



**DATE:** September 6, 2023

**TO:** Planning Commission Chair and Commissioners

**FROM:** Elena Fransen, Senior Planner

**SUBJECT: Planning Case #23-016 – No Public Hearing Required**  
**Applicant:** Robert Williams  
**Property Location:** 1945 Edgewater Avenue  
**Request:** Variance

**Requested Action**

Robert Williams (“Applicant”) has requested a variance to construct an addition to the north and south elevation of an existing detached garage on the property located at 1945 Edgewater Avenue (“Subject Property”). The Applicant has requested a variance to decrease the required side yard setback for corner lots from the minimum requirement of 40 feet to 5.8 feet and decrease the required front yard setback from the minimum requirement of 40 feet to 39.2 feet. The Applicant is proposing a four-foot-wide addition on both sides of the garage to expand the existing garage width from 18.4 feet to 26.4 feet. The addition would add 128 square feet to the existing garage.

**Background**

**1. Existing Site Conditions**

1945 Edgewater Avenue, the Subject Property, is zoned R-2, Single and Two 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-2, Single and Two Family Residential District and designated for Low Density Residential Uses in the Land Use Plan.

**2. Site Data**

<b>2040 Future Land Use Plan:</b>	LDR – Low Density Residential
<b>Existing Land Use:</b>	Single Family Dwelling
<b>Zoning:</b>	R-2, Single and Two Family Residential District
<b>Lot Size:</b>	0.26 acres

### 3. Proposed Use

The Applicant is requesting a variance to decrease the required side yard setback on a corner lot for the Subject Property from 40 feet to 5.8 feet and to decrease the required front yard setback from 40 feet to 39.2 as measured from the portion of the proposed garage addition. The current garage structure is located 1.4 feet from the side yard property line. Section 1320.06 of the Arden Hills City Code requires 40-foot front yard setback in R-2 and a side yard setback of 40 feet on corner lots.

According to the Applicant's narrative and the Certificate of Survey for the Subject Property submitted as a part of the application, the Subject Property's existing principal structure does not meet the front yard setback requirement and the detached garage does not meet the side yard corner lot setbacks. The Subject Property was developed in 1952 and today is a legal nonconforming lot for the front yard setback and the side yard setback for corner lots. The 40-foot side yard setback on corner lots for each street frontage was established in the Code in 1980. The requested variances would not encroach further into the existing minimum building setbacks on the Subject Property.

The Applicant is requesting the proposed garage addition as, according to the Applicant, two vehicles cannot be stored and accessed within the existing garage. The proposed garage addition would meet applicable building codes and all other regulations in the R-2 District. As a legal nonconforming lot, the existing detached accessory structure is allowed to be maintained through normal maintenance and repairs. The Applicant would not be able to construct the proposed garage addition without a variance.

### 4. Approvals

The Planning Commission is being asked to determine if a variance request for flexibility on the front yard setback and the side yard setback of a corner lot should be approved. The submitted sketches show the location of the proposed garage addition. The evaluation of the proposal should be based on the District Provisions in Section 1320, the General Regulations in Section 1325, and the Requirements for a Variance in Section 1355.04, Subd. 4.

### Plan Evaluation

#### Chapter 13, Zoning Regulations Review

##### 1. *District Provisions (R-2 Single and Two Family Residential District) – Section 1320.06*

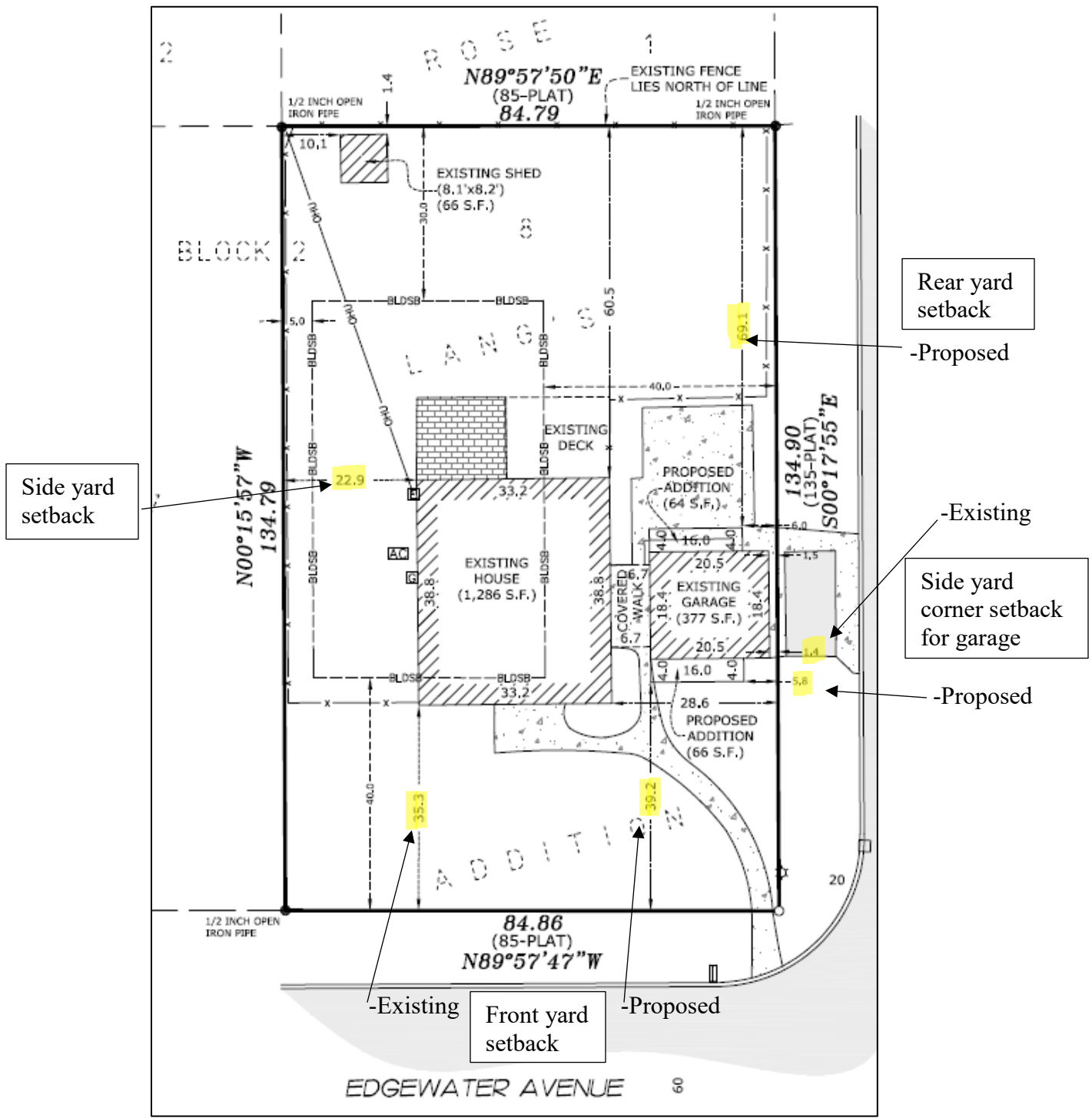
###### *Lot Size and Dimensions – Meets Requirements*

The Subject Property was constructed in 1952 with a lot area of 11,325.6 square feet (Attachment D). Section 1320 – District Provisions of the Zoning Code requires a minimum lot size of 11,000 square feet per single-family dwelling unit.

###### *Structure Setbacks – Variance Requested*

In the R-2 District, the minimum front and rear setback requirements are 40 feet and 30 feet, respectively. The current garage structure is located 43.2 feet from the front yard property line and the principal structure has a 35.3 foot front yard setback. The minimum side yard setback on a corner lot is 40 feet. The current garage structure is located 1.4 feet from the side yard property

line and the principal structure is located 28.6 feet from the side yard property line. The proposed garage addition would be setback 5.8 feet from the east side yard property line and have a 39.2-foot front yard setback. As shown in the survey below, the garage addition would not go beyond the existing building line of the principal dwelling's 35.3-foot existing front yard setback on the Subject Property or surpass the existing garage's 1.4-foot side yard setback.



	<u>Existing Garage</u>	<u>Proposed Garage Addition</u>
Front Setback	43.2 feet	39.2 feet
Rear Setback	73.1 feet	69.1 feet
Side Yard Corner	1.4 feet	5.8 feet*
Side Yard Total Both Side Yards	24.3 feet	24.3 feet

\*Distance shown is from the addition. Setback as measured from the front building line of detached garage will remain the same.

*Landscaped Area – Meets Requirements*

In the R-2 District, the minimum landscaped area required without a variance is 65% of the property or 7,361.64 square feet. The Subject Property has an existing landscaped area of 8,312.42 square feet or 73.39%. The proposed addition would decrease the total landscaped area to 8,184.42 square feet, or 72.26% percent of the property.

*Structure Coverage – Meets Requirements*

The R-2 District allows for a maximum structure coverage of 25% or 2,831.4 square feet of the Subject Parcel. The existing structure coverage is 1,729 square feet or 15%. The proposed addition would increase the total structure coverage by 128 square feet for a total of 1,857 square feet, or 16% of the Subject Property.

**2. General Regulations (Accessory Structures) – Section 1325.01**

*Height – Meets Requirements*

Accessory structures in R-2 shall not exceed fifteen feet in height or the height of the principal structure to which it is accessory, whichever is lower. The proposed addition is seven feet in height and is designed to extend at the eaves of the existing structure. The overall height of the garage will not increase with the proposed addition.

*Location – Meets Requirements*

Accessory structures in R-2 shall not be located nearer the front lot line than the front yard setback line for the principal structure to which it is accessory. City Code defines that on a corner lot, the shortest street lot line shall be the front lot line and the longest street lot line shall be a side lot line. The proposed addition is located behind the existing front yard setback line for the principal structure and complies with this definition.

*Size – Meets Requirements*

Accessory structures associated with residential uses shall not exceed seven hundred and twenty-eight (728) square feet in floor area. The proposed garage addition would increase the total accessory structure square footage of the existing detached garage and an existing shed to 571 square feet. The total floor area of accessory structures located in the rear of a principal structure, the total floor area of all such accessory structures shall not exceed twenty-five (25) percent of the minimum required rear yard area for the principal structure. The proposed garage addition would be located in the side yard of the principal structure. No more than two (2) accessory structures shall be permitted on a lot primarily used for residential uses. The Subject Property has two accessory structures and meets this requirement.

### **3. Variance Review**

The role of the Planning Commission is to determine and consider how the facts presented to them compare with the city's articulated standards. The Commission 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 Planning Commission 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 Planning Commission 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 front setback limit, any conditions attached should presumably relate to mitigating the effect of the encroachment.

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

The Applicant requests a variance to construct a garage addition to the north and south sides of their existing detached garage that would impede on the required front yard setback and the required side yard setback on a corner lot in the R-2 Residential District. The Planning Commission 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 1945 Edgewater Avenue is for a proposed garage addition. The Subject Property is zoned R-2, Single and Two 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, the purpose of the garage addition is so that the garage can fit two parked vehicles. The inside width of the existing garage is approximately 18 feet and can fit two cars but there is not room to open the car doors to enter or exit the vehicle. The*

*proposed addition will allow for both of the residents' vehicles to be parked in the garage while being accessible. Additional storage of tools and equipment will also be possible.*

- 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 current garage was built and located where it is long before they owned the property. The Applicant purchased the property in 2023 and the Subject Property was built in 1952.*

- 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 neighborhood. The design of the addition is four feet behind the front line of the existing garage and thus is four feet further from the property line so visibility at the corner intersection is maintained. The Applicant states that the garage addition fits with the neighborhood and will not stand out as a different type of visual design or feel.*

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

*The Applicant states that the proposed variance is to increase the personal functionality of the building for their family, not to turn a profit of some kind.*

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.*

### **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. City Staff received a land use application for a variance request to the required R-2 Zoning District side yard setback for corner lots and the front yard setback at the Subject Property 1945 Edgewater Avenue.
2. A single-family dwelling is a permitted use within the R-2 Zoning District.
3. The garage addition will not impede sight lines or obstruct the clear vision area from the roadways since the existing building line along Prior Avenue will remain the same.
4. The existing detached garage is legal nonconforming with a side yard setback of 1.4 feet.
5. The proposed garage addition would have a side yard setback for a corner lot of 5.8 feet and does not increase the nonconformity of the lot.
6. The proposed garage addition would decrease the required front yard setback to 39.2 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 proposed design will fit with the neighborhood and will not encroach further into the existing garage's corner side yard setback.
3. The variance request is not based on economic considerations 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 23-016 for a Variance at 1945 Edgewater Avenue, based on the findings of fact and the submitted plans, as amended by the conditions in the September 6, 2023, Report to the Planning Commission:
  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.
- **Recommend Approval as Submitted:** Motion to recommend *approval* of Planning Case 23-016 for a Variance at 1945 Edgewater Avenue, based on the findings of fact and the submitted materials in the September 6, 2023, Report to the Planning Commission.
- **Recommend Denial:** Motion to recommend *denial* Planning Case 23-016 for a Variance at 1945 Edgewater Avenue, 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 23-016 for a Variance at 1945 Edgewater Avenue: *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 August 24, 2023. A public hearing notice for this planning case was published in the Pioneer Press on August 24, 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 received one written comment in support of this proposal as of September 1, 2023.

### **Deadline for Agency Actions**

The City of Arden Hills received the completed application for this request on August 21, 2023. Pursuant to Minnesota State Statute, the City must act on this request by October 20, 2023 (60 days), unless the City provides the petitioner with written reasons for an additional 60-day review period.

**Attachments**

- A. Land Use Application
- B. Location Map
- C. Variance Request Letter
- D. Site Survey & Renderings
- E. Certificate of Survey