



**DATE:** May 9, 2018

PC Agenda Item **3.A**

**TO:** Planning Commission Chair and Commissioners

**FROM:** Matthew Bachler, City Planner

**SUBJECT: Planning Case #18-007 – No Public Hearing Required**

**Applicant:** Mike and Lacy Loosbrock

**Property Location:** 4535 Lakeshore Place

**Request:** Variance

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## **Requested Action**

The applicants have requested a variance in order to construct a new single-family dwelling on their property at 4535 Lakeshore place. The proposed dwelling would encroach 5 feet – 4 inches into the required 40-foot front yard setback and result in a setback of 34 feet – 8 inches.

## **Background**

### **1. Overview of Request**

The applicants are the owners of the property at 4535 Lakeshore Place, which is located in the R-1 District on the northeast side of Round Lake. The property owners are proposing to tear down the existing dwelling and reconstruct a new dwelling within approximately the same footprint. The existing single-family residential dwelling is a nonconforming structure because of an encroachment of 6 feet – 2 inches into the required 40-foot front yard setback from Lakeshore Place. Since the nonconforming structure is being completely removed and not being replaced within the exact same footprint and with the same dimensions, the property owners are required to reconstruct the new dwelling to meet the 40-foot front yard setback.

The applicants have requested a variance to allow them to reconstruct the new dwelling generally within the same footprint of the existing structure with a proposed encroachment of 5 feet – 4 inches and a setback of 34 feet – 8 inches. The new dwelling would include a two-car attached garage and a walk out basement facing Round Lake. The proposed dwelling would meet all other setback and lot coverage requirements.

The applicants have submitted a letter addressing the variance criteria (Attachment A). The letter notes that the reasons for the variance request include a desire to preserve the yard space and trees located on the lake side of the property and to reduce the cost and amount of fill that would be required if the dwelling is pushed back to the 40-foot setback line. The existing conditions survey is included in Attachment D and the proposed site plan is included in Attachment E. A conceptual rendering of the proposed dwelling is provided in Attachment F.

## 2. Surrounding Area

Direction	Future Land Use Plan	Zoning	Existing Land Use
North	Right-of-Way	Right-of-Way	Right-of-Way
South	Water – Round Lake	Water – Round Lake	Water – Round Lake
East	Low Density Residential	R-1- Single Family Residential	Single Family Detached Residential
West	Low Density Residential	R-1- Single Family Residential	Single Family Detached Residential

## 3. Site Data

<b>Future Land Use Plan:</b>	Low Density Residential
<b>Existing Land Use:</b>	Single Family Detached Residential
<b>Zoning:</b>	R-1- Single Family Residential
<b>Lot Size:</b>	0.45 Acres (19,853 square feet)
<b>Topography:</b>	Slopes down approximately 22 feet from Lakeshore Place to Round Lake

## Plan Evaluation

### Chapter 13, Zoning Regulations Review

#### 1. District Provisions (R-1 Single Family Residential District) – Section 1320

##### A. Lot Size and Dimensions

The survey indicates the lot has an area of 19,853 square feet. The width of the lot is 100 feet along Lakeshore Place. The average depth of the lot between the east and west property lines is approximately 199 feet. The existing lot meets the minimum lot area and dimension requirements for the R-1 District.

##### B. Structure Setbacks

The minimum front yard setback for principal structures in the R-1 District is 40 feet. The existing principal structure on the property is nonconforming because of an encroachment of 6 feet – 2 inches into the front yard setback from Lakeshore Place. The applicants have proposed

constructing a new single-family dwelling that would generally be within the same footprint of the existing structure, but with a reduced encroachment of 5 feet – 4 inches and a setback of 34 feet – 8 inches. A variance is required for the propose encroachment.

<b>Applicable R-1 Lot Requirements</b>	
<b>1. Minimum Lot Area (sf.)</b>	14,000
<b>2. Minimum Lot Size (ft., width/depth)</b>	95/130
<b>3. Height (ft.)</b>	35
<b>4. Floor Area Ratio (FAR)</b>	0.3
<b>5. Lot Covered by Structure</b>	25%
<b>6. Minimum Landscape Lot Area</b>	65%
<b>7. Minimum Building Setbacks (ft)</b>	
Front Yard	40
Rear Yard (Principle)	30
Rear Yard (Accessory)	10
Side Yard Interior - Principal (Minimum/total both yards on lot)	10/25
Side Yard Interior - Accessory	10
Side Yard Corner	40

The property has frontage along Round Lake and is subject to the Shoreland Regulations included in Section 1330 of the Zoning Code. Round Lake is classified as a Recreational Development Lake and the minimum structure setback from the ordinary high water level is 75 feet. Section 1330.03, Subd. 4 of the Zoning Code states that on any shoreland lot where the adjacent lots have existing dwellings that exceed the minimum setback from the shoreline, the setback for a new dwelling cannot be less than the average of the setbacks from the ordinary high water level minus 10 feet. Both of the adjacent properties have dwellings that exceed the 75-foot minimum setback requirement.

Properties on Round Lake do not extend down to the ordinary high water level and the area of land between the water’s edge and adjacent private properties is owned by the U.S. Fish and Wildlife Service. For the purpose of this review, staff took the setbacks of the two adjacent dwellings from their property lines along Round Lake. The average of these setbacks, minus 10 feet, results in a required setback of 108 feet for 4535 Lakeshore Place. The proposed dwelling would be setback approximately 120 feet from the property line on Round Lake.

The minimum side yard setback for principal structures in the R-1 District is 10 feet, and the total of both side yard setbacks must add up to 25 feet. The new dwelling would be setback 10 feet from the west side property line and 28 feet from the east side property line.

The survey indicates there are two accessory structures on the lake side of the property that both encroach within the minimum side yard setback of 10 feet for accessory structures. The proposal would not modify these two accessory structures and no additional accessory structures are proposed.

The proposed dwelling would be located outside of any flood plains, wetlands, or easements.

### C. Structure Height

The maximum structure height permitted in the R-1 District is 35 feet. The building height would be verified at the time a Building Permit application is submitted.

#### D. Lot Coverage

Properties in the R-1 District are permitted up to 25 percent structure coverage and must maintain a minimum landscape lot area of 65 percent. The proposal would result in a total structure area of 1,975 square feet, or approximately 10 percent of the lot area. The proposed landscape lot area is 16,512 square feet, or approximately 83 percent of the lot area.

Lot Coverage	Proposed		R-1 Regulations
	Square Feet	Percent	
<b>Total Structure</b>	1,975	9.95%	<b>Maximum 25%</b>
<b>Total Impervious Coverage</b>	3,341	16.83%	<b>Maximum 35%</b>
<b>Landscape Area</b>	16,512	83.17%	<b>Minimum 65%</b>
<b>Lot Size</b>	19,853		<b>14,000 s.f.</b>

#### E. Floor Area Ratio

The floor area ratio (FAR) is calculated by dividing the gross square footage of the dwelling by the lot area. In the R-1 District, the maximum FAR permitted is 0.3. The proposed total floor area is approximately 3,200 square feet, which equated to an FAR of 0.16.

### ***2. Exceptions to the Minimum Requirements for All Districts – Section 1325.03***

Section 1325.03, Subd. 2(D) of the Zoning Code allows for a nonconforming single-family dwelling to be expanded if certain provisions are met. A proposed addition is required to maintain all existing setback distances, and the addition cannot extend closer than 30 feet from the front property line or 5 feet from a side property line. The addition is also required to be consistent with the existing structure in terms of exterior materials and roof design, and cannot result in any new nonconforming conditions on the property.

The proposal is to remove the existing nonconforming structure and to build a new dwelling in its place. Therefore, Section 1325.03, Subd. 2(D) is not applicable in this case. If the property owners were to have proposed an expansion of the existing structure, the existing front yard setback of 33 feet – 10 inches could be maintained without a variance so long as all other provisions within this section of the Zoning Code were satisfied.

### ***3. Tree Preservation – Section 1325.055***

The proposed project is not expected to impact any significant trees on the property. If any significant trees are removed as a result of the project, mitigation may be required.

#### **4. Variance Requirements – Section 1355.04, Subd. 4**

The applicants have requested a variance to allow the proposed dwelling to encroach 5 feet – 4 inches into the require 40-foot front yard setback and result in a setback of 34 feet – 8 inches. In evaluating the variance request, the Planning Commission and City Council must use the following criteria:

1. Purpose and Intent. The variance request shall comply with the purpose and intent provisions of the City’s Zoning Regulations and with the policies of the City’s Comprehensive Plan.
2. Practical Difficulties. The applicant for a variance shall establish that there are practical difficulties in complying with the provisions of the Arden Hills Zoning Regulations. The term “Practical Difficulties” as used in the granting of a variance means:
  - a. *Reasonable Use*. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
  - b. *Unique Circumstances*. The plight of the property owner is due to circumstances unique to the property not created by the landowner.
  - c. *Character of Neighborhood*. The variance, if granted, will not alter the essential character of the neighborhood.
3. Economic Consideration. Economic consideration alone does not constitute a practical difficulty.
4. Access to Sunlight. Inadequate access to direct sunlight for solar energy systems shall be considered a practical difficulty.

Conditions may be imposed on granting of variances if those conditions are directly related to and bear a rough proportionality to the impact created by the variance.

The variance request would comply with the purpose and intent of the R-1 Zoning District and with the policies within the City’s Comprehensive Plan. The Planning Commission will need to make a determination on whether there are practical difficulties with complying with the zoning regulations in this case. The proposed front yard setback of 34 feet – 8 inches appears to be consistent with the prevailing setbacks for the three dwellings located west of the subject property, all of which encroach within the 40-foot setback. The City approved a variance for the property at 4549 Lakeshore Place for a 32-foot front yard setback in Planning Case #77-035. The dwelling located to the west is setback approximately 44 feet from the front property line.

#### **Additional Review**

*Building Official*

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*City of Arden Hills*

*Planning Commission Meeting for May 9, 2018*

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The Building Official has reviewed the plans and has no additional comments at this time. A Building Permit will be required prior to any construction taking place.

*Public Works Director/City Engineer*

The Public Works Director/City Engineer has reviewed the plans and has noted that a Grading and Erosion Control permit will be required.

**Findings of Fact**

The Planning Commission must make a finding as to whether or not the proposed application would adversely affect the surrounding neighborhood or the community as a whole based on the aforementioned factors. Staff offers the following findings for consideration:

*General Findings:*

1. The property at 4535 Lakeshore Place is located in the R-1 Single Family Residential Zoning District.
2. The existing single-family residential dwelling on the property is a nonconforming structure because of an encroachment of 6 feet – 2 inches into the required 40-foot front yard setback from Lakeshore Place.
3. The property owners are proposing to tear down the existing dwelling and reconstruct a new dwelling within the same footprint.
4. Since the nonconforming structure is being completely removed and not being replaced within the exact same footprint and with the same dimensions, the property owners are required to reconstruct the new dwelling to meet the 40-foot front yard setback.
5. The property owners have requested a variance to allow them to reconstruct the new dwelling generally within the same footprint of the existing structure with a proposed encroachment of 5 feet – 4 inches and a setback of 34 feet – 8 inches.
6. The proposed single-family residential dwelling would meet all other minimum setback requirements for the R-1 District and the setback requirements included in Section 1330 of the Shoreland Regulations.
7. The proposed single-family residential dwelling would meet the minimum lot coverage requirements for the R-1 District.
8. The proposed development would not encroach on any flood plains, wetlands, or easements.
9. The proposed development is not expected to impact any significant trees on the property.

*Variance Findings:*

10. The variance request would comply with the purpose and intent of the R-1 Zoning District and with the policies within the City's Comprehensive Plan.
11. A single-family detached dwelling is a permitted use in the R-1 District and is a reasonable use of the subject property.

12. The existing topography of the lot could be considered a unique circumstance that justifies the proposed location of the dwelling.
13. The proposed front yard setback appears to be consistent with the prevailing setbacks for the three dwellings located west of the subject property.
14. The proposed variance does not appear to be based on economic consideration alone.

### **Options and Motion Language**

Staff has provided the following options and motion language for this case. The Planning Commission should consider providing additional findings of fact as part of the motion to support their recommendation for approval or denial.

- **Recommend Approval with Conditions:** Motion to recommend *approval* of Planning Case 18-007 for a Variance at 4535 Lakeshore Place, based on the findings of fact and the submitted plans, as amended by the five (5) conditions in the May 9, 2018 Report to the Planning Commission:
  1. The project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the City Planner, shall require review and approval by the Planning Commission and City Council.
  2. A Grading and Erosion Control permit shall be required prior to the issuance of a Building Permit.
  3. If required, a Rice Creek Watershed District permit shall be obtained prior to the issuance of any City permits.
  4. A Building Permit shall be required prior to commencement of construction.
  5. The structure shall conform to all other regulations in the City Code.
- **Recommend Approval as Submitted:** Motion to recommend *approval* of Planning Case 18-007 for a Variance at 4535 Lakeshore Place, based on the findings of fact and the submitted plans in the May 9, 2018 Report to the Planning Commission.
- **Recommend Denial:** Motion to recommend *denial* of Planning Case 18-007 for a Variance at 4535 Lakeshore Place, based on the following findings: *findings to deny should specifically reference the reasons for denial and why those reasons cannot be mitigated.*
- **Table:** Motion to *table* Planning Case 18-007 for a Variance at 4535 Lakeshore Place: *a specific reason and information request should be included with a motion to table.*

## **Notice**

Although a variance does not require a public hearing, a public meeting notice was prepared by the City and mailed to properties within 350 feet of the subject property.

## **Public Comments**

Staff met with the resident at 4549 Lakeshore Place, who expressed their support for the request.

## **Deadline for Agency Actions**

The City of Arden Hills received the completed application for this request on April 17, 2018. Pursuant to Minnesota State Statute, the City must act on this request by June 16, 2018 (60 days), unless the City provides the petitioner with written reasons for an additional 60-day review period. With consent of the applicant, the City may extend the review period beyond the initial 120 days.

## **Attachments**

- A. Land Use Application and Variance Request Letter
- B. Location and Aerial Maps
- C. Site Photographs
- D. Existing Conditions Survey
- E. Proposed Site Plan
- F. Conceptual Building Rendering