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**DATE:** June 8, 2022

**TO:** Planning Commission Chair and Commissioners

**FROM:** Jessica Jagoe, City Planner

**SUBJECT: Planning Case #22-008 – No Public Hearing Required**  
**Applicant:** Robert Kunze  
**Property Location:** 4073 Valentine Court  
**Request:** Variance

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### Requested Action

Robert Kunze (“Applicant”) has requested a variance to construct a garage addition on the property located at 4073 Valentine Court (“Subject Property”). The Applicant has requested a variance to decrease the required side yard setback from 40 feet to 7.82 feet from the northwest side yard property line.

### Background

#### 1. Existing Site Conditions

4073 Valentine Court, 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 Lane 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-1, Single Family Residential District
<b>Lot Size:</b>	0.86 acres

#### 3. Proposed Use

The 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. 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 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.

#### **4. History of the Planning Case**

The Applicant previously applied for a side yard setback variance to construct the proposed garage addition on March 25, 2021 (Planning Case 21-006). At their meeting on May 5, 2021, the Planning Commission held a public hearing and voted to recommend approval of Planning Case 21-006 with conditions to allow a side yard setback variance at the Subject Property. At their May 24, 2021 meeting, the City Council voted to deny Planning Case 21-006.

#### **5. Approvals**

The Planning Commission is being asked to determine if a variance request for flexibility on the side yard setback of a corner lot 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.

### **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 was constructed in 1953 with 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 single-family dwelling unit.



### *Floor Area Ratio*

In the R-1 District, the maximum allowed Floor Area Ratio (FAR) is 0.3, or 11,262 square feet on the Subject Property. With the proposed garage addition, the FAR on the Subject Property would increase from 0.04 to 0.05.

## **2. 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.

## **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 required side yard setback on a corner lot in the R-1 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 4073 Valentine Court 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 existing neighborhood includes multiple garage additions and has a variety of different garage and housing styles.*

- 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 and side property lines. 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. According to the Applicant, other areas on the property were considered for a freestanding garage, but were ultimately not chosen because placements further from the property line would include removing 100+ year old oak trees. 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 oak trees.*

- 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, and the proposed variance would not alter the character of the neighborhood. Garage have been added to the road side of existing homes in the neighborhood in the past. The topography and odd lot shapes make the neighborhood quite varied. The homes are not 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.*

### **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. The Planning Commission members should state their rationale prior to the vote on the requested variance. A recommended motion by the Planning Commission should include the direction that Staff and the City Attorney prepare proposed findings of fact for City Council consideration.

### **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 22-008 for a Variance at 4073 Valentine Court, 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.
- **Recommend Approval as Submitted:** Motion to recommend *approval* of Planning Case 22-008 for a Variance at 4073 Valentine Court, based on the findings of fact and the submitted materials.
- **Recommend Denial:** Motion to recommend *denial* Planning Case 22-008 for a Variance at 4073 Valentine Court, 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 22-008 for a Variance at 4073 Valentine Court: *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 27, 2022. A public hearing notice for this planning case was published in the Pioneer Press on May 27, 2022. 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 two public comments in support of the requested variance as of June 1, 2022.

### **Deadline for Agency Actions**

The City of Arden Hills received the completed application for this request on April 18, 2022. Pursuant to Minnesota State Statute, the City must act on this request by June 16, 2022 (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 August 15, 2022 (120 days) based on the date of the submission for review by the Planning Commission and City Council during the June meeting cycle. The requestor confirmed receipt of this notification on April 29, 2022.

### **Attachments**

- A. Land Use Application
- B. Location Map
- C. Variance Request Letter
- D. Site Survey