

The City of Foley Board of Adjustment & Appeals held a meeting on June 14, 2021 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Montie Clark, George James, Jack Kimsey, Keith Jiskra, Terry Young and LuAnne McCarley. Staff present were: Miriam Boone, City Planner and Amanda Cole, Planning and Zoning Assistant.

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

**MINUTES:**

Approval of the minutes for the May 10, 2021 meeting minutes.

Keith Jiskra made a motion to approve the minutes for the May 10, 2021 meeting with the one correction that was given to the Planning and Zoning Assistant before the meeting. George James seconded the motion. All members voted aye.

**Motion to approve the minutes for the May 10, 2021 meeting with the correction passes.**

**NEW BUSINESS & PUBLIC HEARINGS:**

**1. David Kaiser - 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 17.1.1, B to allow an automobile repair (minor) in a B-1 zone. Property is located at 402 N. McKenzie St. Applicant is David Kaiser.

Mark Huggans, who is representing David Kaiser, stated Mr. Kaiser is looking to retire. Mr. Kaiser has someone who is looking to buy the property however the lending company is stating the business needs to have the existing automobile repair use approved so they will not lose their legal non-conforming status in the future.

Chairman Jack Kimsey asked if they were planning to remove the gas tanks.

Mr. Huggans explained the tanks will be removed. A company out of Mobile will remove the tanks and restore the ground to the current EPA standards.

Chairman Kimsey asked if anyone in the audience had any questions or comments. There were none.

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

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

**2. John & Sally Grace- Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a variance, for Article 17.2, B allowing a residential use in a PO zone. Property is located at 207 W. Rose Ave. Applicant is John and Sally Grace.

John Grace stated the property was residential until the Baptist Church bought it in 2002 and zoned it commercial, they then bought it from the Baptist Church and has been living there since. Mr. Grace stated they are now selling the property and the new owners need the residential use approved so they will not lose their legal non-conforming status in the future.

Chairman Kimsey asked if anyone in the audience had any questions or comments. There were none.

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

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

**3. Ron Bordelon-Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a variance for Article 17.1.2, D to allow a 16'+/- front yard setback in a B-1A zone. Property is located at 2180 S. McKenzie St. Applicant is Ron Bordelon.

Ron Bordelon stated he came for a rear yard setback for this project in December of last year but since that time Walmart has asked them to switch the layout of the building requiring them to request a front yard setback.

Mr. Bordelon stated this new design actually works better for the location.

Chairman Kimsey stated he believes the traffic flow with this new design would be better.

Chairman Kimsey asked if anyone in the audience had any questions or comments. There were none.

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

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

**4. Equity Builders, LLC.- Use Permitted on Appeal**

The Board of Adjustment and Appeals has received a request for Use Permitted on Appeal for Article 17.1.2 C, to allow a Boat and RV storage in a B-1A zone and a variance for Article 17.1.2 D to allow a 10' front yard setback in a B-1A zone. Property is located W. of State Hwy. 59 and S. of Brinks Willis Rd. Applicant is Equity Builders, LLC.

Chairman Kimsey asked if the property is to the East of existing blue mini warehouses.

Randy McKinney stated yes, the property is an L shaped property around the mini warehouses.

Mr. McKinney stated the front setback he is requesting is actually the side facing the back of the mini warehouses on the lot next door.

Mr. McKinney stated there are other RV storage uses to the West and Southeast of the property.

Mr. McKinney stated he has spoken with the property owners around the parcel and no one has any issues with the proposed use.

Chairman Kimsey stated the neighboring property owners also received certified letters and there has been no correspondence on the requests.

Mr. McKinney stated he and his brother both have RVs and they want a nice place to be able to store them, they will have 2 of the units and rent the rest out. Mr. McKinney stated the units will probably be climate controlled.

Chairman Kimsey asked if anyone in the audience had any questions or comments. There were none.

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

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

**5. LaBaron Nichols- Variance**

The City of Foley Board of Adjustment and Appeals has received a request for a variance, for Article 14.1.7, C allowing a class 3 club or lodge in a R4 zone. Property is located at 721 S. Maple St. Applicant is LaBaron Nichols.

LaBaron Nichols stated the building on the property had a legal non-conforming use of a nightclub but it has lost its legal non-conforming status. It has always been commercial and he doesn't want to remodel it for residential.

Mr. Nichols stated he was interested in opening the building up as a lodge where events such as birthday parties or weddings can be held.

Chairman Kimsey stated his concern was the possibility of alcohol being brought to the establishment and being able to enforce a no alcohol rule, being this property is in a residential area.

Keith Jiskra stated he had the same concerns as Chairman Kimsey.

Mr. Nichols stated he ran the building when it was a nightclub in 2015 and he understands the concerns of the Board members.

Miriam Boone stated the residential zone this property is in does allow this as a use permitted on appeal if it was not operated for a profit.

Mrs. Boone also explained the request would not be considered spot zoning. The Board would only be approving to continue the use that lost its legal non-conforming status they would not be rezoning the property.

Vera Quaites stated perhaps if Mr. Nichols would require his clients to provide security at his events that could help with the concerns.

Keith Jiskra asked if they could put conditions on the approval stating if there were a certain number of incidences that happened at the establishment, it could be shut down.

Mrs. Boone stated she didn't know if the Board would be able to put those kind of conditions on the approval since they are just varying from the zoning ordinance. If something were to happen then Jamie in Revenue may be able to pull their business license.

Mr. Nichols stated he would be willing to make restrictions for his clients.

Chairman Kimsey asked Mr. Nichols if he would be willing to carry over this request and provide guidelines/restrictions for the establishment.

Mr. Nichols stated he would be fine with carrying over the item and providing the Board with the requested guidelines.

Chairman Kimsey asked if anyone in the audience had any questions or comments. There were none.

Keith Jiskra made a motion to carry over the requested variance until the July 12, 2021 meeting allowing Mr. Nichols to provide guidelines detailing items such as security for the requested variance. Montie Clark seconded the motion. Roll call vote: Montie Clark, aye; George James, aye; Jack Kimsey, aye; Keith Jiskra, aye; and Terry Young, aye.

**Motion to carry over the requested variance passes.**

**ADJOURN:**

George James made a motion to adjourn at 6:00 p.m. Montie Clark seconded the motion. All members voted aye.