



DATE: May 22, 2023

TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator

FROM: Jessica Jagoe, Community Development Director

SUBJECT: **Planning Case #23-008 – No Public Hearing Required**
Applicant: Joshua Haberman
Property Location: 1475 Dawn Circle
Request: Variance

Budgeted Amount:	Actual Amount:	Funding Source:
N/A	N/A	N/A

Council Should Consider

Motions to approve, table, or deny the following:

- Adoption of Resolution 2023-028 for Planning Case 23-009 for a variance to construct a garage addition that would decrease the required total side yard setback from 25 feet to 20.33 feet from the east property line at 1475 Dawn Circle (“Subject Property”).

Background

1. Existing Site Conditions

1475 Dawn Circle, the Subject Property, is zoning R-1, Single Family Residential District. It is designated for Low Density Residential in the 2040 Comprehensive Land Use Plan. The Subject Property is the site of a single-family dwelling owned by the Applicant. All surrounding parcels are also zoned R-1, Single Family Residential District and designated for Low Density Residential Uses in the Land Use Plan.

2. Site Data

2040 Future Land Use Plan:	LDR – Low Density Residential
Existing Land Use:	Single Family Dwelling

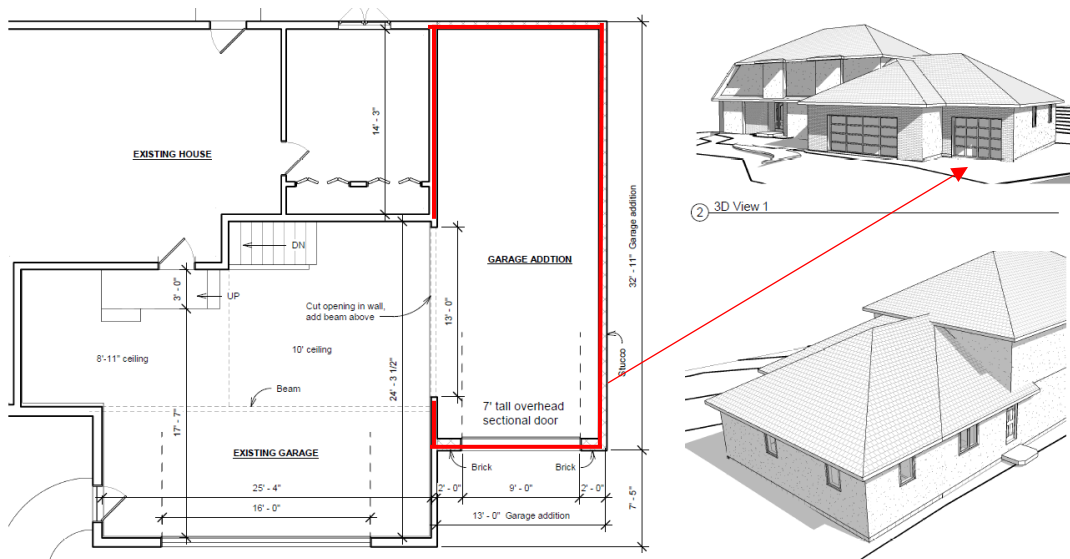
Zoning:	R-1, Single Family Residential District
Lot Size:	0.32 acres

3. Proposed Use

The Applicant is requesting a variance to decrease the required total side yard setback of his single-family dwelling on the Subject Property from 25 feet to 20.33 feet for a proposed third stall garage addition. Section 1320.06 of the Arden Hills City Code requires a combination of both side yards on an interior lot of not less than 25 feet.

According to the Applicant’s narrative submitted as a part of his application, the Subject Property includes unique circumstances due to its nontraditional shape and its location at the end of a cul-de-sac. The Applicant is requesting the proposed garage addition as, according to the Applicant, the current garage cannot accommodate the storage of two cars due to how the steps into the house are arranged. The proposed garage addition would meet applicable building codes and all other regulations in the R-1 District. The Applicant would not be able to construct the proposed garage addition without a variance.

Proposed Garage Addition



4. Approvals

The City Council is being asked to determine if a variance request for flexibility on the total side yard setback should be approved. The submitted sketches show the location of the proposed garage addition and the proposed driveway addition. The evaluation of the proposal should be based on the District Provisions in Section 1320 and the Requirements for a Variance in Section 1355.04, Subd. 4.

At their May 3, 2023 meeting, the Planning Commission reviewed the variance request on the Subject Property. After discussion, the Planning Commission voted to recommend approval with conditions by a 7-0 vote.

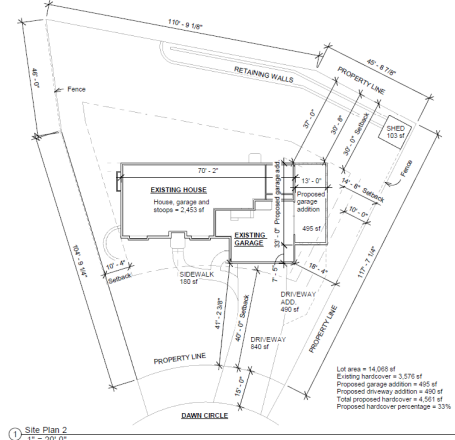
Plan Evaluation

Chapter 13, Zoning Regulations Review

1. District Provisions (R-1 Single Family Residential District) – Section 1320.06

Lot Size and Dimensions – Meets Requirements

The Subject Property was constructed in 1983 with a lot area of 14,068 square feet (Attachment D). Section 1320 – District Provisions of the Zoning Code requires a minimum lot size of 14,000 square feet per single-family dwelling unit.



Structure Setbacks – Variance Requested

In the R-1 District, the minimum front and rear setback requirements are 40 feet and 30 feet, respectively. The minimum side yard setback is 10 feet and the minimum total of both side yards on a lot is 25 feet. The current structure complies with the minimum setback requirements in the R-1 District.

The proposed third stall garage addition would have a side yard setback of 10 feet as measured from the east property line. Today, the existing side yard setback is 18.33 feet. The Applicant is requesting a variance to decrease the required total side yard setback from 25 feet to 20.33 feet. The proposed garage addition would conform to front, rear, and one minimum side yard setback requirements.

	<u>R-1 Setbacks</u>	<u>Existing</u>	<u>Proposed Garage Addition</u>
Front Setback	40 feet	41.16 feet	41.16 feet
Rear Setback	30 feet	37 feet	30.66 feet
Side Yard Minimum (west)	10 feet	10.33 feet	10.33 feet
Side Yard Total Both Side Yards	25 feet	28.33 feet	20.33 feet

Landscaped Area – Meets Requirements

In the R-1 District, the minimum landscaped area required without a variance is 65% of the property or 9,144 square feet. The Subject Property has an existing landscaped area of 10,492 square feet or 75%. The proposed addition would decrease the total landscaped area to 9,507 square feet, or 68% percent of the property.

Structure Coverage – Meets Requirements

The R-1 District allows for a maximum structure coverage of 25% or 3,517 square feet of the Subject Parcel. The existing structure coverage is 2,556 square feet or 18%. The proposed addition would increase the total structure coverage by 495 square feet for a total of 3,051 square feet, or 22% of the Subject Property.

2. Variance Review

The role of the City Council is to determine and consider how the facts presented to them compare with the city’s articulated standards. The Council should base their decision on the facts presented and then apply those facts to the legal standards contained in city ordinances and relevant state law. Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While the City Council may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help in addressing these factors, however, unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision.

The City Council may impose conditions when granting variances as long as the conditions are directly related and bear a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed the side yard setback limit, any conditions attached should presumably relate to mitigating the effect of the encroachment.

3. Variance Requirements – Section 1355.04, Subd. 4

The Applicant requests a variance to construct a third stall addition to the side of their existing attached garage that would impede on the required total side yard setback in the R-1 Residential District. The City Council will need to make a determination utilizing the following variance findings and criteria on whether there are practical difficulties with complying with the zoning regulations. If the Applicant does not meet all the factors of the statutory test, then a variance should not be granted. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.

1. Purpose and Intent. The variance request shall comply with the purpose and intent of the provisions of the City’s Zoning Regulations and with the policies of the City’s Comprehensive Plan.

The variance request for 1475 Dawn Circle is for a proposed garage addition. The Subject Property is zoned R-1, Single Family Residential District and is guided as Low Density Residential on the Land Use 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.

According to the Applicant, a third car garage stall for a single family home is a reasonable use of the Subject Property in the R-1 Zoning District because the design of the existing two car garage does not accommodate the Applicant's needs to store two cars simultaneously.

- b. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the landowner.

According to the Applicant, the Subject Property's irregular shape creates a practical difficulty due to the curvature of the parcel's front property line. The Subject Property was platted in 1982 and the dwelling was constructed in 1983. The Applicant purchased the Subject Property in 2022 so they did not create the circumstances unique to the property.

- c. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood.

According to the Applicant, the variance requested is in keeping with the character of the city. The existing neighborhood has homes with a variety of different garages and housing styles, and the proposed variance would not alter the character of the neighborhood.

3. *Economic Consideration.* Economic consideration alone does not constitute a practical difficulty.

The Applicant states that the proposed variance is not requested for economic reasons.

4. *Access to Sunlight.* Inadequate access to direct sunlight for solar energy systems shall be considered a practical difficulty.

A solar energy system is not proposed.

Suggested Findings of Fact

The Planning Commission reviewed this application at their May 3, 2023, meeting and have offered the following findings for your consideration:

General Findings:

1. City Staff received a land use application for a variance request to the required R-1 Zoning District total side yard setback at the Subject Property 1475 Dawn Circle.
2. A single-family dwelling is a permitted use within the R-1 Zoning District.
3. The garage addition will not impede sight lines or obstruct the clear vision area from the roadways.
4. The proposed garage addition would decrease the required total side yard setback to 20.33 feet.

Variance Findings:

1. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.
2. The proposed garage addition would not alter the essential character of the neighborhood because the configuration on the Subject Property would be consistent and compatible with the neighborhood.
3. The variance request is not based on economic considerations alone.

Options and Motion Language

The Planning Commission reviewed this application at their May 3, 2023, meeting. At that time, they recommended approval with conditions of Planning Case 23-008 to decrease the required total side yard setback from 25 feet to 20.33 feet at 1475 Dawn Circle by a 7-0 vote. The following are motion language options for the City Council to consider.

- Approval with Conditions: Motion to *adopt* Resolution 2023-028, approving Planning Case 23-008 for a Variance at 1475 Dawn Circle, based on the findings of fact and the submitted plans, as amended by the conditions below:
 1. A Building Permit shall be issued prior to commencement of construction.
 2. The proposed building shall conform to all other standards and regulations in the City Code.
- Approval as Submitted: Motion to *adopt* Resolution 2023-028, approving Planning Case 23-008 for a Variance at 1475 Dawn Circle, based on the findings of fact and the submitted materials in the May 22, 2023, Report to the City Council.
- Denial: Motion to *deny* Resolution 2023-028, approving Planning Case 23-008 for a Variance at 1475 Dawn Circle, 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* Resolution 2023-028, approving Planning Case 23-008 for a Variance at 1475 Dawn Circle: *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 500 feet of the Subject Property on May 11, 2023. A public hearing notice for this planning case was published in the Pioneer Press on May 11, 2023. Minnesota statute does not clearly require a public hearing before a variance is granted or denied, however, after consulting with the City Attorney, staff agree that the best practice is to allow public forum on all variance requests. A public forum allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

Staff has not received any written or verbal comments regarding this proposal as of May 17, 2023.

Deadline for Agency Actions

The City of Arden Hills received the completed application for this request on March 21, 2023. Pursuant to Minnesota State Statute, the City must act on this request by May 20, 2023 (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. The City provided the Applicant with written notification extending the review period to July 19, 2023 (120 days) based on the date of the submission for review by the Planning Commission and City Council during the May meeting cycle. The requestor confirmed receipt of this notification on March 21, 2023.

Attachments

- A. Land Use Application
- B. Location Map
- C. Variance Request Letter
- D. Site Survey & Renderings
- E. Planning Commission Memo
- F. Draft Planning Commission Minutes
- G. Resolution 2023-028
- H. City Council Presentation