

# BOARD OF ADJUSTMENT & APPEALS MINUTES

June 12, 2017

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The City of Foley Board of Adjustment & Appeals held a regular scheduled meeting on June 12, 2017 at 5:30 pm in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Montie Clark, Jack Kimsey, Jerry Wilkey, Terry Young and George James. Absent member was Vernie Heard. Staff present were: Miriam Boutwell, City Planner and Recording Secretary, Melissa Ringler.

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

## **MINUTES:**

Approval of the minutes for the May 8, 2017 meeting.

Jerry Wilkey made a motion to approve the minutes of the May 8, 2017 with the changes that were given to the recording secretary. Terry Young seconded the motion. All members voted aye.

**Motion to approve the May 8, 2017 meeting minutes with corrections passes.**

## **NEW BUSINESS & PUBLIC HEARING:**

### **1. Victor Sign Co.- Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a Variance for Article 9.7A, maximum allowed wall signage height of 25' or roofline whichever is less in a B-1A zone. Requested variance is for a 38'+/- sign height for property located at 1133 S. McKenzie St. Applicant is Victor Sign Co.

Mr. Orin Robinson with Victor Sign Co. explained the location was previously approved for a 34' wall sign height variance. He explained they are changing out the wall signage and due to the hotel logo being larger the placement on the building will need to be at a height of 38'+/-.

Chairman Jack Kimsey asked if the signage would be placed below the eave.

Mr. Robinson stated the signage would be below the eave as shown in the drawings.

Montie Clark made a motion to approve the requested variance. Jerry Wilkey seconded the motion. Roll Call vote: Montie Clark, aye; Jack Kimsey, aye; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to approve the requested variance passes.**

### **2. 7 Broad Street, LLC.- Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a Variance for Article 9.5, maximum allowed ground signage height of 5' in a B-1 zone. Requested variance is for a 15'4"+/- sign height for property located at 218 S. McKenzie St. Applicant is 7 Broad Street, LLC.

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This item was moved to last on the agenda due to applicant not being present.

Ms. Miriam Boutwell explained the applicant is opening a coffee shop at this location. They have received approval for the signage and an addition of a drive thru window from the Historical Commission. She explained the building was at one time a gas station with a similar style of signage. She stated the current zoning allows a ground sign with a height of 5'. Due to concerns regarding visibility and the flow of traffic they are requesting to increase the allowable sign height.

Montie Clark made a motion to approve the requested variance. Terry Young seconded the motion. Roll Call vote: Montie Clark, aye; Jack Kimsey, aye; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to approve the requested variance passes.**

### **3. Iken, LLC- Use Permitted on Appeal**

The City of Foley Board of Adjustment and Appeals has received a request for a use permitted on appeal to article 7.5B, allowing a self-storage warehouse in a M-1 zone. Property is located E. of County Rd. 65, and N. of County Rd. 12S. Applicant is Iken, LLC.

Mr. Ike Williams explained he is requesting a use permitted on appeal for an indoor climate control self storage facility. He stated he is looking to possibly build two buildings with a breeze way in between.

George James 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; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to approve the requested use permitted on appeal passes.**

### **4. Smith, Kolb & Associates- Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a Variance for Article 7.2.6 D, maximum density per acre in a R-2 zone. Property is located E. of N. Pine St and S. of W. Peachtree Ave. Applicant is Smith Kolb & Associates.

Mr. Joseph Yarbrough explained he currently has the property under contract to purchase. He stated he is applying to the Planning Commission to subdivide the property into 4 lots and will be building a duplex on each lot.

Chairman Kimsey explained a drawing of the subdivision has been provided showing the four lots.

Montie Clark asked if there were other duplexes in this area.

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Mr. Yarbrough stated there are more duplexes to the west of this parcel.

Mr. Henry Battaglia asked for clarification on what will be built on the parcel.

Mr. Yarbrough stated they will be building 4 buildings, each building containing 2 units with a total of 8 units.

Ms. Boutwell explained the property is zoned R-2 which does allow duplexes.

Montie Clark made a motion to approve the requested variance. George James seconded the motion. Roll Call vote: Montie Clark, aye; Jack Kimsey, aye; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to approve the requested variance passes.**

## **5. Erby Suits- Variance**

The City of Foley Board of Adjustment and Appeals received a request for a variance to Article 6.8.2 accessory structures shall be at least 10 feet from any other structure on the same lot. Requested variance is for 3+/-' for property located at 108 Durby Ln. Applicant is Erby M. Suits.

Mr. Erby Suits stated Ms. Christina is purchasing from him the home located at 108 Durby Lane. He explained a shed was placed on the property and is located 3' from the home. The Home Owners Associations Architectural Committee looked at the plans and said it was perfect and there were no problems. He stated a lady in the neighborhood got denied on doing something from the HOA and started complaining about the shed. He explained he has talked with the Fire Department regarding what needs to be done to bring the building to code.

Ms. Christina stated she followed everything she knew to do and understands the approval was an error made by the Home Owners Association. She explained she followed the procedures that are listed in the Home Owners Association covenants and was not aware she needed approval from the City. She stated the building location was chosen so the neighbor's view of the common area was not blocked. She explained she provided pictures of the shed at its current location. If it is moved 7' it will cost over one thousand dollars since it will involve removing the fence and relocating the gates.

The Cambridge Parke Home Owners Association President stated the shed was approved by the Architectural Committee. He stated an error was made and it did not occur to them how close the building would be to the house. He explained the Home Owners Association covenants go by the City Laws which state the building cannot be any closer than 10'. He asked the Board not to allow the exception since it is a fire hazard due to flammables potentially being stored in the building. He stated they are trying to maintain their covenants and restrictions which do not indicate where the building can be placed but tells them where it cannot be placed.

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Chairman Jack Kimsey asked if the covenants have been changed since the approval was issued.

The Home Owners Association president stated the covenants have not been changed and they did not notice there was an error until after the building was placed on the lot before the fence was added. He stated it clearly violates their restrictions.

Chairman Kimsey asked if the applicant has spoken with the Fire Department.

Mr. Erby stated he has spoken with the Fire Department and received the specifics on what needs to be done to fire rate the wall.

A resident and former Home Owners Association member stated Mr. Suits was told the building would have to be moved and we were told it would be moved before the fence was put up.

The Home Owners Association president stated a certified letter was sent to the property owner and it is in the Home Owners Associations best interest to support the rules and they will continue enforcing their rules and covenants.

Chairman Jack Kimsey explained the Board of Adjustment and Appeals cannot enforce covenants.

Jerry Wilkey made a motion to carry over the item to the next meeting in order to get a written report from the City Fire Inspector. Montie Clark seconded the motion. Roll Call vote: Montie Clark, aye; Jack Kimsey, aye; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to carry over the item to the next meeting in order to get a written report from the City Fire Inspector passes.**

Chairman Jack Kimsey stated the item will be carried over to the July 10<sup>th</sup> meeting in order to get a written report from the Fire Department.

### **6. Wise Recycling I LLC.- Special Exception**

The City of Foley Board of Adjustment and Appeals has received a request for a special exception for Article 7.3.1B, allowing a recycling distribution center in a B-1 zone. The parcels are located on the east side of State Hwy 59/N. McKenzie St., between Magnolia and Orchid Ave. Applicant is Wise Recycling I LLC.

Mr. Harold Stone stated the Wise Recycling has been operating at the current location since 1986. He explained they are looking to install a small drive on scale and pad. The pad is to prevent materials from touching the ground and the scale will expedite the service and prevent traffic from backing up. He explained there will be three lines which will be used for cans, non ferrous metals and steel.

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Board members questioned if the entrances off of State Hwy 59 will be used.

Mr. Stone stated the cars will access off of E. Orchid Avenue. The State Hwy 59 entrances will be gated. He explained a 6' privacy fence is being added.

George James made a motion to approve the special exception. Terry Young seconded the motion. Roll Call vote: Montie Clark, aye; Jack Kimsey, aye; Jerry Wilkey, aye; Terry Young, aye; and George James, aye.

**Motion to approve the special exception passes.**

### **ADJOURN:**

Ms. Christina asked what she needed to get from the Fire Department.

Chairman Jack Kimsey stated the Board would like to see in black and white what they recommend regarding the fire rating.

Jerry Wilkey made a motion to adjourn. Terry Young seconded the motion. All members voted aye.

Motion to adjourn at 5:58 p.m. passes.