

The City of Foley Board of Adjustment & Appeals held a meeting on December 9, 2019 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Jack Kimsey, Keith Jiskra, Jerry Wilkey, Terry Young, and George James. Absent member was Montie Clark. Staff present were: Miriam Boutwell, City Planner and Amanda Cole, Recording Secretary.

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

MINUTES:

Approval of the minutes for the November 12, 2019 meeting.

Jerry Wilkey made a motion to approve the November 12, 2019 meeting minutes. Terry Young seconded the motion. All Commissioners voted aye.

Motion to approve the November 12, 2019 meeting minutes passes.

NEW BUSINESS & PUBLIC HEARINGS:

1. **Vulcan, Inc- Use Permitted on Appeal**

The Board of Adjustment and Appeals has received a request for a use permitted on appeal for Article 18.1 B, to allow an employee medical facility in a M-1 zone. Property is located at 400 E. Berry Ave. Applicant is Vulcan, Inc.

Mr. Jim Morris explained Symbol Health Care is willing to provide a building for health and medical services for Vulcan employees which will go on the south end of the employee parking lot.

Chairman Jack Kimsey asked what size the building will be.

Mr. Morris stated it will be 15x60.

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

Motion to approve the requested use permitted on appeal passes.

2. **Tommy Perrymon-Variance**

The City of Foley Board of Adjustment and Appeals received a request for a variance to Article 8.1.2 accessory structures shall be at least 10' from any other habitable structure on the same lot. Property is located at 1023 Destin Ave. Applicant is Tommy Perrymon.

Chairman Jack Kimsey states he believes this subdivision has an active HOA and suggests they could do an approval with the condition the applicant would need to provide HOA approval when they receive the permit.

Keith Jiskra made a motion to approve the requested variance contingent upon the applicant providing HOA approval. George James seconded the motion. Roll call vote: George James, aye; Keith Jiskra, aye; Jack Kimsey, aye; Terry Young, aye and Jerry Wilkey, aye.

Motion to approve the requested variance contingent upon the applicant providing HOA approval passes.

3. Vosloh Properties LLC.-Use Permitted on Appeal

The Board of Adjustment and Appeals has received a request for a use permitted on appeal for Article 13.1.2 D, to allow a church in a PUD zone. Property is located at 22394 Mifflin Rd. Suites 303, 304 & 305. Applicant is Vosloh Properties LLC.

David Vosloh explained they are asking for temporary housing for Summit Church. Mr. Vosloh stated the church went from around 150 people with their first service to about 700 people and they now have 3 services. They have 91 parking spots in the village and are active in having people in the parking lot to have them park in the correct spaces.

The tenant on the end, Calypso Bar and Grill, is opposed to the church being there however it is just temporary. The church has made arrangements to purchase another building on Co Rd 12 and should be out of the current location by the end of May.

Mr. Vosloh stated at the time the church asked to lease the space they were expecting less than 200 people and the owner of the restaurant said they were not going to be open on Sunday. There was a meeting with all the tenants and he was under the impression everything was fine.

Mr. Vosloh explained he has dedicated 12 parking spots to the restaurant and has been working with him as much as possible.

Keith Jiskra asked if the church only had the 3 services on Sundays.

Mr. Vosloh stated they also had a Wednesday night service about 100 people attend.

Attorney Rusty Pigott stated he was here to represent the owner of Calypso Bar and Grill.

Mr. Pigott explained he has been trying to get in touch with Mr. Vosloh's attorney to discuss the issues the restaurant owner is having and he has been unsuccessful.

Mr. Pigott stated they didn't want to cause problems for the church, their issue is with the land lord.

Mr. Pigott asked if he was able to request for the item to be carried another month to try to settle the issues between Mr. Vosloh and the restaurant owner.

Miriam Boutwell stated she believed Mr. Vosloh was the only one who can request the item to be carried over since he is the applicant.

Chairman Jack Kimsey asked Mr. Vosloh how he felt about carrying the item over another month.

Mr. Vosloh stated he has already agreed for the item to be carried over a month and he doesn't believe the issues can be resolved outside of court. Mr. Vosloh explained he does not want to prolong the item again and cause the church to repay the advertising fees.

Chairman Jack Kimsey asked if the new location is definite.

Pastor Wilson stated the offer the church put in has been approved they are waiting for the financing to come through.

Mr. Pigott stated his client is losing money every week the church is there. Mr. Pigott cited the Zoning Ordinance Section 10.1B, referring to the parking for a church that shares parking spaces with businesses that are open Monday through Friday as long as they are not impacting the existing businesses.

Chairman Jack Kimsey asked the restaurant owner if there was designated parking for the restaurant, he replied yes.

Chairman Jack Kimsey asked if the parking spaces were left vacant during the church services. The owner replied mostly.

Mr. Pigott stated the cones placed to reserve the restaurant spaces makes it seem no one can park there and from the street it looks like the whole area is full and keeps people from stopping and going in the restaurant.

Chairman Jack Kimsey asked the restaurant owner if the 12 reserved spaces were in front of the business, he replied yes.

Chairman Jack Kimsey asked if the restaurant was open on Sunday. The owner stated they were open but closed down because of this situation. The owner stated they wanted to be open on Sundays.

Mr. Vosloh stated the restaurant owner asked for signs to be made for his reserved spaces which he received, the owner was also asked how many parking spaces he wanted and received the 12 he requested.

Mr. Vosloh stated the church has attendants in the parking lot who ask drivers if they are going to the church or to the restaurant who directs people where to go.

Keith Jiskra asked if it is going to take until May to finalize the new location.

Pastor Wilson stated it will take until May to finish the work on the building, it is just an empty shell right now.

Keith Jiskra stated the application says the approved use would be indefinitely.

Mr. Vosloh stated that has changed since the application was submitted, it will be through the end of May.

Ms. Boutwell mentioned George James will be abstaining since he lives in Glenlakes. There will have to be a unanimous vote either way or else nothing will happen.

Keith Jiskra made a motion to approve the requested use permitted on appeal good through May 31, 2020.

Jerry Wilkey asks why the attorneys involved cannot come together and resolve the issues involving this item.

Mr. Pigott stated he is optimistic an agreement could be reached.

Jerry Wilkey suggested the parties involved get together to reach an agreement and then come back.

Mr. Vosloh stated he didn't think it can be resolved, he has done everything that has been asked of him.

Mr. Vosloh stated he does not believe the Sunday morning traffic is hurting the business.

Jerry Wilkey seconded the motion to approve the requested use permitted on appeal good through May 31, 2020. Roll call vote: Keith Jiskra, aye; Jack Kimsey, aye; Terry Young, aye and Jerry Wilkey, aye. George James abstained.

Motion to approve the requested use permitted on appeal good through May 31, 2020 passes.

4. Benjamin Rye- Variance

The City of Foley Board of Adjustment and Appeals received a request for a variance to Article 8.1.2 accessory structures shall be at least 10' from any other habitable structure on the same lot. Property is located at 2061 Bourbon St. Applicant is Benjamin Rye.

Chairman Jack Kimsey explained the applicant was not in attendance because he had already made plans to be out of town before they were aware of the meeting date.

Chairman Kimsey stated he did not believe there was an active HOA in the subdivision.

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

Motion to approve the requested variance passes.

5. Adoption of the By-Laws for the 2020 Calendar Year

George James made a motion to approve the adoption of the by-laws for the 2020 calendar year. Jerry Wilkey seconded the motion. Roll call vote: George James, aye; Keith Jiskra, aye; Jack Kimsey, aye; Terry Young, aye; and Jerry Wilkey, aye.

Motion to approve the adoption of the by-laws for the 2020 calendar year passes.

6. Election of Officers for the 2020 Calendar Year

Keith Jiskra made a motion to elect Jack Kimsey as Chairman. Terry Young seconded the motion. Roll call vote: Keith Jiskra, aye; George James, aye; Jack Kimsey, aye; Terry Young, aye and Jerry Wilkey, aye.

Motion to elect Jack Kimsey as Chairman passes.

Keith Jiskra made a motion to elect George James as Vice-Chairman. Jerry Wilkey seconded the motion. Roll call vote: George James, aye; Keith Jiskra, aye; Jack Kimsey, aye; Terry Young, aye and Jerry Wilkey aye.

Motion to elect George James as Vice-Chairman passes.

ADJOURN:

Keith Jiskra made a motion to adjourn at 6:07 p.m. Jerry Wilkey seconded the motion. All members voted aye.

Motion to adjourn meeting at 6:07 p.m. passes.