



MEMORANDUM

DATE: May 24, 2021

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

FROM: Jane Kansier, AICP, Bolton & Menk
Corrin Bemis, Bolton & Menk

SUBJECT: Planning Case #21-006 – No Public Hearing Required
Applicant: Robert Kunze
Property Location: 4073 Valentine Court
Request: Variance

Budgeted Amount:
N/A

Actual Amount:
N/A

Funding Source:
N/A

Council Should Consider

Motions to approve, table, or deny the following:

- Planning Case 21-006 for a variance to decrease the required side yard setback of the single-family detached dwelling located at 4073 Valentine Court (“Subject Property”),

Approval of a Variance requires an affirmative vote of three councilmembers.

Background

Robert Kunze (“Applicant”) is requesting a variance to decrease the required side yard setback of his single-family detached dwelling on the Subject Property from 40 feet to 7.82 feet for a proposed garage addition. The Subject Property is zoned R-1, Single Family Residential District, and is guided as Low Density Residential in the land use plan. Section 1320.06 of the Arden Hills City Code requires a side yard setback of 40 feet on corner lots.

According to the Applicant’s narrative submitted as a part of his application, the Subject Property includes unique circumstances due to its nontraditional shape. The front of the property includes one curved section and three straight sections that make it difficult for the applicant to

conform to current setback regulations. The Subject Property is a legal non-conforming lot, as the required side yard setback for corner lots was ten (10) feet when the property was built in 1953. The Applicant is requesting the proposed garage addition to allow for more storage space for his vehicles and additional space to store woodworking equipment. 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.

The City Council is being asked to determine if a variance request for flexibility with the side yard setback of a corner lot should be approved. The sketches that have been submitted 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 meeting on May 5, 2021, the Planning Commission voted to recommend approval of Planning Case 21-006 with conditions to allow at side yard setback variance at the Subject Property. A full evaluation of the proposal was presented to the Planning Commission at the May 5th meeting. The memo to the Planning Commission on this case is provided in Attachment E. Draft minutes from the meeting are included in Attachment F.

Plan Evaluation

Chapter 13, Zoning Regulations Review

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

Lot Size and Dimensions

The Subject Property has a lot area of 37,541 square feet (Attachment D). Section 1320 – District Provisions of the Zoning Code requires a minimum lot size of 14,000 square feet per dwelling unit. Section 1320 allows for a maximum Floor Area Ratio (FAR) of 0.3 in the R-1 District. With the proposed garage addition, the FAR on the Subject Property would increase from 0.04 to 0.05. Section 1320 requires a minimum landscape coverage of 65% and a maximum impervious surface coverage of 25% in the R-1 District. With the proposed garage addition, the impervious surface coverage on the lot would increase from 6.02% to 7.56%. According to the Applicant, the proposed garage addition on the Subject Property will meet all district provisions for the R-1 district besides the side yard setback requirement.

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 front 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 garage that would impede on the require side yard setback on a corner lot 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 4073 Valentine Court is consistent with the purpose and intent of the R-1 Zoning District and with the policies within 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.

According to the Applicant’s application, a third car garage stall for a single family home is a reasonable use of the Subject Property in the R-1 Zoning District;

- 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 lot has a very odd shape. In the front of the house, along the road, there is one curved section and 3 straight sections. The structure is currently nonconforming as to setbacks. The setback requirements were different when the house

was built in 1953. On the side, the closest distance from the curb to the proposed garage addition is approximately 27 feet. It is unlikely the city would want to make use of that property. There are significant small screening trees in that area, partly blocking the view from the street. Other areas on the property were considered for a freestanding garage. Any of the other areas in the front yard, or anywhere close to the house in the rear, would involve cutting down big 100+ year old Oaks. Adding behind the existing garage would involve significant drainage issues and would require major regrading under the drip line of some of the 100+ year old oaks.

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

According to the Applicant, the existing neighborhood has homes with a variety of different garages and housing styles. The proposed variance will not alter the character of the neighborhood. Many garages have been added to the road side of existing homes in the neighborhood. The topography and odd lot shapes make the neighborhood quite varied. The homes are not in straight lines, all the same distance from the road or each other.

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

The proposed variance is not based on economic consideration.

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 5, 2021, meeting and have offered the following findings of fact for your consideration:

General Findings:

1. City Staff received a land use application for a variance request to decrease the minimum side yard setback on a single family dwelling at the Subject Property 4073 Valentine Court.
2. A single-family detached dwelling is a permitted use in the R-1 district.
3. The Subject Property is non-conforming with the R-1 district's standards for minimum side yard setbacks on a corner lot.
4. The proposed garage addition would be located 7.82 feet from the Northwest side yard property line.
5. The proposed garage addition of the subject parcel would conform to all other requirements and standards of the R-1 district.
6. A variance may be granted if enforcement of a provision in the zoning ordinance would cause the landowner practical difficulties.

7. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.

Options and Motion Language

The Planning Commission reviewed this application at their May 5, 2021 meeting. At that time, they recommended approval with conditions of Planning Case 21-006 for a side yard setback variance at 4073 Valentine Court by a 4-0 vote. The following are motion language options for the City Council to consider.

- **Approval:** Motion to *approve* Planning Case 21-006 for a Variance at 4073 Valentine Court as presented in the May 5, 2021 Report to the Planning Commission.
- **Approval with Conditions:** Motion to *approve* Planning Case 21-006 for a Variance at 4073 Valentine Court as presented in the May 5, 2021 Report to the Planning Commission 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.
- **Denial:** Motion to *deny* Planning Case 21-006 for a Variance at 4073 Valentine Court: *findings to deny should specifically reference the reasons for denial.*
- **Table:** Motion to table Planning Case 21-006 for a Variance at 4073 Valentine Court: *the City Council should identify a specific reason and/or information request should be included with a motion to table.*

Public Notice and Comments

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 13, 2021. A meeting notice for this planning case was published in the Pioneer Press on May 13, 2021. 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 seven public comments, all via email, in support of this request as of May 19, 2021. Redacted public comments are included in Attachment G. During the May 5, 2021 Planning Commission Meeting, the Commission opened the meeting to allow for public comment. The Commission did not receive any public comments at that time.

Deadline for Agency Actions

The City of Arden Hills received the completed application for this request on March 31, 2021.

Pursuant to Minnesota State Statute, the City must act on this request by May 30, 2021 (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.

Budget Impact

N/A

Attachments

- A. Land Use Application
- B. Location Map
- C. Variance Request Letter
- D. Site Survey
- E. Planning Commission Memo
- F. Draft Planning Commission Minutes
- G. Redacted Public Comments
- H. City Council Presentation
- I. Resolution 2021-030