

## BOARD OF ADJUSTMENT & APPEALS MINUTES

September 10, 2018

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The City of Foley Board of Adjustment & Appeals held a regular scheduled meeting on September 10, 2018 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, Jerry Wilkey, Terry Young, and George James. Absent member was Vernie Heard. Staff present were: Miriam Boutwell, City Planner; 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 August 13, 2018 meeting.

Jerry Wilkey made a motion to approve the August 13, 2018 meeting minutes. Terry Young seconded the motion. All members voted aye.

**Motion to approve the minutes of the August 13, 2018 meeting passes.**

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

#### **1. Starr Textile Services- Variance**

The City of Foley Board of Adjustments and Appeals has received a request for a variance for Article 18.1D to allow a 25'+/- rear yard setback in a M-1 zone. Property is located at 940 N. Poplar St. Applicant is Starr Textile Services.

Ms. Shelia Hodges explained the expansion was originally planned 10 years ago. She stated due to currently being at full capacity and needing to accommodate the new equipment a 10' variance is needed.

Chairman Jack Kimsey asked if there has been any communication from the public on the item, staff replied no.

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. Emmanuel's Place- Use Permitted on Appeal**

The City of Foley Board of Adjustment and Appeals has received a request for a Use Permitted on Appeal for Article 13.1.2D a childcare/daycare use in a B-2 zone. Property is located at 211 N. Cedar St. Applicant is Emmanuel's Place.

Jerry Wilkey made a motion to table the item to the next month due to the applicant not

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being present. 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 table the item to next month's meeting due to the applicant not being present passes.**

### **3. Holly Garcia- Use Permitted on Appeal**

The City of Foley Board of Adjustment and Appeals has received a request for a Use Permitted on Appeal for Article 12.1, to allow a bed and breakfast and a Variance for Article 12.1.1E to allow weekly, monthly or for a period longer than nine consecutive days for the same guest in a R1A zone. Property is located at 413 W. Berry Ave. Applicant is Holly Garcia.

Ms. Holly Garcia explained she is a retired teacher who moved to the area a year ago and bought a home. She explained she cannot afford the house and would like to rent out rooms to help supplement her income. She stated renting the rooms would not cause any problem to the neighborhood. The renters would be young male professionals starting careers who do not make enough money to own or rent on their own. She explained there would be no drugs, violence, drinking or drama. She stated she has enough area to add parking in her yard and it would be no different than if she had 2 children and a husband living in the home.

Chairman Jack Kimsey stated there have been several emails and phone calls opposing the request.

Mr. Charlie Ebert stated this approval would be detrimental to the neighborhood. He stated with the growth in the area Foley is struggling to maintain the integrity of the single family areas. He explained the applicant would not be able to provide adequate parking.

Ms. JaNay Dawson resident of 420 W. Satsuma Ave. stated she and her husband are opposed to the request. She stated the request does not meet the definition of a bed and breakfast and is a boarding house which typically is only allowed in commercial areas. She explained the parking requirements for a bed and breakfast require a minimum of 2 spaces for the principal occupants and a minimum of 1 additional space per guest room. The additional parking spaces shall not be located in any required front or side yard setback and shall be screened from the view of adjacent properties. She explained she is familiar with the home and unless there has been a remodel there are only 3 bedrooms and a bed and breakfast has to be owner occupied. She stated she has concerns regarding the safety of the students due to the close proximity to the Elementary School.

Ms. Garcia stated she had rented bedrooms out in her home on a weekly basis most of the summer to vacationers. She explained there were only one or two additional cars. She stated there are several houses in the area that have 3 and 4 cars parked in the driveway. She explained it is not fair to say she cannot use part of her yard for parking. She stated

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she had made renovations to the home and added a kitchenette bedroom and bath on the side of the home she is occupying. The rental side of the home has 3 bedrooms, 2 baths, kitchen and living room and is adequate for 3 renters.

Ms. Barbara Duke resident of 1205 N Oak St. stated she walks her dog and brings in garbage cans for people to help out. She stated she rolled Ms. Garcia's garbage can up the driveway and there was a gentleman and lady in the driveway who watched her and did not speak or thank her. She stated the grass in the yard always needs mowing and the neighbors take care of their houses and lawns. She asked what process Ms. Garcia would be using to screen the renters background.

Ms. Garcia stated she will check the background of the renters and verify their identity and confirm their employment. She stated if someone did not speak to Mr. Dukes it must have been someone who shouldn't have been in her yard because she would have spoken. She stated when she moved to the area she went door to door to meet the neighbors and only one person answered their door. She explained one of her reasons for wanted male renters is so she can get help with lawn work. She explained she recently bought an electric lawn mower, edger and weed eater.

Mr. Ronald Blough resident of 414 W. Berry Ave. explained he lives across the street and Ms. Garcia hasn't spoken to him in a year. He stated the area is a quiet neighborhood. He stated he has concerns since his wife stays home during the day, there is a single mother with 3 children next door and the elementary school is so close. He explained he is not comfortable with a boarding house being located across the street from his home.

Montie Clark made a motion to deny the requested use permitted on appeal and 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 deny the use permitted on appeal and variance passes.

### **ADJOURN:**

Terry Young made a motion to adjourn at 5:54 p.m. Montie Clark seconded. All members voted aye.