

**MINUTES
FARRAGUT BOARD OF ZONING APPEALS**

May 22, 2013

7:00 p.m.

Present: Keith Alley, Ron Williams, Corky Ives, and Louis LaMarche
Absent: Cleve Porter
Staff: Mark Shipley, Assistant Community Development Director

Item 1. Approval of Minutes for the April 24, 2013 meeting

Board member LaMarche moved to approve the minutes as submitted.
The motion was seconded by Alley. Motion passed 2-0-2.

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

Item 2. Public hearing on a request for a variance from Chapter 4, Section XII. Landscaping. D., 5.,f. of the *Farragut Zoning Ordinance* to permit a portion of a constructed walking path to be contained within a required buffer strip in the Park Place Subdivision. Zoned R-4, (Gerald Cress, applicant).

The staff provided an overview of this item. It was noted this item involved a request for a variance from the Town's landscaping requirements that govern structures within required buffer strips. Specifically, the question was whether it was acceptable for a roughly 110 square foot area of trail and 237 square foot area of trail easement to run mostly parallel through a section of buffer strip that is required for the Park Place Subdivision. As provided for in the zoning ordinance, the planning commission may permit certain utility structures to be placed within a required buffer strip, provided all landscaping requirements can be met.

Since buffer strips often surround developments and walking trails are required to connect to adjacent properties, the staff and planning commission, the staff noted, have consistently considered a walking path as a type of utility that can cross a buffer strip, provided it does so in a perpendicular fashion and does not compromise the ability to satisfactorily plant the 100 foot section of buffer strip where the walking trail bisects. Walking trails and their associated easements (which are centered 10 feet in each direction from the centerline of the constructed trail) have not been

permitted to encroach into a buffer strip in a parallel alignment mainly because the ability to satisfactorily plant the buffer strip could be affected. Also because future maintenance of the trail could negatively affect vegetation as it matures and increases in size. The staff explained that the Town, in most cases, assumes maintenance of a walking trail and their work area is within the 20 foot easement. If too much of a trail is within the buffer strip there is an increased potential for conflict with required plant material.

Though it was supposed to have crossed the buffer strip in a perpendicular manner, apparently when the walking trail was laid out an error was made by the surveyors and the path (and by default its easement) ended up in its current location.

The staff explained that although only a relatively small area was involved, the mistake that was made in the placement of the trail would not, on its own, justify support for a variance. The constructed walking path was also not consistent with the planning commission's approval.

The staff noted that, based on a review of this area with the applicant, the presence of the non-perpendicular portion of walking trail in the buffer strip would not inhibit the ability to plant this section of buffer strip so that it meets the plant unit count per 100 linear feet. Currently, due to some mature trees that died and/or were broken in storms and removed, the 100 foot section of buffer strip where the walking path is situated does NOT meet the plant unit count per 100 linear feet. There are 9 plant units in this section and 12 are required.

The staff noted that, as indicated on the materials submitted by the applicant, correcting the trail to remove the 110 square foot section of trail so that the trail crossed the buffer in a more perpendicular manner would introduce a couple of sharper turns in the trail. It would also move the trail slightly to the south which would place it adjacent to some utilities in the area. Moving the trail to the other side of the utilities would also do the same thing and would leave the trail very close to the desired buildable area for this lot.

The staff explained that because what has been constructed is not what was approved and is not consistent with the Town's approach of only permitting a walking trail to run through a buffer strip in a perpendicular fashion, should relief be granted that would allow the walking trail to

remain in its current placement, the staff would preface this on the applicant planting more than 5 additional trees within this section of buffer strip (as was proposed by the applicant) and that the species and placement would be in consultation with the Town staff. The staff indicated that they would support no less than complying with the plant unit count required for a 35 foot buffer strip (17 plant units/100 linear feet of buffer strip). In addition to this, in the staffs' view, the only reasonable justification for supporting the current placement of the walking trail would be that re-aligning the trail would place it much closer to numerous utilities that exist in this immediate area and this could be an issue with future maintenance of the trail.

Gerald Cress was present as the applicant. A general discussion ensued. There was concern about the surveyors making such a mistake but board members seemed generally okay with granting relief in this case. A motion was made by Alley to approve the variance for the following reasons:

- 1) The area involved was relatively small and did not affect the ability to satisfactorily plant this section of buffer strip;
- 2) Correcting the trail would not improve the ability to plant the buffer strip and would place the trail adjacent to a number of utilities in the general area and this could make future maintenance of the trail more difficult and could create safety issues by having a utility structure against the edge of the trail; and
- 3) The approval of the variance, to demonstrate that the buffer strip was not being compromised, would be conditioned on this 100 foot wide section of buffer strip being planted to the requirements of a 35 foot rather than a 25 foot buffer strip.

The motion was seconded by Williams. Motion passed unanimously.

Meeting adjourned at 7:34.

Louis LaMarche, Secretary _____