

A regular meeting of the Bath Zoning Board of Appeals was called on May 7, 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

DRAFT

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

Mr. Truesdell stated the following: "Welcome. The May 7, 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 1037 - Request from Poe Cilley, for a Variance at 329 Front Street (Map 21, Lot 242).

Ms. Cilley reviewed her request as a prospective buyer of the property at 329 Front Street, formerly owned by Connie St. John and currently in the Morse Trust. The variance request is due to the position of the building on the lot as well as the historic overview requirements. Ms. Cilley noted that she is requesting a setback variance from 15' to 12' which is 80%, a variance that the Board has traditionally allowed.

Mr. Truesdell thanked the applicant, noting that her application was well done, professional and of a very high standard. Mr. Truesdell went on to review for the Board, communication with Mr. Davis regarding the variance request, asking if the variance request could be divided. Mr. Truesdell also confirmed with Mr. Davis that the garage satisfies the hardship clause as Ms. Cilley's father is in fact handicapped.

Mr. Davis affirmed for the Board that he believed the variances requests may be split as there are two separate issues, and opined that it may be in the best interest of the applicant, should one portion not be approved.

Mr. Truesdell asked Ms. Cilley if she would be agreeable to splitting the application.

Ms. Cilley confirmed that splitting the application would be acceptable.

Mr. Truesdell asked the Board if they would be agreeable to splitting the application. The Board unanimously agreed.

Mr. Davis went on to confirm that non-conforming structures can be expanded vertically, as long as the addition is no taller than the existing building height.

Mr. Truesdell confirmed with Mr. Davis that approving the variance would make the currently non-conforming structure a conforming structure.

Mr. Davis affirmed it would, then continued to review the qualifications for a hardship variance, noting that the State allows for the addition of a ramp, for handicap access without a Zoning Board of Appeals variance.

Mr. Truesdell asked the applicant to discuss the garage for the Board.

Ms. Cilley reviewed plans with both a 15' and 12' setback as detailed on the plan noting that they would need more than the 12' in order to accommodate a modest garage (she emphasized this was for a small car, not a larger utility vehicle). Ms. Cilley discussed one change since the submission of the plan is the setback must be from the outside drip edge. This plan has been adjusted with the architect so the mudroom is smaller in order to accommodate the garage. The plan allows access from Front Street as well as from the house itself so there is a covered passage. Ms. Cilley noted once approved, she will also be seeking a sloped curb to the garage for accessibility as well as to prevention of flooding.

Mr. Derosa thanked Mr. Davis for his review of ADA guidelines and confirmed that the Board is dividing the issues and reviewing the garage first.

Ms. Cilley went on to note that the handicap designation is due to a sight impairment and clarified that her father, who is legally blind, will not be the driver.

Mr. Davis noted that the handicap person does not need to be the property owner.

With no further discussion, Mr. Truesdell called for the Board to vote on the first variance request.

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.

Mr. Goodwin noted that plans for the structure are beautifully done and credited Ms. Cilley with an excellent job maintaining the historical integrity of the area.

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.

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

- (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).

Ms. Cilley went on to present plans for the proposed decking, reviewing the history of the property including its relationship with abutting properties. Ms. Cilley noted that she has not yet discussed her plans with the Historical Review Board, however her goal is to unite the property. Ms. Cilley has discussed the setbacks with Mr. Davis, noting that the closer the setbacks to the variance, the more historically compliant the addition will be. Ms. Cilley also noted the addition will have a lower profile to the rest of the building with little to no visibility from the road.

Ms. Murray complimented the applicant on the wonderful job she has done on this project.

With no further discussion, Mr. Truesdell called for the Board to vote on the second request.

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.

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

- (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 in its entirety.

MS. MURRAY MOVED, SECONDED BY MR. MARCHETTI, 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.

Ms. Cilley thanked the Board.

Minutes approval of March 5, 2018 meeting.

Mr. Truesdell noted that a boiler plate explanation of the meeting should be included in the minutes.

Mr. Goodwin noted that criteria (e) was approved with a vote of 6-1.

MS. MURRAY, SECONDED BY MR. GOODWIN, MOVED TO APPROVE THE MINUTES FROM THE MARCH 5, 2018 MEETING AS AMENDED.

UNANIMOUS APPROVAL.

Mr. Davis went on to review a request made by Mr. Truesdell to discuss transcripts from a prior meeting regarding some common issues.

Discussion followed regarding hardship setback variances and variances to accommodate persons with disabilities. Further discussion followed to possible added to land use ordinances regarding ADA requirements.

Ms. Murray announced that she will be attending the Maine Municipal Association training for the Zoning Board of Appeals and encouraged other members to attend.

Discussion followed regarding Zoning Board activity in comparison to the Planning Board, and also in comparison to how other municipalities approach these issues.

MS. MURRAY, SECONDED BY MR. GOODWIN, MOVED TO ADJOURN AT 6:48 PM.

UNANIMOUS APPROVAL.

THE BOARD ADJOURNED AT 6: 48 PM.

Minutes prepared by Karly Perry, Recording Secretary