

**MINUTES
FARRAGUT BOARD OF ZONING APPEALS**

April 25, 2012

7:00 p.m.

Present: Corky Ives, Cleve Porter, Keith Alley, Louis LaMarche, and Ron Williams

Absent: None

Staff: Mark Shipley, Assistant Community Development Director

Item 1. Approval of Minutes for the November 30, 2011 meeting

A motion was made by Porter and seconded by LaMarche to approve the minutes as submitted. Motion passed 4-0-1.

Ayes: Alley, Porter, LaMarche, and Ives

Nays: None

Absent: None

Abstaining: Williams (was not present at November 30, 2011 meeting)

Item 2. Public hearing on a request for a variance to construct pedestrian facilities, as required in Chapter 4 of the *Farragut Zoning Ordinance*, Sections XXII., A. and B., in association with a site plan review necessitated by new construction at the NHC Farragut at 120 Cavette Hill Lane (National HealthCare Corporation, Applicant).

The staff provided board members with an overview and noted that this item involves a request for a variance from two different sections of the Town's pedestrian facilities requirements in the *Farragut Zoning Ordinance*. The first variance would be from the requirement in Chapter 4, Section XXII., A for pedestrian facilities to be constructed on all abutting streets in association with a site plan review by the planning commission. The second variance would be from the requirement in Chapter 4, Section XXII., B for a pedestrian facility to be constructed from the parking lot to a pedestrian facility abutting the street on which the property fronts in association with a site plan review by the planning commission.

It was noted that NHC is preparing to construct a roughly 3,000 square foot therapy addition and 41 additional parking spaces on the west end of the development. These expansions necessitated a site plan review from the planning commission and at their meeting on March 15, 2012 the planning commission voted to require a sidewalk and walking trail along Sugarwood Drive with a sidewalk connection from the eastern parking lot

of NHC to the new pedestrian facility to be constructed along Sugarwood Drive.

The staff explained that the applicant is appealing this action by the planning commission and is requesting to not construct these pedestrian facilities. After a brief overview of some of the applicant's arguments, the staff recommended to uphold the planning commission's action.

The staffs' position was based on the following:

- 1) Provisions for pedestrian facilities are a standard and essential part of site development in the Town of Farragut. In fact, since NHC was originally developed, the Town's provisions for pedestrian facilities have been strengthened in response to a greater demand and need for such facilities. In 2010, the Town adopted the *Pedestrian and Bicycle Plan - 2010* and amendments were made to reflect the Town's commitment on implementing the provisions of the plan. Provisions for more connectivity of pedestrian and bicycling facilities have, in fact, been revealed as extremely important in Town recreation surveys, focus group discussions concerning the Land Use Plan update, and in the Town's recently adopted *Town of Farragut Strategic Plan*. Walking, jogging, and bicycling opportunities are one of the main features of the Town of Farragut that separates it from many communities.

The staff explained that the requirements that are now being applied to NHC are the same requirements that apply to any developments that obtain site plan approval from the planning commission. The pedestrian connections approved by the planning commission would, in this case, provide NHC with a means for its employees to more conveniently commute to work by means other than an automobile and/or walk or bicycle to nearby retail facilities (e.g. Weigels, CVS, Walgreens, and Ingles) for errands, lunch, etc., during breaks. The connection to the Sugarwood Subdivision and into the parking lot of NHC would also help to integrate NHC with Sugarwood (and potentially the St. Elizabeth's Episcopal Church) and offer a more inviting means of walking to NHC to visit relatives, friends, etc. Currently, the spine of Sugarwood Drive from Kingston Pike along the NHC frontage is a roadway section that receives heavy traffic and discourages pedestrian use.

The staff explained that granting variances in this case would not only nullify the above noted benefits but also hold others that have complied with these requirements to a different standard.

- 2) The drainage ditch crossing that would be required along Sugarwood Drive, is not any different or more significant than other sites where similar, if not more extensive, projects have been completed. For example, the sidewalk section between the Press Enterprise building and Click's Funeral Home and the sidewalk extension west of First Farragut United Methodist Church were significantly more challenging and sizable sidewalk sections that spanned drainage ditches.

The staff explained that there are really no topographic reasons for granting a variance in this case. Otherwise, a variance would have been granted in these other more topographically difficult extensions; and

- 3) A pedestrian connection from the parking lot to a sidewalk along Sugarwood Drive would be no more of a security issue than a connection to Cavette Hill Lane (which is shown to be constructed as part of this project). The dementia care facility that is under construction along Concord Road will have a pedestrian connection from the parking lot to a walking path along Concord Road where security related concerns would be much more elevated. To vary the requirements in this case would represent an inequitable application of a site plan requirement that is an essential element of site development in the Town of Farragut.

Jeff Beckett spoke on behalf of the applicant. Mr. Beckett asked about some of the wording in the zoning ordinance and if any interpretation from the board was needed. Chairman Ives clarified that this was not necessary and the real question for the board would be the reasonableness of the scale of pedestrian facilities in relation to the scale of the project proposed at this time.

A fairly lengthy discussion ensued. Karla Lane with NHC spoke about their safety and security concerns with the sidewalk connection from the parking lot to Sugarwood Drive. More discussion ensued and the board decided to address the variance request involving the sidewalk connector first. In this regard, the general feeling was that existing pedestrian

facilities that were originally constructed by NHC actually satisfy the requirement of the ordinance because there is a connection from the parking lot to the sidewalk abutting Cavette Hill Lane which extends to Kingston Pike and to the walking path which connects to Sugarwood Drive. A motion was made by Porter that the addition of the connector from the east parking lot to Sugarwood Drive was not necessary or reasonable given the existing facilities in place. The motion was seconded by LaMarche and passed unanimously.

Ayes: Alley, Porter, LaMarche, Williams, and Ives
Nays: None
Absent: None
Abstaining: None

In terms of the variance request from the requirement to construct pedestrian facilities on all abutting streets, the board felt that the scale and scope of pedestrian facilities was not roughly proportional to the scale and scope of the new construction proposed. The board did feel that, since the walking path currently terminates onto Sugarwood Drive, a connector walking path from the existing walking path to the existing sidewalk along Kingston Pike would satisfy the construction requirement along Sugarwood Drive given the scale and scope of new construction proposed by NHC. This would fill in an important gap in the existing pedestrian network and would better satisfy the rough proportionality (nexus) test. A motion was made by Porter to grant a variance from the requirement to construct the portion of sidewalk from the existing walking path that terminates onto Sugarwood Drive to the southern terminus of NHC's property that abuts Sugarwood Drive. The connector walking path noted earlier would be required to be constructed so that employees, visitors, etc., could more safely get from the existing walking path to the existing sidewalk along Kingston Pike. Motion was seconded by Williams. Motion passed unanimously.

Ayes: Alley, Porter, LaMarche, Williams, and Ives
Nays: None
Absent: None
Abstaining: None

Meeting adjourned at 8:30 p.m. A training session ensued after the regular meeting.

Louis LaMarche, Secretary