

MEMBERS PRESENT:

William Truesdell, Chair
Tim Beaulieu
Harry Story
Madeline Williams
Thomas Watson
Pam Murray

VISITORS PRESENT:**MEMBERS ABSENT:**

Nate Bowditch

STAFF ABSENT:

Marsha Hinton, Recording Secretary

STAFF PRESENT:

Scott Davis, Codes Enforcement Officer

AGENDA

Jerome and Paula Wyman. Request for setback variance at 11 Pratt Street, Map 25, Lot 260

Alan Elwell. Requesting replacement of non-conforming use at 244 Front Street; Map 26, Lot 250.

Minutes Approval April 4, 2005**Election of Officers**

Chair Bill Truesdell called the meeting to order at 7:00 p.m.

Mr. Truesdell stated the following: "Welcome. The April 4, 2005 meeting of the Bath Zoning Board of Appeals will come to order. I appreciate your presence here and your recognition of the authority of this board. This is a public proceeding and, unless the Board specifically votes to go into executive session, you have the right to hear everything that is being said and to look at all of the exhibits that are offered. Please notify me if you are unable to hear or see. The Board works from a prepared agenda and will be considering tonight's items in the following order." Mr. Truesdell read the agenda.

"Generally speaking, appeals from adverse decisions must be filed with the appropriate Appeals Board or Superior Court, as otherwise provided by law, within 45 days of this Board's decision. Also, to be certain that you preserve your individual right to file any such appeal, you must be certain that this Board's record evidences your appearance this evening in opposition and the basis for your opposition. Are there any questions?"

Mr. Truesdell asked if there were any questions. Hearing none, he called on who was here to present his case for the first item on the agenda:

Appeal Number 1003: Jerome and Paula Wyman. Request for setback variance at 11 Pratt Street. Pam Murray noted that she is a friend of the applicant's parents, and that if anyone felt she had a conflict of interest, she'd not participate. Mr. Truesdell asked if

she had any financial or other interest in the project. She did not, and the Board voted unanimously that she had no conflict of interest in the matter and that she should participate. Jerome Wyman, owner and occupant of the property, introduced himself. Mr. Truesdell commented that the application was well put together, and that unless people had questions, they could review the approval criteria. Tom Watson asked when the Wymans bought the property, to which Mr. Wyman replied, "1981". Bill pointed out that the application indicated that the house was a non conforming structure. Scott Davis said that it wasn't, and that the application is for a setback variance for the new garage only. Mr. Truesdell opened the floor to members of the public who wished to comment. There were none. The Board moved on to the approval criteria (Land Use Code Section 4.12 H).

- (a) The single-family dwelling is the year-round residence of the person seeking the variance.

The Zoning Board of Appeals agreed unanimously that criteria (a) is met.

- (b) The granting of the variance will not cause the area of the dwelling to exceed the maximum permissible lot coverage according to the space and bulk regulations.

The Zoning Board of Appeals agreed unanimously that criteria (b) is met.

- (c) The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

The Zoning Board of Appeals agreed unanimously that criteria (c) is met.

- (d) The granting of a variance will not alter the essential character of the locality.

The Zoning Board of Appeals agreed unanimously that criteria (d) is met.

- (e) The hardship is not the result of action taken by the applicant or a prior owner.

The Zoning Board of Appeals agreed unanimously that criteria (e) is met.

- (f) The granting of the variance will not substantially reduce or impair the use of the abutting property.

The Zoning Board of Appeals agreed unanimously that criteria (f) is met.

- (g) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

The Zoning Board of Appeals agreed unanimously that criteria (g) is met.

Mr. Truesdell solicited a motion to approve the application as submitted. Pam moved to do so. Tom Watson seconded it, and it was unanimously approved.

Mr. Truesdell stated that the request for set back variance had been approved and reminded the applicant that the Board's decision is subject to appeal for 30 days.

The next item was Appeal 1004, for replacement of a non conforming use at 244 Front Street. Marnie Stevens and Haley Eberhart – buyers, and Katherine Hanson – realtor, represented the project. Mr. Truesdell gave a brief synopsis of the project's history with the Zoning Board, and referenced minutes of an administrative appeal from some years ago where the Board ruled that the existing use of the property for a sheet metal shop had not been terminated. Mr. Truesdell gave a copy of the minutes to the applicants, and the Board and applicants took time to read it.

Bill Truesdell asked Scott Davis if the sheet metal shop use could increase in intensity. Scott replied that it could per the code. Pam Murray asked if that would require Planning Board approval. Scott replied that it would not. Pam asked the applicants if they'd owned a business before, to which they replied that they owned the Gray's Fairhaven Inn. Bill directed the Board's attention to the approval criteria. Parking and the apartment on site was discussed. Mr. Truesdell solicited comments from the public. There was no one in the audience other than the applicants.

Zoning Board of Appeals consideration of Land Use Code Section 6.03 E 2.

- (a) The hours of operation are decreased or not increased.

The Zoning Board of Appeals agreed five to one that criteria (a) is met (Pam Murray in opposition).

- (b) Undesirable effects such as noise, glare, vibration, smoke, dust, odor, or fire hazard are decreased or not increased.

The Zoning Board of Appeals agreed unanimously that criteria (b) is met.

- (c) Hazardous traffic conditions are minimized or not increased and the amount or traffic is decreased or not increased. Discussion took place about the existence of a crosswalk crossing Linden Street at the site.

The Zoning Board of Appeals agreed unanimously that criteria (c) is met.

- (d) The appearance of the property from public ways and abutting properties is improved and the value of adjacent properties will not be adversely affected. Discussion took place about the artistic rendering of the planned appearance of the building, and whether that rendering is part of the application, and whether the building will have to look like the rendering. Scott Davis commented that the Board can't require things of the project unless they're germane to the approval

criteria, and that keying the approval to specific details such as colors of the building in a painting creates problems down the road. Bill Truesdell commented that he felt that the specifications in the application are binding, and that the notebook cover is only an adjunct piece of information.

The Zoning Board of Appeals agreed unanimously that criteria (d) is met.

(e) Unsanitary conditions as a result of sewage disposal, air emissions, or other aspects of its design or operation will not be created.

The Zoning Board of Appeals agreed unanimously that criteria (e) is met.

Bill Truesdell solicited a motion to approve the project. Tom Watson moved, seconded by Pam Murray, that the project be approved. It was unanimously approved.

The Board then reviewed the minutes of the December 6, 2004 meeting. The Board approved them without amendment (Tom moved, Tim Beaulieu seconded, unanimous approval).

The Board then elected officers. Bill Truesdell was elected Chairman, and Harry Story was elected Vice Chairman. The Board requested that Scott provide them with an updated list of Board members.

There being no further business before the board, they adjourned at 7:52 p.m.

Respectfully submitted,

Scott Davis
Acting Recording Secretary