BOARD OF ADJUSTMENT
ORDER OF ITEMS
MAY 8, 2017

CALL TO ORDER: 7:00
APPROVAL OF MINUTES: April 10, 2017

OLD BUSINESS

Variance

Application by Cherie Fisher (1483) for a variance to allow an accessory building to be located within the designated front yard in accordance with Article X, Paragraph 6, Page 110 of the DeSoto County Zoning Ordinance. Subject property is located at 6802 Vaiden Road on the north side of Vaiden Road and west of Craft Road. Parcel #3-06-3-06-01-0-00004-00 Section 6, Township 3 Range 6 and is zoned A (District 5)

NEW BUSINESS

Variance

Application by Vickie Sturdivant (1485) for a variance to allow an accessory building to be larger than 75% of the square footage of the primary structure in accordance with Article X, Paragraph 7, Page 111 of the DeSoto County Zoning Ordinance. Subject property is located at 9095 Broadway Rd on the south side of Broadway Road and east of Hwy 305. Parcel #2-06-5-22-03-0-00024-00 Section 22, Township 2, Range 6 and is zoned A-R (District 1)

Application by Robert Hicks (1486) for a variance to allow an accessory building to be larger than 50% of the square footage of the primary structure in accordance with Article X, Paragraph 7, Page 111 of the DeSoto County Zoning Ordinance. Subject property is located at 484 Byhalia Creek Farms Rd East on the east side of Byhalia Creek Farms Rd East and north of Myers Plantation Rd. Parcel #3-05-2-04-03-0-00126-00 Section 04, Township 03, Range 05 and is zoned A (District 1)
Conditional Use

Application by M&I Properties (1505) for a Conditional Use to allow gas pumps as an accessory use for a convenience store in accordance with Article VII, Paragraph 1, Section C(4) Page 61 of the DeSoto County Zoning Ordinance. Subject property is located on the west side of Red Banks Road and south of Byhalia Road, Parcel #3-05-3-06-02-0-00001-00 in Section 6, Township 3, Range 5 and is zoned C-1. (District 1)
The Desoto County Board of Adjustment met at 7:00 p.m. on Monday, May 8, 2017, in the Board Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Philip Steward, Rudy Davis, Earl Ward, Mike Duncan, and Tom Williams. Staff members present included Bennie Hopkins, Austin Cardosi, Ashley Hendricks and Robert Quimby, 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 April 10, 2017. Mr. Williams made a Motion to approve the minutes as presented. Mr. Duncan 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 May 18, 2017, at 5:00 p.m. She then stated any appeals filed will be heard by the Board of Supervisors on June 19, 2017, at 11:00 a.m.

OLD BUSINESS

Variance

Application by Cherie Fisher (1483) for a variance to allow an accessory building to be located within the designated front yard in accordance with Article X, Paragraph 6, Page 110 of the DeSoto County Zoning Ordinance. Subject property is located at 6802 Vaiden Road on the north side of Vaiden Road and west of Craft Road. Parcel #3-06-3-01-0-00004-00 Section 6, Township 3 Range 6 and is zoned A (District 5)

Mr. Hopkins stated this item was tabled at the last meeting to allow the Board members to visit the site. Cherie and Matt Fisher were present to present the application.

Mr. Steward asked if the neighbors have had a chance to talk about the concerns. Mr. Matt Fisher stated they have had two conversations and he is not sure the concerns were resolved. He then stated he does not feel there has been any resolution at this point.

Mr. Ward stated he has visited the site and does not feel the rear yard would be suitable for the barn to be located. He stated there is a tree line between the neighbors and that there are other animals housed in the area and it would be hard to determine the odor is coming from the Fishers’ property. Mr. Steward asked if they have used any chemicals to try and help with the odor. Mr. Fisher stated they are now cleaning the stalls daily and using a lime mixture in the barn to help with the odor. Mr. Todd McGinnis came forward and stated the trees die out in the winter and fall which allows the odor to come on to his property. He then stated he has not odors from the other animals in the past two years he has lived there.
Mr. McGinnis stated the Fishers’ home is on the market, if approved and conditions are placed on the approval will the next owners have to abide by the conditions. Mr. Robert Quimby stated the Board of Adjustment’s role is not to reach an agreement between the neighbors, but only to look at the lay of the land and determine if it is appropriate for the structure to be located in a certain spot.

Mr. McGinnis stated he is concerned because it was built without permits and now the applicants are asking for approval after the fact to keep. He stated he felt it could have been located in a better location. He then stated he feels it devalues his property and does not allow him to enjoy his property.

Mr. Williams asked who the contractor was that built the barn and what did they say about required permits. Mrs. Fisher stated Probuilt of Memphis built the barn and told them no permits were required. Mr. Fisher stated they also asked a family member who lives in another county about permits and they said permits were not required in their county. Mr. Williams stated that if the Variance is approved the applicants will still need to pull all necessary permits. Mr. Ward stated that even if the Variance for the barn is denied the applicant can still have horses on the property. Mr. Williams stated there are products that help eliminate the odor. He also suggested that the applicants could plant cedar trees along the property line. Mr. Williams stated he could not see the barn from the road and also did not notice an odor when he visited the site.

Mr. Williams made a Motion and Mr. Ward seconded the Motion to approve the Variance to allow to an accessory building to be located within the designated front yard based upon the requirements found in Article XVI, Section 3 of the DeSoto County, Mississippi Zoning Regulations. The Motion passed with a unanimous vote.

NEW BUSINESS

Variance

Application by Vickie Sturdivant (1485) for a variance to allow an accessory building to be larger than 75% of the square footage of the primary structure in accordance with Article X, Paragraph 7, Page 111 of the DeSoto County Zoning Ordinance. Subject property is located at 9095 Broadway Rd on the south side of Broadway Road and east of Hwy 305. Parcel #2-06-5-22-00024-00 Section 22, Township 2, Range 6 and is zoned A-R (District 1)

Mr. Hopkins presented the application by Vickie Sturdivant for a Variance to allow an accessory building larger than 75% of the square footage of the primary structure. Daniel Sturdivant was present to present the application.

Mr. Daniel Sturdivant came forward and stated they would like to build a pole barn on the property to store their tractor and other farm equipment. He stated they are proposing to build a 20x40 metal building. He stated the building cannot be seen from the road.
Mr. Steward asked if there was anyone to speak for or against this item. There was no one.

Mr. Duncan asked what the building will be used for. Mr. Sturdivant stated the building will be used to store farm equipment and a small work shop to work on his antique car.

Mr. Ward made a Motion and Mr. Duncan seconded the Motion to approve the Variance to allow an accessory building larger than 75% of the square footage of the primary structure based upon the requirements found in Article XVI, Section 3 of the DeSoto County, Mississippi Zoning Regulations. The Motion passed with a unanimous vote.

Application by Robert Hicks (1486) for a variance to allow an accessory building to be larger than 50% of the square footage of the primary structure in accordance with Article X, Paragraph 7, Page 111 of the DeSoto County Zoning Ordinance. Subject property is located at 484 Byhalia Creek Farms Rd East on the east side of Byhalia Creek Farms Rd East and north of Myers Plantation Rd. Parcel #3-05-2-04-03-0-00126-00 Section 04, Township 03, Range 05 and is zoned A (District 1)

Mr. Hopkins presented the application by Robert Hicks for a Variance to allow an accessory building larger than 50% of the square footage of the primary structure. Robert Hicks was present to present the application.

Mr. Robert Hicks came forward and stated he is proposing a 40x60 accessory building to house a pool room and area for storage and a workshop for personal use. He stated the building will be the same color as the house and made of metal. He then stated most of the homes in the area are located on the front half of the lot and the proposed building will be behind all the other homes.

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

Robert Doris came forward and stated is concerned with the site line of the proposed building and that he will be able to see a building of this size from his patio.

Mr. Williams asked what color the building will be. Mr. Hicks stated the building will be tan/brown to match the home.

Mr. Ward asked if he would be opposed to planting trees along the southern property line to help block the view of the building. Mr. Hicks stated he did not mind at all, he had planned to plant trees along the property lines anyway. Mr. Steward asked if this would suffice for Mr. Doris. Mr. Doris stated that would be fine.

Mr. Duncan made a Motion and Mr. Ward seconded the Motion to approve the Variance to allow an accessory building larger than 50% of the square footage of the primary structure with the condition that a sufficient landscaping buffer be installed along the southern property line to minimize the site of the building from the neighbor based upon
the requirements found in Article XVI, Section 3 of the DeSoto County, Mississippi Zoning Regulations. The Motion passed with a unanimous vote.

Conditional Use

Application by M&I Properties (1505) for a Conditional Use to allow gas pumps as an accessory use for a convenience store in accordance with Article VII, Paragraph 1, Section C(4) Page 61 of the DeSoto County Zoning Ordinance. Subject property is located on the west side of Red Banks Road and south of Byhalia Road, Parcel #3-05-3-06-02-0-00001-00 in Section 6, Township 3, Range 5 and is zoned C-1. (District 1)

Mr. Hopkins presented the application by M&I Properties for a Conditional Use to allow gas pumps as an accessory use for a convenience store. Ben Smith was present to present the application.

Mr. Ben Smith – 2700 Stonebrook – came forward and stated they are requesting a Conditional Use to allow gas pumps. He stated the property is zoned Commercial and a convenience store is a permitted use. He then stated that he does not feel the addition of gas pumps will increase the traffic flow in the area, will not be a fire hazard due to the state regulations governing fuel pumps, does not feel it will affect the character of the neighborhood and will not over tax county utilities or facilities.

Mr. Davis asked if the fuel tanks will be above ground. Mr. Smith stated they will be buried tanks. Mr. Ward asked how large will the tanks be. Mr. Smith stated the size of the tanks will be determined by State Regulations and the fuel business,

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

Kim LeBaron – 12755 Old Byhalia Road – came forward and has the following concerns:

- Environmental impacts on the wells in the area
- Air quality
- Storm water run-off
- Financial burden on surrounding properties
- Not being able to get FHA insurance due to proximity of the proposed underground fuel storage tanks
- Decreased property values
- Decreased traffic safety
- Will be a noise and light nuisance
- Traffic concerns with additional burden of gas pumps
- Sight line issues with Old Byhalia Road
- Feels adequate notice was not given for this item

Mr. Hopkins stated that if approved the site design will have to go through Design Review which means it will be reviewed by fire, engineering, planning and building departments. He stated conditions can be places on the approval.
Mr. Smith stated if approved, they will bring back the grading plan and detention plan for review by the County Engineer. He stated he does not feel the tank will impact water in the area and will be regulated by state agencies. He stated environmental requirements are state regulated and it is a highly regulated industry. He then stated that lighting will be downward lighting. Mr. Smith stated if it is determined that Old Byhalia Road needs to be improved then the applicant will do so. He stated the convenience store is a permitted use the applicant is only requesting to be allowed to have gas pumps.

Ms. LeBaron stated the laws regulating fuel tanks changes often.

Mr. Steward made a Motion and Mr. Davis seconded the Motion to table this item until the June 12, 2017 meeting of the Board of Adjustment to allow Board of Adjustment members to visit the site. The Motion passed with a unanimous vote.

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