



BOARD OF ADJUSTMENT
ORDER OF ITEMS
JULY 13, 2020

CALL TO ORDER: 7:00
APPROVAL OF MINUTES: June 8, 2020

OLD BUSINESS

Conditional Use

Application by **Patrick Sullivan/Clearway Energy Group** (1551) for a Conditional Use to allow a utility substation/solar farm in accordance with the DeSoto County Zoning Ordinance. Subject property is located on the south side of Old Hwy 61 and west of West Railroad Ave. Parcel #*1-09-9-32-00-0-00002-00, 1-09-9-32-00-0-00003-00, 1-09-9-32-00-0-00004-00, 1-09-9-32-00-0-00005-00 and 1-09-8-33-00-0-00002-00* in Section 32&33 Township 1 Range 9 and is zoned A (District 3)

NEW BUSINESS

Variance

Application by **Randy Gaddy** (1595) for a variance to allow a front setback of less than 50 feet in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 821 Lee Rd on the west side of Lee Rd and south of Byhalia Rd Parcel #*3-06-1-01-00-00015-00* Section 1, Township 3 Range 6 and is zoned A (District 1)

Application by **Ronda Bantom** (1596) for a variance to allow a front setback of less than 50 feet in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 819 Lee Rd on the west side of Lee Rd and south of Byhalia Rd Parcel #*3-06-1-01-00-00015-00* Section 1, Township 3 Range 6 and is zoned A (District 1)

Application by **Michael Fritze** (1597) for a variance to allow an accessory building in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5002 Allen Rd on the north side of Allen Rd and east of Hwy 305 Parcel #*3-06-7-26-01-0-00003-00* Section 26, Township 3 Range 6 and is zoned A (District 5)

Application by **Albert Pleasants** (1598) for a variance to allow a fence taller than 3 ft. and accessory building to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 1888 Bakersfield Trace on the east side of Bakersfield Trace and north of Bakersfield Dr Parcel # 2-07-7-26-03-0-00044-00 Section 26, Township 2 Range 7 and is zoned R-20 (District 5)

Application by **Contessa Fields** (1599) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 14652 St. Charles Dr on the south side of St. Charles Dr and east of Jackson Landing Dr Parcel # 1-05-8-28-07-0-00064-00 Section 28, Township 1 Range 5 and is zoned R-20 (District 1)

Application by **Anthony Clay** (1600) for a variance to allow an accessory building taller than 20 ft. and larger than 50% of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 9391 Honey Suckle Way on the south side of Honey Suckle Way and west of Hwy 305 Parcel # 3-06-5-15-01-0-00016-00 Section 15, Township 3 Range 6 and is zoned A (District 5)

Application by **Brandon Conley** (1601) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 3448 Cypress Plantation Dr on the east side of Cypress Plantation Dr and south of Cypress Bend Cv Parcel # 2-06-5-15-09-0-00097-00 Section 15, Township 2 Range 6 and is zoned A-R Overlay (District 1)

Application by **Doyle Pickens** (1602) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 6680 Rolling Hills Dr on the north side of Rolling Hills Dr and west of Cherry Tree Rd Parcel # 2-06-3-07-02-0-00065-00 Section 7 Township 2 Range 6 and is zoned A-R (District 2)

Application by **Misha Milam** (1603) for a variance to allow an accessory building in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5699 Austin Rd on the south side of Austin Rd and east of Hwy 301 Parcel # 2-08-4-18-00-0-00008-02 Section 18, Township 2 Range 8 and is zoned A-R (District 4)

Application by **Altha Mack** (1604) for a variance to allow a side setback of less than 100 ft. for a mobile home in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 4734 Pounders Rd on the north side of Pounders Rd and east of Fogg Rd Parcel # 2-08-9-29-00-0-00012-01 Section 29 Township 2 Range 8 and is zoned A-R (District 4)

Conditional Use

Application by **Len Lawhon (1552)** for a Conditional Use to allow an educational/philanthropic institution in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 8405 Center Hill Rd on the west side of Center Hill and north of DeSoto Rd Parcel #1-05-4-20-00-00005-02 in Section 20 Township 1 Range 5 and is zoned A-R (District 1)

Application by **Altha Mack (1553)** for a Conditional Use to allow a mobile home in the A-R District under hardship conditions in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 4734 Pounders Rd on the north side of Pounders Rd and east of Fogg Rd Parcel #2-08-9-29-00-0-00012-01 Section 29 Township 2 Range 8 and is zoned A-R (District 4)

The DeSoto County Board of Adjustment met at 7:00 p.m. on Monday, July 13, 2020, in the Planning Commission Conference Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Tom Williams, Rudy Davis, Earl Ward and Mike Duncan. Staff members present included Bennie Hopkins, Austin Cardosi, Ashley Hendricks and Sam Barber, Board Attorney.

Board of Adjustment Chairman Mr. Duncan called the meeting to order and asked whether any member of the Board recommended changes to the Minutes dated June 8, 2020. Mr. Davis made a Motion to approve the minutes as corrected. Mr. Steward 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 July 23, 2020, at 5:00 p.m. She then stated any appeals filed will be heard by the Board of Supervisors on August 17, 2020.

OLD BUSINESS

Conditional Use

Application by Patrick Sullivan/Clearway Energy Group (1551) for a Conditional Use to allow a utility substation/solar farm in accordance with the DeSoto County Zoning Ordinance. Subject property is located on the south side of Old Hwy 61 and west of West Railroad Ave. Parcel #1-09-9-32-00-0-00002-00, 1-09-9-32-00-0-00003-00, 1-09-9-32-00-0-00004-00, 1-09-9-32-00-0-00005-00 and 1-09-8-33-00-0-00002-00 in Section 32&33 Township 1 Range 9 and is zoned A (District 3)

Mr. Nick Manley came forward and stated that they have worked with the County and met with the neighboring landowners. He stated that Clearway has tried to ease concerns of the neighbors with buffering and landscaping. He then stated that they have met with Supervisor Ray Denison and he is in support of the project. Mr. Manley stated that there will a little bit of traffic during construction and little to no traffic during operation. He stated that Clearway has entered into a contract with the landowner and this is the landowner's desire for the use of their land.

Mr. Duncan asked if the applicant met with the community. Mr. Manley stated that they met with Mr. Denton and Mr. Sayle.

Mr. Williams asked if the outside perimeter fence will be landscaped. Mr. Manley stated that yes it will be, that is part of the project and part of the agreement with the County. Mr. Theroux stated they addressed the landscape after the community meeting. Mr. Sam Barber explained that the fee in lieu they entered into with the County sets out what exactly is such as wildflower seeding, site plan with the Planning department and planting of native vegetation.

Mr. Duncan asked if there was anyone to speak for or against the item.

Randy Denton – came forward and had the following concerns:

- Traffic impact on the area from 800 construction workers to and from the site
- Damage to roads from the construction traffic
- Some neighbors did not get notification
- Decrease of farm land
- Appearance of site
- Would like to advocate that local and very reputable landscaping companies be used for the project
- Should hire local labor
- Decreased traffic safety
- Will be a burden on the Sheriff's Department
- Feels plans are wishy washy and asked the Board to deny this item until a better plan is presented, what it will look like when built and what it will look like down the road
- Don't know how long the project will be around

Mr. Theroux stated the applicant is committed to use local labor to the extent local labor is available and will be talking to local landscapers. He then stated the County will have the opportunity to review and approve more detailed plans for the site.

Jenifer Sherwood stated they received a number of undeliverable notice back. She stated they mailed out the notices based on the information they received from the tax roll records. She then stated she is open to suggestions about how to best reach those who did not get a notice. She stated she feels the Conditional Use approval is based on preliminary plans and more detailed plans will be reviewed and approved by the Planning Department. Ms. Sherwood stated that 800 employees are collective across the entire project and would not be dumped into the community all at once. There will be different stages of construction with different number of employees and they are working on alternatives for traffic concerns.

Mr. Duncan stated it appears they are not talking about 800 employees coming to the site all at one time. He asked if the applicant will work with the County about any repairs that will be needed on the roads once the construction is complete. Mr. Theroux stated they will take aerial recordings of the current conditions of the roads and will return the roads to the same or better condition once construction is complete.

Jim Sayle – 13997 Norfolk – came forward and had the following concerns:

- Appreciated the work the applicant has done to talk to the community
- Would like to see renderings of what the fence and landscape would look like
- The ground will never be the same

- This farm land is irreplaceable, solar panels can go on any type of ground and this land has real farm value

Mr. Theroux stated the way the plant is designed it will not take the land out of productive agricultural land long term, the land can go back to farming.

Mr. Nick Manley stated the application before the Board is for a Conditional Use permit and the use of the land is between the applicant and the landowner. If the use requested is within the scope of the ordinance then it should be considered for the Conditional Use.

Mike Jarrett – 10417 Old Hwy 61 – came forward and had the following concerns:

- Was not notified
- With a solar farm so close to his home

Raymond Abernathy – 10371 Old Hwy 61 – came forward and had the following concerns:

- Was not notified
- Bought his property because of the way the land looks around it
- Will see solar panels instead of open fields
- Concerned will be an abandoned project
- Environmental concerns

Betty White came forward and had the following concerns:

- Farm land being destroyed
- Wrong location for a solar farm

Paige Abernathy – 10371 Old Hwy 61 - came forward and had the following concerns:

- Maintenance of ditches beside her property
- Water quality of her well being affected
- Interference of sight for crop-dusters
- Decreased property value

Mr. Theroux stated he is not aware of any cases where there has been leaching of heavy metals into the water and will maintain the site and any broken panels.

Mr. Duncan asked if once the site is no longer in operation if it will be returned to its original state. Mr. Theroux stated it will be.

Mr. Abernathy asked who will maintain the drainage ditch. Mr. Theroux stated it will be maintained by the permanent staff on the site.

Jamie Jarrett – 10417 Old Hwy 61 – came forward and had the following concerns:

- House faces the solar panels
- Decreased property value

- Aesthetics of the property from their property

Mr. Williams stated he would like the applicant to clarify why this site was selected. Mr. Manley stated that this site was selected do to the acreage, the proximity to the Entergy power grid and substation and the condition of the property.

Mr. Duncan asked how tall the foliage of the landscaping will be. Mr. Theroux stated the fence will be 6 ft. tall and the foliage will be about 8 ft. tall.

Mr. Williams stated he feels like the Board needs more information. Mr. Duncan stated he feels the decision needs to be based on the merits of the Conditional Use criteria.

Jamie Branning – 11950 Norfolk – came forward and had the following concerns:

- It is not keeping with the agricultural use of the area
- This needs to be a moral issue you wouldn't want this for your family

Mr. Ward made a Motion and Mr. Davis seconded the Motion to deny the application by Patrick Sullivan/Clearway Energy Group for a Conditional Use to allow a utility substation/solar farm based on it adversely affecting the neighborhood. The Motion was passed with a unanimous vote.

NEW BUSINESS

Variance

Application by Randy Gaddy (1595) for a variance to allow a front setback of less than 50 feet in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 821 Lee Rd on the west side of Lee Rd and south of Byhalia Rd Parcel # 3-06-1-01-00-00015-00 Section 1, Township 3 Range 6 and is zoned A (District 1)

Application by Ronda Bantom (1596) for a variance to allow a front setback of less than 50 feet in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 819 Lee Rd on the west side of Lee Rd and south of Byhalia Rd Parcel # 3-06-1-01-00-00015-00 Section 1, Township 3 Range 6 and is zoned A (District 1)

Mr. Hopkins presented the applications by Randy Gaddy and Ronda Bantom for variances to allow a front setback of less than 50 feet. He stated the sites are beside each other and owned by the same family. Mr. Randy Gaddy and Ms. Ronda Bantom were both present to represent the applications.

Mr. Gaddy stated that due to the topography issues on both parcels they were not able to move the homes further back. The homes are for himself and his

sister. Ms. Bantom stated the home across the street had to have a variance as well because of the same issue.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Williams made a Motion and Mr. Duncan seconded the Motion to approve the applications by Randy Gaddy and Ronda Bantom for variances to allow a front setback of less than 50 feet. The Motion was passed with a unanimous vote.

Application by Michael Fritze (1597) for a variance to allow an accessory building in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5002 Allen Rd on the north side of Allen Rd and east of Hwy 305 Parcel # 3-06-7-26-01-0-00003-00 Section 26, Township 3 Range 6 and is zoned A (District 5)

Mr. Hopkins presented the application by Michael Fritze for variances to allow an accessory building in the front yard. Mr. Michael Fritze was present to represent the application.

Mr. Duncan asked what size the building will be. Mr. Fritze said it will be 24x30. Mr. Williams asked what color the building will be. Mr. Fritze stated the building will match the color of the home.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Davis made a Motion and Mr. Williams seconded the Motion to the application by Michael Fritze for variances to allow an accessory building in the front yard. The Motion was passed with a unanimous vote.

Application by Albert Pleasants (1598) for a variance to allow a fence taller than 3 ft. and accessory building to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 1888 Bakersfield Trace on the east side of Bakersfield Trace and north of Bakersfield Dr Parcel # 2-07-7-26-03-0-00044-00 Section 26, Township 2 Range 7 and is zoned R-20 (District 5)

Mr. Hopkins presented the application by Albert Pleasants for variances to allow a fence taller than 3 ft. and an accessory building in the designated front yard. Mr. Albert Pleasants was present to represent the application.

Mr. Pleasants stated he needs to put the building on the left side of the property due to water flow on the right side of the property

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Williams made a Motion and Mr. Davis seconded the Motion to the application by Albert Pleasants for variances to allow a fence taller than 3 ft. and an accessory building in the designated front yard. The Motion was passed with a unanimous vote.

Application by Contessa Fields (1599) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 14652 St. Charles Dr on the south side of St. Charles Dr and east of Jackson Landing Dr Parcel # 1-05-8-28-07-0-00064-00 Section 28, Township 1 Range 5 and is zoned R-20 (District 1)

Mr. Hopkins presented the application by Contessa Fields for variances to allow a fence taller than 3 ft. in the designated front yard. Ms. Contessa Fields was present to represent the application.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Williams made a Motion and Mr. Duncan seconded the Motion to the application by Contessa Fields for variances to allow a fence taller than 3 ft. in the designated front yard. The Motion was passed with a unanimous vote.

Application by Anthony Clay (1600) for a variance to allow an accessory building taller than 20 ft. and larger than 50% of the primary structure in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 9391 Honey Suckle Way on the south side of Honey Suckle Way and west of Hwy 305 Parcel # 3-06-5-15-01-0-00016-00 Section 15, Township 3 Range 6 and is zoned A (District 5)

Mr. Hopkins presented the application by Anthony Clay for variances to allow an accessory building taller than 20 ft. and larger than 50% of the primary structure. Mr. Anthony Clay was present to represent the application.

Mr. Duncan asked what the building will be used for. Mr. Clay stated it will be used to store a travel trailer and to restore a car.

Mr. Duncan asked if there will be any utilities in the building. Mr. Clay stated there will be electric and plumbing.

Mr. Williams asked what type of material the building will be constructed of. Mr. Clay stated it will be a metal building with brick.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Davis made a Motion and Mr. Williams seconded the Motion to the application by Anthony Clay for variances to allow an accessory building taller

than 20 ft. and larger than 50% of the primary structure. The Motion was passed with a unanimous vote.

Application by Brandon Conley (1601) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 3448 Cypress Plantation Dr on the east side of Cypress Plantation Dr and south of Cypress Bend Cv Parcel # 2-06-5-15-09-0-00097-00 Section 15, Township 2 Range 6 and is zoned A-R Overlay (District 1)

Mr. Hopkins presented the application by Brandon Conley for variances to allow a fence taller than 3 ft. in the designated front yard. Mr. Brandon Conley was present to represent the application.

Mr. Cardosi asked how far the fence would be from the street. Mr. Conley stated the fence will be 15-16 feet from the street.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Ward made a Motion and Mr. Duncan seconded the Motion to the application by Brandon Conley for variances to allow a fence taller than 3 ft. in the designated front yard. The Motion was passed with a unanimous vote.

Application by Doyle Pickens (1602) for a variance to allow a fence taller than 3 ft. to be located in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 6680 Rolling Hills Dr on the north side of Rolling Hills Dr and west of Cherry Tree Rd Parcel # 2-06-3-07-02-0-00065-00 Section 7 Township 2 Range 6 and is zoned A-R (District 2)

Mr. Hopkins presented the application by Doyle Pickens for variances to allow a fence taller than 3 ft. in the designated front yard. Mr. Doyle was present to represent the application.

Mr. Cardosi asked how far the fence would be from the street. Mr. Pickens stated the fence will be 40 feet from the street.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Williams made a Motion and Mr. Duncan seconded the Motion to the application by Doyle Pickens for variances to allow a fence taller than 3 ft. in the designated front yard. The Motion was passed with a unanimous vote.

Application by Misha Milam (1603) for a variance to allow an accessory building in the designated front yard in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 5699 Austin Rd on the

south side of Austin Rd and east of Hwy 301 Parcel # 2-08-4-18-00-0-00008-02 Section 18, Township 2 Range 8 and is zoned A-R (District 4)

Mr. Hopkins presented the application by Misha Milam for a variance to allow an accessory building in the designated front yard. Ms. Misha Milam was present to represent the application.

Ms. Milam stated that this location is needed due to their being ravine and the location of the septic system and the propane tank.

Mr. Duncan asked what size the building will be. Ms. Milam stated that it will be 24x40. Mr. Williams asked what material it will be constructed of. Ms. Milam stated it will be constructed of brick.

Mr. Duncan asked if there was anyone to speak of or against the item. There was no one.

Mr. Davis made a Motion and Mr. Duncan seconded the Motion to the application by Misha Milam for a variance to allow an accessory building in the designated front yard. The Motion was passed with a unanimous vote.

Application by Altha Mack (1604) for a variance to allow a side setback of less than 100 ft. for a mobile home in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 4734 Pounders Rd on the north side of Pounders Rd and east of Fogg Rd Parcel #2-08-9-29-00-0-00012-01 Section 29 Township 2 Range 8 and is zoned A-R (District 4)

*****This item was heard with the companion Conditional Use application.******

Conditional Use

Application by Len Lawhon (1552) for a Conditional Use to allow an educational/ philanthropic institution in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 8405 Center Hill Rd on the west side of Center Hill and north of DeSoto Rd Parcel #1-05-4-20-00-00005-02 in Section 20 Township 1 Range 5 and is zoned A-R (District 1)

Mr. Hopkins presented the application by Len Lawhon for a Conditional Use to allow an educational/philanthropic institution. Mr. Len Lawhon was present to represent the application.

Mr. Lawhon stated the idea of the project is to keep the space open, help the community and provide space to teach bluegrass music and agriculture. He stated he lives on the site.

Mr. Duncan asked if there will be an RV park. Mr. Lawhon will only have a spot for teachers to be able to park overnight on the site if needed.

Mr. Lawhon stated that it will be a low impact project and will continue the nursery on the site. He stated that it will only be small gatherings.

Mr. Lawhon stated to address traffic he has a 3000 ft. gravel driveway to keep traffic off of Center Hill Rd and DeSoto Rd.

Mr. Duncan asked how many people are anticipated to attend events. Mr. Lawhon stated no more than 300-500 people at a time.

Mr. Williams asked where parking will be. Mr. Lawhon showed in the plan presented where parking will be located throughout the site.

Mr. Duncan asked if there was anyone to speak for or against this item. There was not one.

Mr. Lawhon stated they plan to operate year round and there will not be music any later than 11:00 pm.

Mr. Duncan made a Motion and Mr. Williams seconded the Motion to approve the application by Len Lawhon for a Conditional Use to allow an educational/philanthropic institution, conditioned upon the following:

1. Shall be for 10 years until July 13, 2030; and
2. Hours to be as stated in the proposal.

The Motion was passed with a unanimous vote.

Application by Altha Mack (1553) for a Conditional Use to allow a mobile home in the A-R District under hardship conditions in accordance with the DeSoto County Zoning Ordinance. Subject property is located at 4734 Pounders Rd on the north side of Pounders Rd and east of Fogg Rd Parcel #2-08-9-29-00-0-00012-01 Section 29 Township 2 Range 8 and is zoned A-R (District 4)

Mr. Hopkins presented the Variance and Conditional Use applications to allow a mobile home in the AR under hardship and to be located less than 100 ft. from the side property line. Ms. Diane Starnes was present to represent the application.

Ms. Starnes stated the existing mobile home on the property burned and she is wanting to put a new mobile home on the property for her mother under a hardship. She stated the other mobile home on the property is uninhabitable and will be moved.

Mr. Duncan asked what the variance is for. Mr. Hopkins stated the applicant is not able to meet 100 feet from both side property lines.

There was discussion of the length of time for the conditional use.

Mr. Duncan asked if there was anyone to speak for or against the item.

Ellen Davis – 4639 Pounders – came forward and was in support of the application.

Mr. Williams made a Motion and Mr. Davis seconded the Motion to the application by Althea Mack for a variance to allow a mobile home to have a side setback of less than 100 ft. The Motion was passed with a unanimous vote.

Mr. Ward made a Motion and Mr. Davis seconded the Motion to approve the Conditional Use application to allow a mobile home in the AR under hardship, conditioned upon the following:

1. Both older mobile homes are removed within 30 days of the new mobile home being given final inspection approval; and
2. Shall be for the lifetime of Altha Mack.

The Motion was passed with a unanimous vote.

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