

The City of Foley Board of Adjustment & Appeals held a meeting on September 9, 2024 at 5:30 p.m. in the Council Chambers of City Hall located at 407 E. Laurel Avenue. Members present were: Gary Hellmich, Gregg Knight, Luanne McCarley, Keith Jiskra, Steve Bailey and alternate member Brandon Nelson. Absent member was Tyler Higginbotham. Staff present were: Miriam Boone, City Planner; Eden Lapham, Planner 1 and Melissa Ringler, Recording Secretary.

Chairman Keith Jiskra called the meeting to order at 5:30 p.m.

MINUTES:

Approval of the minutes for the August 12, 2024 meeting minutes.

Gregg Knight made a motion to approve the August 12, 2024 meeting minutes. Luanne McCarley seconded the motion. All members voted aye.

Motion to approve the August 12, 2024 meeting minutes passes.

NEW BUSINESS & PUBLIC HEARINGS:

1. Deborah Moss-Variance

The City of Foley Board of Adjustment and Appeals has received a request for a variance for Article 8.1.2, accessory structures shall be at least 10' from any habitable structure on the same lot. Property is located at 1343 Fenton Cir. Applicant is Deborah Moss.

Mr. Moss explained they are requesting a variance for the distance between the house and the pool due to a 2 ½' slope in their backyard.

Chairman Jiskra stated he had visited the site and it did appear to be a smaller back yard.

Mr. Moss stated if the variance is not approved he would have to build a retaining wall due to the sloping in the yard. He explained the retaining wall would be an additional \$20,000. He stated he has talked with the construction manager in regards to the utility easement. He has been advised there are no utilities located in the rear easement and all utilities are run through the front of the property.

Chairman Jiskra asked if the subdivision currently has a HomeOwners Association.

Mr. Moss stated there is currently not a HomeOwners Association.

Gary Hellmich stated any receptacles on the porch or rear of the house will have to be at least 10' from the pool.

Mr. Moss stated the receptacles would be 10' from the pool.

Chairman Jiskra asked if there were any members of the public to speak on the item. There were none.

Steve Bailey made a motion to approve the requested variance. Gregg Knight seconded the motion. Roll call vote: Gary Hellmich, aye; Gregg Knight, aye; Luanne McCarley, aye; Keith Jiskra, aye and Steve Bailey, aye.

Motion to approve the requested variance passes.

2. Ethan Sellers- 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 25.33, C to allow a hair salon in the Foley Medical Overlay District. Property is located at 1721 N. Bunner St. Applicant is Ethan Sellers.

Mr. Braxton Hicks stated they are requesting for approval to open a hair salon in a commercial building.

Chairman Jiskra stated the property is located in the medical overlay district and the Zoning Ordinance states the use must be common or related to the areas around the medical facilities.

Mr. Hicks stated due to the distance of the building to the hospital and the times nurses are at work the salon would benefit to both the hospital staff and the salon owner.

Chairman Jiskra stated his concern is this will set a precedent and other business owners will come for approval of various uses not allowed in the medical overlay district.

Steve Bailey made a motion to deny the request. Gary Hellmich seconded the motion. Roll call vote: Gary Hellmich, aye; Gregg Knight, aye; Luanne McCarley, aye; Keith Jiskra, aye; and Steve Bailey, aye.

Motion to deny the requested use permitted on appeal passes.

3. Volkert/Nickel Creek- Variance

The City of Foley Board of Adjustment and Appeals has received a request for a variance for Article 2.1, joint residential and commercial uses, the commercial use must be built first or simultaneously with each family dwelling unit. Property is located at the NW corner of S. Juniper St. and E. Pride Blvd. Applicant is Volkert.

Chairman Jiskra stated this board is only voting on the requested variance which is to allow residential use to be built prior to the commercial use. He explained the Zoning Ordinance stated the uses must be built simultaneously.

Mrs. Boone explained the property is zoned B-1A. She stated the applicant has requested to rezone a portion of the property and the item will be on the Planning Commission work session agenda on September 11 and the meeting agenda on September 18.

Mr. Lee Lusk explained the property is currently zoned GPH-1 and B-1A. He stated they want to do a commercial and residential mixed use on the portion of property zoned B-1A. He explained he has been working with staff on the proposed development for approximately a year. He stated the request tonight is for the construction timing of the structures. He explained they are requesting not to be required to build simultaneously due to safety and financial reasons. He stated the residential use once completed will help facilitate the commercial portion of the project. He explained once the residential construction is completed the commercial portion will be fenced off during construction for safety reasons.

Mr. Hooks stated there will be a road separating the residential use and the commercial construction.

Mr. Lusk explained the residential homes and townhomes will be built together. He stated they are only asking for the variance of the timing for financial reasons. He explained the development is meeting all other requirements and regulations.

Mr. Hooks talked about the drainage and explained a portion of the property would be placed into a conservation easement.

Steve Bailey stated there is no guarantee that the commercial use will be done once the residential and townhomes are completed.

Mr. Lusk stated the commercial portion will be done just not simultaneously with the residential construction.

Mr. Raphael Smith resident of 648 Harahan Ln. stated the concern with residence in the area is the traffic on Juniper St.

Chairman Jiskra stated this Board has nothing to do with the traffic regulations.

Mr. Smith stated the applicant has not spoken with anyone about the traffic concerns or problems in the area.

Mr. Arthur Hooks stated a traffic study has been done and it was indicated a left and right turn lane will need to be added.

Mr. Smith stated they are asking the board for some latitude. He explained the proposed development will add another 1,000 cars to the area and this is the first time the residents in the area have heard about the development.

A resident asked about the placement of the entrances along Juniper St.

Mr. Lusk stated they will line up with the existing adjacent access.

Mrs. Boone stated a traffic study will be required when they apply to subdivide the property.

Mr. Scott Stevenson resident of 640 Abita Ln. stated he is not hearing a necessity but rather a matter of convenience. He stated the applicant should have to follow the same rules as any other applicant.

Mr. Lusk stated this is the first of this type of the request the Board has received because they are the first to do this type of development.

Mrs. Boone explained in the past in a B-1A zone standalone residential use was allowed. She explained the Zoning Ordinance was amended to require simultaneous building in B-1A in order to have residential use.

A resident asked if the request is approved if there will be another opportunity for residents input.

Mrs. Boone explained if the variance is denied they would have to build the residential and commercial simultaneously. She explained they will have to receive approval from the Planning Commission for the subdividing of the property if it is being subdivided.

Mr. Lusk stated the property will be subdivided.

A resident stated it sounds like the applicant needs to raise more capital in order to construct the commercial portion of the development.

A resident stated the applicant is presenting an investment which is their risk. He explained he bought his property as an investment. He stated the proposed development will cause his property value to decrease.

A resident asked if the town homes will be 1 story. He stated his home backs up to Juniper Street. He explained if the Townhomes are multilevel they will be able to see into his backyard.

Mr. Lusk stated the town homes will be two stories. He explained the homes along Juniper Street will be one story.

A resident asked the size of lots for the single family portion of the development and if the homes will have garages.

Mr. Lusk stated the lots are 40' x 100' and the homes will include a garage.

A resident stated this development is high density and the variance needs to be denied. He asked how we are certain the entire project will be developed.

Mr. Lusk stated the project will be developed and completed.

Mr. Smith stated after seeing all the hostility he would like to request the Board to defer the item for a month or two. He explained this would give them time to let the applicants hear the neighboring residents' concerns.

A resident stated he felt there should have been a pre meeting by the applicant with the neighboring residents so they had an opportunity to express their opinion. He explained he feels as if they are being threatened by the applicant.

A resident stated a solution to some of the traffic concerns would be for all of the entrances into the development to come off of Pride Drive.

Mr. Lusk stated they are not allowed to have all of the entrances off of Pride Drive due to code requirements.

Gary Hellmich stated if the request is denied the plan could change to a type of commercial use the neighbors might not like.

Gary Hellmich made a motion to approve the requested variance. Gregg Knight seconded the motion. Roll call vote: Gary Hellmich, aye; Gregg Knight, aye, Luanne McCarley, aye; Keith Jiskra, aye and Steve Bailey, aye.

Motion to approve the requested variance passes.

ADJOURN:

Chairman Jiskra adjourned the meeting at 6:30 p.m.