



Staff Report

To: Development Review Board
From: Michael Giguere, City Planner
Date: November 21st, 2024
Subject: Variance application for a garage reconstruction built 3 feet from side property line at 37 Jackson Street in the R2 District by Hannah Hansen, owner.

Project Description:

Hannah Hansen seeks relief from the side setback requirement for the demolition and reconstruction of an existing garage located 3' from the side property line at 37 Jackson Street. The garage was built before the establishment of zoning laws in Essex Junction, and the applicant states that reconstructing the garage within compliance of the side setback would create an undue hardship due to the slope of the property and the geometric constraints of the primary residence. The applicant proposes to construct a taller (18 ft) garage within the footprint of the existing structure.

Existing Conditions and General Information:

Project Location: 37 Jackson Street, Essex Junction, VT 05452

Project Area Size: 10,296 square feet

Lot Frontage: 66 feet

Existing Land Use: Residential

Surrounding Land Use: Residential

Zoning District: Residential 2

Minimum Lot Size: 7500 square feet

Lot Coverage: 12.6% (existing), 12.4% (proposed)

Permitted Lot Coverage: 30% (buildings), 40% (total)

SECTION 802: NON-COMPLYING STRUCTURES

C. Reconstruction

Except as specified in Section 801.C.1 of this Code (natural disasters or abnormal events), the uses of the restored or reconstructed structure shall conform to all provisions of this Code. Non-conforming structures on properties with one single family dwelling may be rebuilt as long as the new structure is not more non-conforming than the existing structure. However, if staff determines the structure could reasonably be rebuilt in conformance with the existing regulations the applicant will be required to comply with the existing regulations.

SECTION 1703: REQUESTS FOR VARIANCES FROM THE REQUIREMENTS OF CHAPTERS 6 AND 7

B. Action by Development Review Board

Section 1703.B of the Land Development Code states:

“The Board may approve or deny an application for a Variance. The Board may grant only the minimum relief necessary to allow the applicant reasonable use of the property in question. A use variance shall not be granted. No Variance may grant rights to a particular piece of property, which is not allowed on other properties within the District except as necessary to allow reasonable use of the property as intended within the District.”

C. Standards of Review

In accordance with 24 V.S.A. § 4469, the Board may grant Variances if it finds that all the following standards of review are met, and such findings are included in its written decisions.

1. “There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is located.”

The lot is sloped downward behind the existing garage. The lot is also an existing non-conformity with LDC section 905.F.2 which specifies that lots “shall be no more than twice as deep as the width”.

2. “Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.”

The applicant posits that the lot topography, the garage’s current proximity to their existing porch, and having to resurface the driveway would make it impractical and cost-prohibitive to rebuild the garage in a new location that would conform with the minimum side setback.

3. “Unnecessary hardship has not been created by the appellant.”

The garage was constructed prior to the implementation of zoning regulations in Essex Junction. The applicant purchased the property this way and was not involved in the design or construction of the garage.

4. “The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to public welfare.”

In the applicant's neighborhood, there are several examples of accessory structures and ADUs built closer to the side property line than the minimum side setback of 8 feet. Examples of this pattern from next-door neighbors' properties have been provided by the applicant for consideration.

There is a deck and a corner of the principal structure on the neighboring property (35 Jackson Street) that is located approximately 8' from the proposed garage.

5. "The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan."

The proposed garage rebuild would decrease the overall square footage from approximately 234 square feet to 216 square feet while increasing its height from 10' to 18'.

If a variance is granted by the DRB, Staff will process the application under standard administrative review procedures.

The DRB should determine whether this application meets the criteria of Section 1703 of the Land Development Code, as well as 24 V.S.A. § 4469, as referenced in the LDC.

Recommendation:

Staff recommends that the DRB approve the variance for a garage to be built 3 feet from the side property line at 37 Jackson Street in the R2 District.

Recommended Motion:

I move that the DRB approve the variance for a garage to be built 3 feet of the side property line at 37 Jackson Street in the R2 District.