lakes will not be Air B&B or bed and breakfast. He stated he would not feel comfortable having these properties as bed and breakfast because he is not able to view them from his home.

Mrs. Oyler stated they met with the County Supervisor and the Planning Department and understood there was not a provision for Air B&B, but also nothing saying there could be no Air B&B.

Mr. Steward asked if the applicants other properties would also be bed and breakfast. Mr. Yackey stated they would not be bed and breakfast, not sure what he will do with the properties; he may sell them.

Ms. Oyler discussed the pricing and how it is set-up. She then stated that the price will go up once the rental is established.

Mr. Ward stated he has visited the site and a lot of work has been put into the house and feels the big concern is people going onto Woodland Lake. Mr. Duncan stated they have done a wonderful job with the property but is concerned that if approved it will set a precedent. There was discussion of whether this would be setting a precedent of defining a vacation rental as a bed and breakfast. Mr. Barber stated that there are regulations that must be met to be a bed and breakfast and if approved conditions could be placed on the approval, such as requiring the bed and breakfast be rented privately.

There was discussion of how a Conditional Use can be revoked.

Mr. Duncan stated he is also concerned if it approved could it affect the other neighbors insurance. He then stated he feels there are a few unknowns.

MR. Duncan then stated that he is concerned with how it will affect the neighbors, the welfare of the County and if it will over tax the utilities.

Dixie Mills – 2855 Woodlake – came forward and stated that she likes the quiet of the community and that they have patrols of the lake and anyone without proper ID is asked to leave the lake. She stated she is also concerned with his intent of the other lots he owns in Woodland Lakes Subdivision and that the use will increase traffic in the area.

Mr. Ward stated he does not feel it will increase traffic.

Larry Gingery asked what the definition of a bed and breakfast is. Mr. Hopkins read the definition of a bed and breakfast from the Zoning Ordinance. Mr. Gingery stated that the definition on the internet of a bed and breakfast says that there must be someone on site to cook. Mr. Gingery stated he is also concerned about water drainage on the properties Mr. Yackey owns in Woodland Lakes. Mr. Hopkins stated Mr. Gingery would need to contact DeSoto County Environmental Services concerning the water drainage.

James Francis – came forward and stated this request sounds a lot like a VRBO, vacation rental. He then stated he managed 3 VRBO properties for his father in DeSoto County that were shut down by the County. He then stated it was the same situation as this site. Mr. Hopkins explained that VRBO's are not allowed by a bed and breakfast can be applied for. Mr. Francis stated from experience you cannot control who the guests invite to the property.

Mr. Ward made a Motion and Mr. Williams seconded the Motion to approve the Conditional Use application to allow a bed and breakfast with the following conditions:

1. Shall be for a time period of five (5) years until February 12, 2023;
2. No swimming in the lake;
3. No alcohol on the lake;
4. Shall be advertised and booked on a private website for the bed & breakfast only, it shall not be booked or advertised on a company website;
5. Shall not be advertised as an Air B&B or VRBO;
6. There shall be a maximum of 8 people;
7. There shall be a maximum of 4 cars at the site; and
8. There shall be no open fires except in a contained grill.

The Motion was passed with a 4-1 vote.

Mr. Ward made a Motion and Mr. Davis seconded the Motion to approve Variance application to allow a bed and breakfast on less than 1.50 acres and less than a 2500 sq. ft. structure. The Motion was passed with a 4-1 vote.

Mr. Ward made a Motion to Adjourn. Mr. Duncan seconded the Motion. The Motion was passed with a unanimous vote.