



BOARD OF ADJUSTMENT
ORDER OF ITEMS
July 11th, 2022

CALL TO ORDER: 7:00
APPROVAL OF MINUTES: June 13th, 2022

NEW BUSINESS

Variance

Application by William Ferrell (**VAR-001715-2022**) for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 100% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5606 Davis Lane on the north side of Davis Lane and west of Carolyn Drive Parcel **#308930000001400** Section 30 Township 3 Range 8 and is zoned A (District 5)

Application by Rodger Bennett (**VAR-001716-2022**) for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 75% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 2725 McGowen Road on the north side of McGowen Road and east of Highway 301 Parcel **#2096240000003600** Section 24 Township 2 Range 9 and is zoned A-R (District 4)

Application by Debra Smith (**VAR-001717-2022**) for a variance to allow a fence taller than 3 ft. in the designated front yard of a corner lot in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 7310 Jefferson Heights Drive on the east side of Jefferson Heights Drive and the north side of Highway 302 Parcel **#1058280600004500** Section 28 Township 1 Range 5 and is zoned R-20 (District 1)

Application by Betty Gingery (**VAR-001718-2022**) for a variance to allow an accessory building to be larger than 50% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 11416 Lakeview Drive on the west side of Lakeview Drive and south of West Commerce Parcel **#3094180300001000** Section 18 Township 3 Range 9 and is zoned A-R (District 4)

Conditional Use

Application by Erica Jones (**CU-001615-2022**) for a conditional use for a mobile home in hardship conditions in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 2289 Grass Pond Road on west side of Grass Pond Road and south of Vaiden Road. Parcel **#3064180000000801** Section 18 Township 3 Range 6 and is zoned A (District 5)

The DeSoto County Board of Adjustment met at 7:00 p.m. on Monday, July 11, 2022, in the Board Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Phillip Steward, Tom Williams, Earl Ward, Mike Hancock and Mike Duncan. Staff members present included Bennie Hopkins, Ashley Hendricks and Celeste Sanders. Board of Adjustment attorney Mr. Sam Barber was also present.

Board of Adjustment Chairman Mr. Williams called the meeting to order and asked whether any member of the Board recommended changes to the Minutes dated June 13, 2022. Mr. Hancock made a Motion to approve the minutes as presented. Mr. Duncan seconded the Motion. The Motion was passed with a unanimous vote.

Mrs. Celeste Sanders 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 July 21, 2022, at 5:00 p.m. She then stated any appeals filed will be heard by the Board of Supervisors on August 15, 2022.

NEW BUSINESS

Variance

Application by William Ferrell (VAR-001715-2022) for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 100% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5606 Davis Lane on the north side of Davis Lane and west of Carolyn Drive Parcel #3089300000001400 Section 30 Township 3 Range 8 and is zoned A (District 5)

Mr. Hopkins presented the application by William Ferrell for a variance to allow an accessory building in the designated front yard. Mr. William Ferrell and his son Mr. Billy Ferrell were present to represent the application.

Mr. Billy Ferrell stated the following:

- trailer currently on property
- has mold in it so donated it to the fire department and it is gone now
- putting a storage shed in the place of the mobile home

Mr. Hancock asked if there would be electrical and plumbing. Mr. Ferrell stated that there would be electrical. Mr. Hancock asked that there was going to be no water and Mr. Ferrell replied no water.

Mr. Duncan asked what was going to be stored in the building. Mr. Ferrell replied that they would be storing furniture and stuff. Mr. Duncan then asked what materials they were going to use on the building. Mr. Ferrell responded that it would be wood frame with Hardi plank siding and a metal roof.

Mr. Williams asked if there were two houses on the property. Mr. Ferrell stated that there was a house and a garage with additions.

Mr. Hancock questioned why there were two addresses showing up on the property. Mr. Ferrell stated that one was the home and one was the trailer.

Mr. Hopkins stated that in this zone you could have 2 homes on a property.

Mr. Williams asked if anyone had called. Ms. Hendricks replied no. Mr. Williams asked if there was anyone present to speak for or against the application. There was no one present.

Mr. Duncan asked what the other storage buildings were on the property. Mr. Ferrell stated that there was a metal carport for a car. Mr. Duncan then asked if the size of the new building would be about the same as the mobile home. Mr. Ferrell replied yes.

Mr. Steward asked what colors the building would be. Mr. Ferrell replied that it would be tan with a green roof.

Mr. Williams asked if there were any other questions. There were none.

Mr. Steward made a Motion and Mr. Hancock seconded the Motion to approve the application by William Ferrell for a variance to allow an accessory building in the designated front yard of a corner lot and to allow the building to be larger than 100% of the square footage of the primary structure. The Motion passed with an unanimous vote.

Application by Rodger Bennett (VAR-001716-2022) for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 75% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 2725 McGowen Road on the north side of McGowen Road and east of Highway 301 Parcel #2096240000003600 Section 24 Township 2 Range 9 and is zoned A-R (District 4)

Mr. Hopkins presented the application by Rodger Bennett for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 75% of the square footage of the primary structure. Mr. Bennett was present to represent the application.

Mr. Bennett stated the following:

- have a hay business with lots of equipment
- want to build a barn to store equipment and hay
- shop will be more to the side of the house then shown
- ditch runs through the property
- trying to clean up property

Mr. Duncan asked why the barn needed to be located in the front yard. Mr. Bennett stated that there is a ditch that runs through the property and water comes up when it rains. He also stated that there is a power line they are working around.

Mr. Steward asked how they would access the shop. Mr. Bennett replied that there is an existing entrance to the left of the entrance to the house that will be used. There is already a driveway there.

Mr. Hancock asked what kind of building was going to be built. Mr. Bennett stated that it would be a metal building with a lean to.

Mr. Williams asked if there had been any calls regarding this application. Mr. Hopkins stated that there had been some calls regarding the condition of the property and the need for it to be cleaned up. Mr. Hopkins stated that a supervisor had been contacted. Mr. Hopkins said that there was discussion regarding the timing of erecting the building and the cleaning up of the property.

Mr. Bennett responded that the sooner they could get the building up, the sooner they could clean up the property. He stated that they have a lot of farm equipment that would go in the proposed building. He also stated that he works out of his home office.

Mr. Ward stated that this building would affect the character of the neighborhood. Mr. Ward stated that he would like to make a Motion to deny.

Mr. Duncan replied that Mr. Bennett had purchased the building with the intention of cleaning up his property.

Mr. Ward said that the property had been trouble over the years. He stated that Mr. Bennett would start cleaning up then stop. He said that Mr. Bennett's property is against code and it looks like a junkyard.

Mr. Hopkins said that there had been discussion about working with the environmental department to get the property cleaned up in a timeframe. Mr. Hopkins stated that the board could possibly table the application until the property is cleaned up.

Mr. Hancock asked if Mr. Bennett had talked to any of his neighbors. Mr. Bennett said that the neighbors he spoke to were in favor of the building.

Mr. Hancock made a Motion to table the application until the property gets cleaned up to environment's standards. Mr. Ward withdrew his previous Motion to deny.

Mr. Cecil House of 2801 McGowen Road was present to speak and stated the following:

- most neighbors keep property cleaned up
- called the planning department about this application
- just want to know what is going on
- how big is the building
- the Patton's live next door in the curve
- wanted to know square footage of the proposed building

Mr. Hopkins stated that the proposed building is 3600 square feet; 40x60 is the building and it has a 20x60 lean to on it for a total of 60x60.

Mr. House replied with the following:

- 3600 is a pretty good size building
- building would be about 75 feet off the road
- how tall would the building be
- what kind of floors would the building have
- what is the building going to be used for
- would be nice if we had a drawing of the building location and the square footage

Mr. Hopkins stated the property is located in the A-R zone.

Mr. Steward asked to see details on the building. Mr. Bennett showed the Board of Adjustment members the plans.

Mr. Hancock asked how tall the building would be. Mr. Bennett stated the building would be 16 feet tall on the sides and then go up to 23 feet at the highest point in the center.

Mr. Hopkins stated that if Mr. Bennett agrees to table the application, the board can go look at the property. Mr. Hopkins stated that Environmental Services really has nothing to do with the variance process.

Mr. Jeremy McGowen of 6375 McGowen Road was present to speak and stated the following:

- Mr. Bennett is trying to clean up the property
- trying to put the building up to put all of his equipment in
- Mr. Bennett is running a farm and wants to put his equipment inside the Proposed building
- it looks better when you can store your stuff in a building
- brother lives across from Mr. Bennett

Mr. Williams stated that there has been some interest in this application by supervisors. He said he thinks that the board should table the application until next month so they can make a site visit.

Mr. Barber stated that if a quorum goes out on a site visit then it will become a public meeting and representatives from the planning department will need to attend and take minutes.

Mr. Hancock restated his Motion to table the application for a variance to allow an accessory building in the designated front yard and to allow the building to be larger than 75% of the square footage of the primary structure. Mr. Duncan seconded the Motion. The Motion passed with a 4-1 vote with Mr. Ward voting to deny the application.

Application by Debra Smith (VAR-001717-2022) for a variance to allow a fence taller than 3 ft. in the designated front yard of a corner lot in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 7310 Jefferson Heights Drive on the east side of Jefferson Heights Drive and the north side of Highway 302 Parcel #1058280600004500 Section 28 Township 1 Range 5 and is zoned R-20 (District 1)

Mr. Hopkins presented the application by Debra Smith for a variance to allow a fence taller than 3 ft. in the designated front yard of a corner lot. Ms. Debra Smith was present to represent the application.

Ms. Smith stated the following:

- nice neighborhood
- want to put up a 6' cedar fence
- installing it in accordance with the HOA

Mr. Williams asked which side she was wanting to put the fence. Ms. Smith stated both sides.

Mr. Hopkins stated that technically she was encroaching on St. Charles Drive.

Mr. Duncan asked if her house faced Jefferson Heights and Ms. Smith replied yes.

Mr. Steward asked if she was connecting to existing fences. Ms. Smith said yes.

Mr. Williams asked if there was anyone present to speak for or against the application. There was no one present.

Mr. Duncan made a Motion and Mr. Hancock seconded the Motion to approve the application by Debra Smith for a variance to allow a fence taller than 3 ft. in the designated front yard of a corner lot. The Motion passed with a unanimous vote.

Application by Betty Gingery (VAR-001718-2022) for a variance to allow an accessory building to be larger than 50% the square footage of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 11416 Lakeview Drive on the west side of Lakeview Drive and south of West Commerce Parcel #3094180300001000 Section 18 Township 3 Range 9 and is zoned A-R (District 4)

Mr. Hopkins presented the application by Betty Gingery for a variance to allow an accessory building to be larger than 50% the square footage of the primary structure. Mr. and Mrs. Gingery were present to represent the application.

Mr. Hopkins stated that the tax info did not account for an addition that had been completed in 1995 which increases the square footage of the home. With the added square footage, the variance application is now only 58% of the primary structure which is only 8% over the allowable size.

Mr. Gingery stated the following information:

- wants a building to store furniture in
- own a farm in Tennessee that is being sold and need a place to store items from his other property

Mr. Steward asked if he was just going to store his stuff in the building to which Mr. Gingery replied yes.

Mr. Hancock asked what materials were going to be used. Mr. Gingery stated that it was going to be a slab with a metal building. The building will have 11' side walls with a small pitch for the roof. Mr. Gingery said he would like to have it wired so he can put lights in and would also like to put a half bath in the building because he doesn't get around so good anymore. Mr. Gingery said he would like to put furniture as well as his small tractor in the building.

Mr. Ward asked what color and material the outside walls would be. Mr. Gingery stated it would be beige metal.

Mr. Ward had the following concerns:

- problem approving the application
- impair the view of the lake
- adversely affect the character of the neighborhood
- property values would go down
- if approved then others will want to come and do the same thing
- would ruin the neighborhood

Mr. Hancock asked if there was anyone present to speak for or against the application.

Mr. Richard and Mrs. Mary Ann Larrimore of 11419 Lakeview Drive were present to speak and had the following concerns:

- live right across the street
- have 2 lots, 14 & 15
- cove behind their house
- their sunset views will be destroyed
- put 10-12 feet of dirt on his lot
- several variance issues on property
- mountain of dirt
- obstruct view of the lake
- 58% is wrong, has other structures on his property
- he's over 100% of the primary structure

Mr. Hopkins reminded everyone that the application is for a variance.

Mr. Ward stated that there are two existing accessory structures on the property. Mr. Steward asked if Mr. Gingery was in compliance now to which Ms. Hendricks responded that he was in compliance.

Mr. Hancock asked if Mr. Gingery dropped the size of his proposed building if he would not even need a variance. Ms. Hendricks replied that is correct.

Mr. Duncan asked about the property to the north of Mr. Gingery. He stated that the buildings on that property looked worse than what Mr. Gingery was proposing.

Mr. Hopkins stated that the Building and Planning Department does not govern vistas. The department only looks at accessory buildings, setbacks, size, etc.

Mr. Steward asked that is Mr. Gingery removed his other accessory buildings then he would be in compliance. Mr. Hopkins stated that Mr. Gingery was removing the smaller building.

Mrs. Larrimore had more concerns:

- every lot has a rolling view
- loss of property value
- will change the view forever

Mr. Hopkins replied with the following:

- Mr. Gingery could come back with a smaller building and not even need a variance
- the building permit process would catch issues with dirt work, silt fence, and site work

Mr. Larrimore asked if they could put the building on the right side of the house. He also stated that Mr. Gingery had already purchased the building.

Mr. Hancock stated that the Board of Adjustment could deny this application but the Gingery's could come back with a smaller building and get a permit. He stated that what this board governs has been made clear and that Mr. Gingery now knows his options. He then asked if there was anyone else present to speak.

Mr. Wayne Henry of 11422 Lakeview Drive stated that he lives south of Mr. Gingery's property and that he has no issue with what he was doing.

Mr. Ralph Sparks of 11410 Lakeview Drive lives on the north side of Mr. Gingery and he has no problem with the building.

Ms. Sandy Noble of 11404 Lakeview had the following concerns:

- lives north of Mr. Gingery
- will impact the lake
- if he can do this then I could put a barn on my property
- would never do that for the good of the neighborhood
- thought there was a cease and desist order

Mr. Hopkins stated the following:

- no cease and desist order

- if he connected the building to his house he would not need a variance
- he can build on his property
- view does not factor into the process
- anything that has already been done will be looked at during the permitting process

Mrs. Noble replied:

- cleared all the trees on the property
- built his property up
- Mr. Wayne has to look up to a mound of dirt
- bringing furniture from TN
- rent a storage unit
- don't ruin the neighborhood
- no reason to change the whole community

Mr. Hancock stated that the neighbors would have to take it up with Mr. Gingery. If he meets the requirements then he could build his building.

Mr. Noble asked if he wanted to build a barn he could do it. Mr. Hopkins responded yes. Mr. Noble then questioned why Mr. Gingery had stopped work. Mr. Hopkins replied he was not sure. He stated that people move dirt and cut down trees as long as they meet the permit process. Mr. Hopkins said that Mr. Gingery is asking for a variance and that is the purpose of being here tonight.

Mr. Williams stated that all the Board of Adjustment can do is approve the application or not.

Mr. Hancock stated that Mr. Gingery has too many options to build this building without a variance and be in compliance.

Mr. Noble asked if the dirt would be addressed at some point. Mr. Hopkins stated that engineering would handle that.

Mr. Gingery replied that he has a silt fence on the site. That Mr. Joel Graham did the dirt work. He stated that he didn't bring dirt in, he moved a hill on his property.

Mr. David Smith of 1205 Wilbourne Road stood to voice the following concerns:

- consider the aesthetics of it
- will bring down property values
- lake is my yard, own a percentage of the lake
- putting a building up that looks like a mini storage
- not in accordance as is
- would like for the application to be denied so he can get with his neighbors to work on a compromise

Mr. Gingery stated the following:

- went in front of the subdivision board
- anyone could have talked to me

- took in consideration natural waterfall of lot
- have not done anything to offend anyone
- didn't mean to get people upset
- got a survey to do things properly
- just trying to get a place to store his things
- not trying to do anything wrong
- dirt work got started and HOA had no problem with that
- got with contractors
- got with neighbors
- getting building at a height where water doesn't get in it

Mr. Hopkins stated the following:

- for clarification we have departments that look at anything that happens on the site
- we are here for a request for a variance in the AR zone
- these buildings are all over the county in the A and AR zones
- if Mr. Gingery comes back with something that meets the requirements he will get a permit
- if he meets zoning ordinance and setbacks he will get a permit

Mr. Ward made a Motion to deny the application for a variance to allow an accessory building larger than 50% the square footage of the primary structure. Mr. Hancock seconded the Motion. The Motion passed by a 4 to 1 vote with Mr. Steward voting against the Motion.

Conditional Use

Application by Erica Jones (CU-001615-2022) for a conditional use for a mobile home in hardship conditions in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 2289 Grass Pond Road on west side of Grass Pond Road and south of Vaiden Road. Parcel #3064180000000801 Section 18 Township 3 Range 6 and is zoned A (District 5)

Mr. Hopkins presented the application. Ms. Erica Jones was present to represent the application.

Ms. Jones stated the following:

- replacing old trailer with newer one
- has a sister with arthritis who wants to come live with her
- current mobile home not fit for her, really not fit for sister

Mr. Ward stated that the mobile home cannot be more than 10 years old.

Mr. Hancock asked if Ms. Jones was removing an existing mobile home and replacing with a newer one. Ms. Jones replied yes.

Mr. Hancock asked if there was a prior Conditional Use. Ms. Hendricks responded yes.

Mr. Williams stated that this was a pretty rural area. He asked if there was a trailer next door. Ms. Jones said yes.

Mr. Hancock asked if there was anyone present to speak for or against the application or if there had been any calls. Mr. Hopkins stated that there had been a call just to ask what was being done on the property.

Mr. Duncan made a Motion and Mr. Steward seconded the Motion to approve the application by Erica Jones for a conditional use for a mobile home in hardship conditions.

Mr. Duncan asked if it was needed to put any stipulations on the conditional use. Ms. Jones stated that she wants to move her sister in with her. Mr. Duncan asked for her sister's name. Ms. Jones stated that her sister's name is Margaret Lee.

Mr. Duncan amended the Motion and Mr. Steward seconded the Motion to approve the application by Erica Jones for a conditional use for a mobile home in hardship conditions for the lifetime of Erica Jones and/or her sister Margaret Lee. The Motion passed with a unanimous vote.

Mr. Ward made a Motion and Mr. Williams seconded the Motion to adjourn the meeting. The Motion passed with a unanimous vote.