

A regular meeting of the Bath Zoning Board of Appeals was called on March 5, 2018 for the purpose of reviewing applications.

**MEMBERS PRESENT**

William Truesdell, Chair  
Bruce Goodwin, Vice Chair  
Joe Marchetti  
Pamela Murray  
Joe Derosa  
Eleanor Holland

**MEMBERS ABSENT**

Albert Ferguson Jr.

**STAFF PRESENT**

Scott Davis, Codes Enforcement Officer  
Karly Perry, Recording Secretary

Chairman Truesdell called the meeting to order in the basement conference room at 7:00 pm.

Mr. Truesdell stated the following: "Welcome. The March 5, 2018, 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.

Hearing no questions, Mr. Truesdell requested the applicant present the appeal.

**Appeal Number 1036** – Request from Barbara Ramirez, for a Variance at 335 North Bath Road. (Map 7, Lot 37)

Ms. Ramirez introduced herself and stated she had inherited the property from her father. Upon applying for a mortgage, the applicant discovered that the garage did not meet the setback requirements.

Mr. Truesdell asked Mr. Davis if he had any input.

Mr. Davis suggested that the contractor may have mis-measured the setbacks and subsequently the garage is in fact out of compliance.

Mr. Truesdell asked if the contractor was reputable.

Mr. Davis responded that the permit didn't specify who the builder was.

Mr. Truesdell asked for questions from the board.

The board had no questions.

Mr. Truesdell asked for questions from the public.

James Hummer, abutter, noted that he received the notice and came to the hearing to see what was being discussed. He then asked if the garage abutted his property, to which the applicant confirmed it did not.

Mr. Truesdell then closed the meeting to public comment.

Ms. Murray asked Mr. Truesdell to review for the room that the board is not discretionary in their decision making process.

Mr. Truesdell confirmed that the Zoning Board of Appeals is quasi-judicial and must follow all codes in their deliberation. Mr. Truesdell instructed the board that they would now be voting on whether or not the applicant meets the criteria, noting that in order for the Variance to be approved, all criteria must be met.

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

**The Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (a).**

- (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 Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (b).**

- (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 Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (c).**

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

**The Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (d).**

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

Ms. Murray suggested that it was not an intentional act.

Mr. Truesdell noted that they could not read minds but noted that on his own lot the pins would be difficult to find and sympathized with the plight of the contractor.

**The Board voted 6 in favor and 1 against that this application meets Land Use Ordinance Standard 4.12 H 1 (e).**

After the vote, Mr. Truesdell asked Mr. Goodwin if he would like to explain his reasoning to the board.

Mr. Goodwin explained that he believes the criteria has not been met by standard, but believes this criteria should be amended to allow board members to use logic in their decision making process.

Mr. Truesdell suggested that perhaps having a workshop with the City's attorney, Roger Therriault may prove to be beneficial, to which the board as a whole agreed.

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

**The Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (f).**

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

**The Board unanimously agreed that this application meets Land Use Ordinance Standard 4.12 H 1 (g).**

There being no further discussion from the Board, Mr. Truesdell solicited a motion to approve the variance.

**MS. MURRAY MOVED, SECONDED BY MR. GOODWIN, TO GRANT APPEAL NUMBER 1036 – REQUEST FROM BARBARA RAMIREZ, FOR A VARIANCE AT 335 NORTH BATH ROAD (MAP 7, LOT 37).**

**UNANIMOUS APPROVAL.**

Mr. Truesdell then advised the applicant that 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 the Board's decision.

**Minutes approval of November 6, 2017 meeting.**

Mr. Truesdell asked if there were any comments or corrections to the minutes for the November 6, 2017 meeting.

**MR. GOODWIN, SECONDED BY MR. MARCHETTI, MOVED TO APPROVE THE MINUTES FROM THE NOVEMBER 6, 2017 MEETING.**

**UNANIMOUS APPROVAL.**

**MR. GOODWIN, SECONDED BY MR. MARCHETTI, MOVED TO ADJOURN AT 7:15 PM.**

Bath Zoning Board of Appeals  
March 5, 2018

**UNANIMOUS APPROVAL.**

**THE BOARD ADJOURNED AT 7:15 PM.**

Minutes prepared by Karly Perry, Recording Secretary