

Board of Adjustment and Appeals Meeting Minutes
April 13, 2020

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The City of Foley Board of Adjustment & Appeals held a meeting on April 13, 2020 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Due to COVID-19 we will accept email comments (mringler@cityoffoley.org or acole@cityoffoley.org). Or you may call 952-4011 and Melissa or Amanda can take your verbal comments. These will be entered into the meeting minutes. The BAA members will be conducting the meeting via teleconferencing. If you wish to participate in this manner dial 1-260-245-3705 PIN 977 675 779#. If you choose to attend the meeting please follow social distancing rules.

Members present via teleconference were: George James, Montie Clark, Jack Kimsey, Terry Young and Keith Jiskra. Staff present were: Miriam Boutwell, City Planner; and Melissa Ringler, Recording Secretary. Amanda Cole, Planning and Zoning Assistant was present via teleconference.

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

MINUTES:

Approval of the minutes for the March 9, 2020 meeting.

Keith Jiskra made a motion to approve the March 9, 2020 meeting minutes. Montie Clark seconded the motion. Roll call vote: George James, aye; Montie Clark, aye; Jack Kimsey, aye; Terry Young, aye; and Keith Jiskra, aye.

Motion to approve the March 9, 2020 meeting minutes passes.

NEW BUSINESS & PUBLIC HEARINGS:

1. Jesus Velazquez-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 B2 zone. Property is located at N. of E. Laurel Ave. and E. of N. Poplar St. Applicant is Jesus Velazquez.

Chairman Jack Kimsey asked the size of the property.

Mr. Jesus Velazquez stated the property is almost half an acre and is approximately 100' x 300'.

Montie Clark asked if there was any information on the size of the proposed building, parking layout and number of parking spaces.

Mr. Velazquez stated there will be 20 parking spaces.

Keith Jiskra asked how many members were in the congregation.

Mr. Velazquez stated they have approximately 70 members in the congregation.

Keith Jiskra stated if there are 70 members the proposed 20 spaces would not be enough parking spaces if all members were in attendance.

Mr. Velazquez stated they currently have around 16 cars when having services.

Chairman Jack Kimsey asked the size of the proposed building.

Mr. Velazquez stated they are planning to build an 80' x 50' metal building.

Chairman Jack Kimsey stated 2 opposition letters were received from neighboring property owners who feel the approval would be detrimental to their area.

Mr. Velazquez stated he sees no issues with the request.

Mr. Steve Alexander stated his 7,200 sq. ft. building required 48 spaces. He explained there are currently 70 members but the congregation could easily grow to 200 members. He stated there have already been issues with people parking on neighboring properties lawns when viewing the property. He explained he does not want the liability of members parking on his property. He stated the neighboring property owners have spent millions on their buildings and a metal building in between them will not fit in with the look of the area. He expressed concerns of funding of construction due to the current situation of the coronavirus. He explained along with churches comes the traffic congestion.

Mr. Velazquez stated they have a builder and \$200,000 for the project.

Ms. Miriam Boutwell stated the parking for a church is based off of the seating. She explained they would be required to have approximately 18 spaces based on the current 70 members. She stated the Fire Department will also be involved when determining the occupancy load of the building. She explained the building would require a façade on the front of the building and 10' on the sides.

Chairman Jack Kimsey asked if there were any other questions. There were none.

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

Motion to deny the requested use permitted on appeal passes.

2. Jabes Gonzalez Villegas- 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 19.1 B, to allow a mobile home in an AO zone. Property is located S. of Breckner Rd. and E. of Bodenhamer Rd. Applicant is Jabes Gonzalez Villegas.

The applicant was not present.

Chairman Kimsey asked if there were any questions regarding the request. There were none.

Keith Jiskra made a motion to approve the request since similar requests have been approved in the area. George James seconded the motion. Roll call vote: George James, aye; Montie Clark, aye; Jack Kimsey, aye; Terry Young, aye; and Keith Jiskra, aye.

Motion to approve the requested use permitted on appeal passes.

3. Majestic Manor, LLC.- Variance

The City of Foley Board of Adjustments and Appeals has received a request for a variance for Article 14.1.5, D to allow a 5' side yard setback in a R-1D zone. Property is located at the SW corner of County Rd. 20 and S. Hickory St. Applicant is Majestic Manor LLC.

Mr. Doug Bailey explained the subdivision was originally in Baldwin County and unzoned. The developer realized the value of being in the city limits of Foley and annexed the property in as R-1D. He explained they are currently building in Cypress Gates which is a PUD and allows 5' setbacks. He stated they had originally looked at developing this property as a PUD but the retention required almost 25% and the PUD would have required an additional 25% open space.

Chairman Jack Kimsey asked how many lots the variance would affect.

Mr. Bailey stated there are a total of 111 lots.

Chairman Jack Kimsey asked staff if there has been any correspondence regarding the item. Staff replied no.

Chairman Kimsey asked if the separation between the houses would be a total of 10'.

Mr. Bailey answered yes there would be a total of 10' between houses.

Montie Clark asked if the homes would be residential stick built homes.

Mr. Bailey answered yes and stated the builder would be DSLD.

Keith Jiskra stated he hated to set a precedent and every other subdivision and housing development ask for the same request.

Terry Young stated he feels the 10' is terribly close and could pose a fire safety issue. He asked if anyone had looked into the possibility of the home owners being unable to get fire insurance due to the separation between the homes.

Mr. Bailey stated the minimum requirement is 10' between homes or if less the walls would have to be fire rated.

Montie Clark stated he is concerned about the inability for the owners to have room to add a garage or anything else on the property if the variance is granted.

Mr. Bailey stated the homes have been designed with front load garages and on the larger lots there will be some side load garages.

Ms. Boutwell stated a variance should be a hardship. She explained when the property was annexed into the city the applicant chose the R-1D zone. She stated in her opinion the hardship is self-imposed. She explained the developer could have zoned to a PUD and chosen to get the lesser setbacks but would have had to reserve 25% as open space.

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

Motion to deny the requested variance passes.

4. Keith Chapman- Variance

The City of Foley Board of Adjustments and Appeals has received a request for a variance for Article 16.1 to allow a 10+/-' side yard setback in a MH-1 zone. Property is located at 820 S. Chestnut St. Applicant is Keith Chapman.

Mr. Brian Nelms stated he is assisting the applicant with the requested variance.

Chairman Jack Kimsey stated the applicant is requesting a side yard setback and it looks like it could possibly be due to a porch addition.

Mr. Nelms explained they have removed a 35 year old mobile home from the property. He stated the mobile home was dilapidated and termite infested. He explained the new mobile home was put in the exact location as the former mobile home and does have a covered deck.

Chairman Jack Kimsey stated it appeared there was good spacing between the mobile home and neighboring properties.

Mr. Nelms stated the lot is very deep. He stated the mobile home is well off the front and rear property lines. He explained the mobile home is owned by a 74 year old lady and the mobile home that was removed was a public safety issue.

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

Motion to approve the requested variance passes.

ADJOURN:

Montie Clark made a motion to adjourn at 5:58 p.m. George James seconded the motion. All members voted aye.

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