



MEMORANDUM

DATE: June 27, 2022

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

FROM: Jessica Jagoe, City Planner

SUBJECT: **Planning Case #22-008 – 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:

- Adoption of Resolution 2022-037 for Planning Case 22-008 for a variance to construct a garage addition that would decrease the required side yard setback from 40 feet to 7.82 feet from the northwest side yard property line at 4073 Valentine Court (“Subject Property”).

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

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. The Subject Property is a legal non-conforming lot. The current structure is located approximately 20 feet from the side yard property line and today’s minimum side yard setback on a corner lot is 40 feet.

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:	0.86 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 City Council 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

addition would increase the total structure coverage by 339 square feet for a total of 1,825 square feet, or 4.9% of the Subject Property.

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 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 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 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 applicants do 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.

Suggested Findings of Fact

The Planning Commission reviewed this application at their June 8, 2022, meeting and have offered the following findings of fact for your consideration:

Variance Findings:

1. The odd and unusual shape of the lot and topography are unique characteristics of the Subject Property, and those factors restrict alternative options for increased accessory storage.
2. There is limited ability to extend the existing driveway to a detached structure in another location, and single family residential properties are limited to one driveway access per property so a second driveway access would not be permitted off of Valentine Avenue.

3. The garage addition will not impede sight lines or obstruct the clear vision area from the roadways.
4. This is a legal nonconforming lot that was developed in 1953 at which time City Code allowed a 10 foot side yard setback. The scope or scale of the variance request is to locate the proposed garage at a 7.82 foot setback.

Options and Motion Language

The Planning Commission reviewed this application at their June 8, 2022, meeting. At that time, they recommended approval with conditions of Planning Case 22-008 to decrease the required side yard setback from 40 feet to 7.82 feet from the northwest side yard property line at 4073 Valentine Court by a 6-0 vote. The following are motion language options for the City Council to consider.

- Approval with Conditions: Motion to *adopt* Resolution 2022-037, approving Planning Case 22-008, for a Variance at 4073 Valentine Court as presented in the June 27, 2022 Report to the City Council 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: Motion to *adopt* Resolution 2022-037, approving Planning Case 22-008, for a Variance at 4073 Valentine Court as presented in the June 27, 2022, Report to the City Council.
- Denial: Motion to *deny* Resolution 2022-037, approving Planning Case 22-008, for a Variance at 4073 Valentine Court: *findings to deny should specifically reference the reasons for denial.*
- Table: Motion to *table* Resolution 2022-037, approving Planning Case 22-008, 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 June 16, 2022. A meeting notice for this planning case was published in the Pioneer Press on June 16, 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 received seven comments supporting the application in advance of the Planning Commission meeting and two additional comments in support of the application as of June 22, 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.

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. Resolution 2022-037
- H. City Council Presentation