

**MINUTES
FARRAGUT BOARD OF ZONING APPEALS**

July 27, 2016

Present: Keith Alley, Jesse Boling, Louis LaMarche, and Ron Williams
Absent: Corky Ives
Staff: Mark Shipley, Community Development Director

Item 1. Approval of Minutes for the June 22, 2016 meeting

A motion was made by Williams to approve the minutes. The motion was seconded by LaMarche. Motion passed 4-0.

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

Item 2. Public hearing on a request for a front yard setback variance related to a roof overhang at 223 Ivy Gate Lane, Zoned R-4 (Cress Co., Inc., Applicant).

The staff noted that this item involves a request for a variance from Chapter 3, IX. Attached Single-Family Residential District (R-4), Section D., 1., b. Front Yard., as it relates to the building setbacks from the street.

The lot in question is Lot 44 in the Park Place Subdivision to the south of the Town Hall. When the site plan was submitted, it showed the proposed building footprint and steps. Based on the site plan, there was no violation of setbacks and the building permit was issued. The site plan, the staff explained, is the document that the codes officials use to assess compliance with building setbacks. When an applicant proposes a modification that would affect the setbacks, lot coverage, etc., the applicant is responsible for submitting a revised site plan.

As the project evolved, the builder, at the request of the potential home buyer, submitted a design for an extended front porch overhang. The design was reviewed for building code compliance but the site plan was not amended by the applicant. Consequently, the codes official assumed it would be within the building envelope (the area within which the building must be situated) associated with this lot.

When the overhang was constructed and one of the building officials was in the subdivision on another inspection he questioned whether the overhang met the required setbacks because it was much closer to the street than the adjacent dwelling units. The builder was asked to have his

surveyor submit an as-built drawing. When the as-built was submitted, it demonstrated that the building foundation was compliant but the wide porch overhang encroached into the required 15 foot setback by 4 feet 8 inches.

The staff explained that, in accordance with Chapter 4, Section IV., A. Measurement of Setbacks 1., "Setbacks shall be measured from the foundation of a building to the nearest point of any property line, except when the overhanging roof, eaves, gutters, or other architectural feature protrudes more than two (2) feet from the foundation. In such case, the setback shall be measured from the furthestmost projection of the building."

Since this overhang extended well beyond the standard roof overhang, the building setback was taken from the outer limit of the overhang. The reason for this provision in the zoning ordinance is that an extended roofed area consumes light and space, similar to the remainder of the roofed structure. The provision for visual and functional space is a key objective of having setback provisions.

The staff indicated that even though the applicant thought that the overhang was compliant since the design was approved, there was a failure to amend the site plan in which case the encroachment would have been discovered prior to construction. Consequently, the staff could not support the variance request because there were no grounds, as provided for under State law, for granting such a variance. Approving a variance in this case would also be inconsistent with action that has been taken by the Board on similar cases in the past.

When this setback issue was discovered, the staff indicated to the applicant that, although they couldn't support a variance request in relation to the existing R-4 provisions, the applicant could always apply for a text amendment that would allow for an extended front porch overhang in the R-4 Zoning District in an effort to better engage the public street and sidewalk. In this manner, anyone wishing to construct a similar extended overhang could do so as provided for in the amended zoning ordinance language.

The staff reported that the applicant submitted a text amendment and it was favorably received by the Planning Commission on July 21 with a recommendation to approve the amendment. Consequently, this issue may be resolved legislatively through the text amendment.

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A long discussion ensued and a motion was made by Williams to approve the variance request since the text amendment has been recommended for approval. The motion was seconded by Boling. The motion failed with Alley and LaMarche voting against the variance.

Ayes:	Williams and Boling
Nayes:	Alley and LaMarche
Absent:	Ives
Abstaining:	None

The meeting adjourned at 8:54.

Scott Meyer
Louis LaMarche, Secretary *Scott J Meyer*