AMENDED PROPOSAL

BACKGROUND: This application was continued from the Zoning Board of Adjustment's September 5, 2019 Public Hearing.

The applicant is now proposing a 24'x28' garage. Changes to the proposed Findings and Conditions are noted with strike-out, with updated proposal in Red below.

PROPOSED FINDINGS AND CONDITIONS FOR 42 PINECREST DRIVE, ESSEX

FINDINGS:

1. The applicants and landowners are Gary Hayden & Susan Connolly.
2. This is a .23-acre (10,018 sq. ft.) parcel, known as 42 Pinecrest Drive, in the Town of Essex, Chittenden County and State of Vermont.
3. The parcel is located in the Medium Density Residential (R2) Zoning District, The lot size requirement for the R2 zone, serviced by town water and private sewer is 30,000 square feet. The setback requirements of the R2 Zone are 40’ from the front, 15-feet from the side and 25-feet from the rear yard. The house was built in the 1974. This is a non-conforming lot. (? if structure is non-conforming)
4. The proposal is to construct a 24'x36' 24'x28”one-story, 2-car garage in the northeasterly side of the lot. The garage is proposed to be 5' eight feet (8’) from the rear property line, and 4’ from the easterly property line. The neighboring house to the east, 44 Pinecrest Drive, is situated 16’ from its own side property line.
5. On November 6, 2019, the applicant submitted the following narrative:
   I would like to amend the size of my previous proposal of the garage I would like to build, from 24X36 to 24X28. I would also like to move the front of the garage back 2 feet so that it is even with the back of my house. This would allow for a better entry into the back yard.

6. The applicants submitted a hand-drawn sketch plan with a notation of 42 Pinecrest Drive and date-stamped received by the Community Development office on August 6, 2019, last revised November 8, 2019. The septic tank is located in the front of the house and leach lines are not shown on the diagram are shown being 13’ from the proposed garage. The State of Vermont has regulations requiring setbacks for septic systems. Staff provided a google-earth shot of a portion of 42 & 44 Pinecrest Drive showing the locations of both houses.

7. This application is being reviewed by the Zoning Board of Adjustment under the Town of Essex Official Zoning Regulations, Section 7.5- Variance.
8. Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the property.
9. The abutting property owners were notified of this meeting by certified mail.
10. The applicants were emailed a copy of this Staff Report prior to the meeting.
11. **Gary Hayden**, landowner, spoke on behalf of this application.

12. No one from the September 5, 2019 hearing provided comments. _____ provided the following comments. (add in comments from the 12/5/hearing if needed)

13. In an email dated August 8, 2019, Public Works made the following comment:
   
   *Public Works has reviewed the application for a variance to construct a single story garage within the side yard setback at 42 Pinecrest Drive. Public Works takes no exception to the application as proposed.*

13. In an email dated August 26, 2019, the Fire Chief said "I'm good with this if you are."

14. The Police Chief and Recreation Director did not provide comments.

15. The applicant submitted a narrative, date-stamped received August 06, 2019, which reads, in part,

   *The lot in question is particularly shallow and construction of a garage in compliance with the setback would result in a structure more visible from the roadway and more obtrusive to the neighborhood. Further, given the location of septic systems on the property, there is no other usable land to construct the garage.*

   *Many other houses along Pinecrest Drive have attached and detached garages making this request for construction at 42 Pinecrest a reasonable and customary use of the property. As previously stated, construction of this garage with a variance to established setbacks will better allow this garage to be built without altering the character of the existing neighborhood or altering how adjacent property owners are able to use or develop their land.*

   *Building the garage within the established setbacks would cause the structure to be built closer to the street, disrupting neighbor's sightlines and the appearance of the homes from the road. The only variance required is to the setback and the structure will meet all other zoning requirements, minimizing deviations from current zoning regulations.*

   *Finally, construction of this garage is necessary to the safety and wellbeing of the occupants of 42 Pinecrest Drive as they enter their 60s. Granting this variance will enable two long time members of the community to age in place in their home with greater security and comfort particularly during winter weather.*

17. **[FINDINGS OF FACT ANALYSIS FOR VARIANCES-SECTION 7.5: In granting any request for a variance, the Board must find that all of the criteria contained in Section 7.5 are met, and the findings must be specified in its decision.]**

16. 7.5(A)(1): There are unique physical circumstances or conditions, including irregular topography, 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 such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Regulations in the neighborhood or district in which the property is located.
THE ZBA FINDS:

17. 7.5(A)(2): Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

THE ZBA FINDS:

18. 7.5(A)(3): Unnecessary hardship has not been created by the applicant.

THE ZBA FINDS:

19. 7.5(A)(4): The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially nor permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

THE ZBA FINDS:

20. 7.5(A)(5): The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from these Regulations and from the plan.

THE ZBA FINDS:

PROPOSED CONDITIONS:

1. The applicant shall pull a Zoning Permit and pay associated fees prior to building the garage.
2. A Certificate of Occupancy inspection shall be scheduled with the Zoning Administrator upon completion of the project.
3. Any/all previous approvals associated with the property shall remain in effect and run with the land.
4. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the applicant and all assigns and successors in interest.