

The City of Foley Board of Adjustment & Appeals held a meeting on October 11, 2021 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Montie Clark, Jack Kimsey, Keith Jiskra, Terry Young, LuAnne McCarley and George James. Staff present were: Amanda Cole, Planning and Zoning Assistant and Melissa Ringler, Recording Secretary.

Chairman Jack Kimsey called the meeting to order at 5:30 p.m.

MINUTES:

Approval of the minutes for the September 13, 2021 meeting minutes.

Keith Jiskra made a motion to approve the September 13, 2021 meeting minutes. Terry Young seconded the motion. All members voted aye.

Motion to approve the September 13, 2021 meeting minutes passes.

NEW BUSINESS & PUBLIC HEARINGS:

1. United Pentecostal Holiness Church- UPA

The City of Foley Board of Adjustment and Appeals received a request for a use permitted on appeal to Article 13.1.2, D to allow a school/childcare facility in a R-1A zone. Property is located at 412 2nd Ave. Applicant is United Pentecostal Holiness Church.

Ms. Latrece Johnson explained the church has been awarded a first class Pre-K grant by Governor Kay Ivey and the Alabama Department of Early Childhood. She stated in order to get properly licensed they need approval from the city to operate a Pre-K/daycare at the church.

Chairman Jack Kimsey asked if there were any questions or members of the public to speak on the item. There were none.

Commissioner Keith Jiskra made a motion to approve the requested use permitted on appeal. Commissioner George James seconded the motion. Roll call vote: Montie Clark, aye; Jack Kimsey, aye; Keith Jiskra, aye; Terry Young, aye; and George James, aye.

Motion to approve the requested use permitted on appeal passes.

2. Debby & Chuck Rice- UPA

The City of Foley Board of Adjustment and Appeals received a request for a use permitted on appeal to Article 13.1.2, G to allow an accessory dwelling unit in a R-1R zone. Property is located at 8554 Bay Pines Ln. Applicants are Debby and Chuck Rice.

Mr. Chuck Rice explained they are trying to get approval to build an accessory dwelling unit on their property for Debby's 88 year old mother who lives in Los Angeles. He explained they have received a culvert and septic tank permit for the site.

Chairman Jack Kimsey stated the lot is large and they are meeting the required setbacks. He asked if there were any questions or members of the public to speak on the item. There were none.

Montie Clark made a motion to approve the requested use permitted on appeal. Terry Young seconded the motion. Roll call vote: Montie Clark, aye; Jack Kimsey, aye; Keith Jiskra, aye; Terry Young, aye; and George James, aye.

Motion to approve the requested use permitted on appeal passes.

3. J. Randle (Randy) McKinney- UPA

The Board of Adjustment and Appeals has received a request for a use permitted on appeal for Article 18.1.2, C to allow storage structures in a B-1A zone. Property is located E. of Bender Rd. and N. of U.S. Hwy. 98. Applicant is J. Randle (Randy) McKinney.

Mr. Randy McKinney explained he would like to get approval to add four storage buildings on the vacant property. He stated he will go before the Planning Commission for site plan approval if he receives approval tonight.

Mr. and Mrs. James Spencer residents of 12628 Bender Rd. stated they live behind the proposed storage area. They asked if the trees would be removed.

Mr. McKinney stated the storage will be for RV's and fencing will be added which is required by the city.

Chairman Jack Kimsey asked if there were any other questions or members of the public to speak on the item. There were none.

Keith Jiskra made a motion to approve the requested use permitted on appeal. Commissioner George James seconded the motion. Roll call vote: Montie Clark, aye; Jack Kimsey, aye; Keith Jiskra, aye; Terry Young, aye; and George James, aye.

Motion to approve the requested use permitted on appeal passes.

4. Wes Misenhelter- UPA

The Board of Adjustment and Appeals has received a request for a use permitted on appeal for Article 18.1.2, C to allow storage structures in a B-1A zone. Property is located at 21450 County Rd. 12 S. Applicant is Wes Misenhelter.

Chairman Jack Kimsey let the applicant know the building locations were incorrect on the renderings provided.

Mr. Wes Misenhelter stated he is the owner of the Reserve which is currently at a 97% occupancy level. He explained several tenants within the Reserve have requested and shown a need for a storage area. He stated he has 18 people on a list for the storage units which will be another amenity for the tenants. The building will look attractive and be metal with the exterior colors matching the apartments. He stated trees will be planted around the units and they will have roll up doors and no electrical. He explained the apartments have been extremely successful and building in Foley is one of the best decisions he could have made. He stated they will soon be finished with the new town homes that are currently under construction and have been geared more towards seniors.

Chairman Jack Kimsey asked if there were any questions or members of the public to speak on the item. There were none.

George James made a motion to approve the requested use permitted on appeal. Montie Clark seconded the motion. Roll call vote: Montie Clark, aye; Jack Kimsey, aye; Keith Jiskra, aye; Terry Young, aye; and George James, aye.

Motion to approve the requested use permitted on appeal passes.

5. Sonya Bush- Variance & UPA

The City of Foley Board of Adjustment and Appeals received a request for a variance and use permitted on appeal to Article 13.1.2 to allow a accessory dwelling unit in a R-1A zone and Article 8.1.1 accessory dwelling units shall be at least 10' from all lot lines. Property is located at 310 W. Marigold Ave. Applicant is Sonya Bush.

Ms. Sonya Bush explained there is an existing building on her lot that she would like to renovate into a living unit. She stated the building was on her property when she bought it and then she built a home on the property.

Chairman Jack Kimsey stated the Board members have received at least half a dozen calls and written oppositions to the request.

Ms. Bush stated she just wants to restore the existing building for a living space. She explained the building was lived in prior to her buying and building her home on the property in 2010. She stated if the building is renovated she will not put a crazy person in the building since she also lives on the same lot. She explained she may have to move her elderly mother into the building. She stated the building being a rental unit should not be a consideration in the approval.

Chairman Jack Kimsey asked the applicant if she had spoken with any of the neighboring property owners.

Ms. Bush stated she spoke to one neighbor down the road who did not seem to have a problem with the request.

Chairman Jack Kimsey stated once it is approved the city will have no control over if the building is used as a rental.

Ms. Bush stated she is confused as to why there was so much opposition when she has an Airbnb right in front of her home.

Chairman Jack Kimsey stated the building is also not meeting the Accessory Dwelling setback requirements to be at least 10' from all lot lines.

Montie Clark stated the structure is now illegal if we approve it we are approving something that does not fit our requirements.

Chairman Jack Kimsey stated the applicant may want to speak with the neighboring property owners and get things worked out and withdraw the request. He explained if the

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item is voted on and denied the applicant cannot reapply for 12 months and the only other option would be to take the case to circuit court.

Ms. Bush stated she does not understand the problem. She explained the building was already on the lot when she built her home. She stated she just wants to fix it up into a nice livable space and understands she will need to make sure the neighborhood is safe.

Chairman Jack Kimsey stated the Board has had six neighbors contact them asking them to deny the request.

Ms. Bush asked the reasons the neighbors provide for denial.

Chairman Jack Kimsey stated some of the reasons were traffic and safety.

Ms. Bush stated there are other neighbors who have the same setup in the area.

Chairman Jack Kimsey stated she will have to request to withdraw the item or the board will vote on the item.

Keith Jiskra made a motion to deny the requested variance and use permitted on appeal. Montie Clark seconded the motion. Roll call vote: Montie Clark, aye; Jack Kimsey, aye; Keith Jiskra, aye; Terry Young, aye; and George James, aye.

Motion to deny the requested variance and use permitted on appeal passes.

ADJOURN:

Montie Clark made a motion to adjourn the meeting at 6:02 p.m. Terry Young seconded the motion. All members voted aye.

Motion to adjourn the meeting at 6:02 p.m. passes.