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**DATE:** November 9, 2022

**TO:** Planning Commission Chair and Commissioners

**FROM:** Jessica Jagoe, Community Development Director

**SUBJECT: Planning Case #22-019 – No Public Hearing Required**  
**Applicant:** Ahmed Ali and Nawal Hirsi  
**Property Location:** 3588 Ridgewood Road  
**Request:** Variance

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**Requested Action**

Ahmed Ali and Nawal Hirsi (“Applicants”) have requested a variance for future development of a single-family residential dwelling for the property located at 3588 Ridgewood Road (“Subject Property”). To construct the proposed single-family dwelling, the applicants are requesting three variances:

- Lot Depth: The nonconforming property has a lot depth of 97.4 feet. The minimum lot depth in the R-1 Zoning District is 130 feet.
- Setbacks: The applicants propose a 10 foot setback from the property line abutting Snelling Avenue North and a 16 foot setback from the property line abutting Ridgewood Road. The minimum front yard setback in the R-1 Zoning District is 40 feet.
- Driveway Access: The applicants propose the driveway access off Snelling Avenue North. City Code requires access to be obtained from the local street - Ridgewood Road.

**Background**

**1. History for the Sale of the City Owned Parcel**

At the August 16, 2021 Work Session, the Arden Hills City Council first discussed selling the city-owned parcel at 3588 Ridgewood Road—now the Subject Property of this planning case. At the subsequent meeting, the Planning Commission reviewed the interest in selling the parcel for consistency with the City’s Comprehensive Plan. The City has verified that the parcel is not dedicated for a public purpose that would prohibit the sale (i.e. park land or public improvements) or as a site for future development to meet the needs of city infrastructure or operational activities, and it was found that the sale of the Subject Property would be in compliance with the City’s Comprehensive Plan.

During the discussions, the City was evaluating the parcel size based off of Ramsey County Property Records and GIS mapping as there was no certificate of survey on record for the Subject Property. Ramsey County Property Records have the deeded acreage as 0.31 acres (approx. 13,500 square feet). The Subject Property came from the State through the County as part of the turn back of the Old Snelling Avenue (now referred to as Snelling Avenue North) corridor ROW to the City. Based on the best information available from Ramsey County, city staff initially identified that the total lot area of the parcel would be nonconforming since the minimum lot area requirement in the R-1 District is 14,000 square feet. A preliminary analysis of lot dimensions was completed as part of the Planning Commission review utilized the County’s GIS mapping in order to garner the approximate lot width and lot depth.

Over the next year, city staff worked through the process to facilitate the sale of the Subject Property. On August 8, 2022, the City Council approved the purchase agreement for the Subject Property from Ahmed Ali and Nawal Hirsi. The purchase agreement included an acknowledgement of the Applicant’s responsibility for all costs associated with due diligence which includes the variance review due to the nonconforming lot size. As part of the due diligence via a survey, it was determined that the lot measured approximately 14,472 square feet, and would not require a variance for lot area but would require a variance for lot depth.

**2. Site Data**

3588 Ridgewood Road, the Subject Property, is zoned R-1, Single-Family Residential District. It is designated for Low Density Residential Uses in the 2040 Comprehensive Land Use Plan. The subject property is currently undeveloped. All surrounding parcels are also zoned R-1, Single Family Residential District and designated for Low Density Residential Uses in the Land Use Plan.

<b>2040 Future Land Use Plan:</b>	LDR – Low Density Residential
<b>Existing Land Use:</b>	Vacant
<b>Zoning:</b>	R-1 Single Family Residential District
<b>Lot Size:</b>	0.33 acres/14,472 square feet

**3. Proposed Use**

The Applicants are requesting a variance for the nonconforming lot depth, to decrease the required front yard setback from 40 feet to a 10 foot setback from the property line abutting Snelling Avenue North and a 16 foot setback from the property line abutting Ridgewood Road, and the driveway access off Snelling Avenue North rather than from the local street - Ridgewood Road. Due to the nonconforming lot size of the Subject Property, the City Attorney has confirmed that a variance would be required for lot depth for future development of the site. The listing agreement did specify that a variance would be necessary due to the nonconforming lot size and it would be the responsibility of the Future Buyer to provide documentation including, but not limited to, a certificate of survey, elevation renderings, and floor plans in order to verify compliance with applicable city code requirements such as setbacks, lot coverage, floor area ratio, and other design standards with the proposed development as part of the variance review process. According to the Applicants narrative, the Subject Property includes unique circumstances due to its irregular shape, topography, and orientation of adjacent properties. Therefore, the Applicants have made the decision to also pursue a variance from the required front yard setback and driveway access. The Applicants have stated they would intend to meet applicable building codes and all other regulations in the R-1 District.

## 4. Approvals

The Planning Commission is being asked to determine whether a variance request for flexibility on lot depth, front yard setbacks, and driveway access should be approved. The Planning Commission is being asked to determine whether a variance request for flexibility on lot depth, front yard setbacks, and driveway access should be approved. A certificate of survey has been submitted showing the location of the proposed dwelling and driveway. The evaluation of the proposal should be based on the District Provisions in Section 1320, General Regulations in Section 1325, and the Requirements for a Variance in Section 1355.04, Subd. 4.

### Plan Evaluation

#### Chapter 13, Zoning Regulations Review

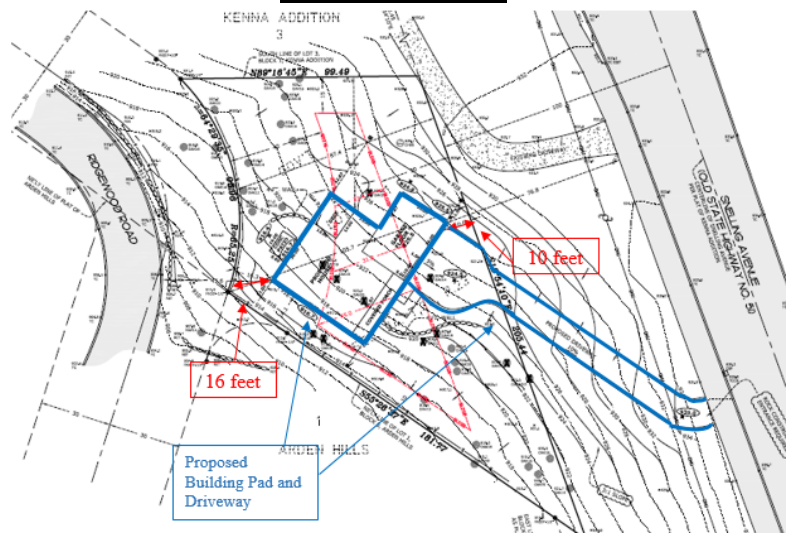
##### 1. District Provisions (*R-1, Single Family Residential Zoning District*) – Section 1320.06

###### *Lot Size and Dimensions*

The Subject Property came from the State through County as part of the turn back of the Old Snelling Avenue corridor ROW. The lot is considered a nonconforming lot. Section 1320 – District Provisions of the Zoning Code requires a minimum lot size of 14,000 square feet per single-family dwelling unit and a minimum depth of 130 feet. The Applicants did obtain a certificate of survey which verified that the total lot area of the Subject Property is 0.33 deeded acres (14,472 square feet), but the lot depth has a mean depth of 97.4 feet. The Applicants is requesting a 32.6 foot lot depth variance to address this nonconformity in lot size.

As previously noted, the lot size from staff's initial analysis would require a variance prior to future development as confirmed by the City Attorney. From the recent survey completed by the Applicants, the City identified that the total lot area of the parcel is slightly larger than the property information available on the County records. City staff contacted Ramsey County and it was their direction to use the boundary dimensions and lot area calculations as shown on the official survey as this document was prepared by a licensed surveyor. They indicated that the County's GIS map is only an inventory of tax records based upon the best available information.

###### Certificate of Survey



*Structure Setbacks*

In the R-1 District, the minimum front and rear setback requirements are 40 feet and 30 feet, respectively. The minimum side yard setbacks on an interior lot are 10 feet on each side with a combined total side yard setback of 25 feet. The Subject Property is a Through Lot by definition - *“A lot that has a pair of opposite lot lines on two substantially parallel streets and is not a corner lot. On a through lot, the determination of whether the street frontage is to be considered a front yard or rear yard shall be as subject to the provisions of this Code.”*

Section 1325.03, Exceptions to the Minimum Requirement for All Districts states for a Through Lot that *“The administrator may determine that one of the front yards may be deemed a rear yard and shall determine appropriate rear yard setback regulations. Factors to be considered shall include topography, location of structures on the lot, location of structures on adjacent lots, and the type of streets or thoroughfares abutting the lot.”*

For purposes of the variance request before the Planning Commission, city staff has not made a determination of deeming one of the front yards (i.e. Ridgewood Road or Snelling Avenue North) a rear yard. In processing this variance request, city staff has identified both the east and west road frontages as front yards. As noted in the code, one of the factors for consideration in granting an exception is the location of structures on the lot. The Applicants are requesting their driveway access off of Snelling Avenue North and have orientated the front of the house towards Snelling Avenue North with the rear of the house off of Ridgewood Road. Based on the outcome of the variance, city staff will reevaluate whether to deem one of the road frontages a rear yard subject to rear yard setbacks.

The Applicants are requesting a front-yard setback variance—abutting Ridgewood Road—to allow a future dwelling to be built 16 feet from the front property line. The Applicants are also requesting a front-yard setback variance—abutting Snelling Avenue North—to allow a future dwelling to be built 10 feet from the front property line. The Applicants are not requesting a side yard setback variance.

The following table provides a summary of the setbacks for the immediately adjacent parcels obtained from City property records (i.e. certificate of survey or building plans) and Ramsey County GIS Mapping. Some of the distances are approximate based on the information available.

	<b>Front Setback – 40’</b>	<b>Rear Setback – 30’</b>	<b>Side Setbacks - 10’/25’</b>
<b>3583 Snelling Ave. N.</b>	42.5’ – Snelling Ave. N.	30.87’ - Ridgewood Rd.	10’ (north)/40’/Combined
<b>3570 Ridgewood Rd.</b>	40’ – Ridgewood Rd.	70’ – Snelling Ave. N. (approx.)	16’ (north)/30’ combined

	<b>Front Setback – 40’</b>	<b>Front Setback – 40’</b>	<b>Side Setbacks - 10’/25’</b>
<b>3588 Ridgewood Rd. – Proposed</b>	16’ – Ridgewood Rd.	10’ – Snelling Ave. N.	10’ (south)/69’ combined (approx.)

### *Driveway Access*

Section 1325.06, Subd. 1 (B) – Access of the Zoning Code requires “*any residential lot, which has frontage on both a local street and a collector street or a major or minor arterial (as defined by the Comprehensive Plan of Arden Hills), [to] gain access only from the local street.*” The Applicants are requesting a variance from this provision to construct a future driveway off Snelling Avenue North—a collector street, instead of Ridgewood Road—a local street.

As proposed, the driveway off of Snelling Avenue North would have a 10% slope. The Applicants have stated that from the street to the garage there is an elevation change of 20 feet which would make for unsafe conditions to have their driveway access off of Ridgewood Road.

### *Other City Codes - Landscaped Area, Structure Coverage, and Floor Area Ratio*

At this time, the Applicants have chosen not to include calculations for floor area ratio. Before finalizing their home design, the Applicants are looking to complete the City review of the current variance request. The Applicants will finish the design of a future structure depending on the outcome of the variance request. The certificate of survey identifies the proposed house footprint would equate to 15.4% structure coverage (max allowed 25%) and 23.2% impervious (max allowed 35%).

The table below provides the district standards for the R-1 District and the preliminary analysis for the proposed development:

	<b><i>Required</i></b>	<b><i>Proposed</i></b>
<b><i>Lot Area</i></b>	Minimum 14,000 SF	14,472 SF
<b><i>Lot Width/Depth</i></b>	95’/130’	95.96’/97.4’
<b><i>Front Yard Setback – Ridgewood Road</i></b>	Minimum 40’	16’
<b><i>Front Yard Setback – Snelling Avenue North</i></b>	Minimum 40’	10’
<b><i>Side Yard Setback</i></b>	10’ Minimum/ 25’ Combined	14’ (south)/ 69.9’ Combined
<b><i>Driveway Access</i></b>	Local Street – Ridgewood Road	Collector Street – Snelling Avenue North
<b><i>Landscaped Area</i></b>	Greater than 65% (Minimum 9,407 SF)	76%
<b><i>Structure Coverage</i></b>	Less than 25% (Maximum 3,618 SF)	15.4%
<b><i>Floor Area Ratio</i></b>	Less than 0.3 (Maximum 4,341 SF)	N/A
<b><i>Minimum Dwelling/Structure Width</i></b>	20’	46’

## **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 Applicants are requesting a variance for the nonconforming lot depth, to decrease the required front yard setback from 40 feet to a 10 foot setback from the property line abutting Snelling Avenue North and a 16 foot setback from the property line abutting Ridgewood Road, and the driveway access off Snelling Avenue North whereas city code requires access to be obtained from the local street - Ridgewood Road. 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 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 Applicants have stated the variance request for 3588 Ridgewood Road is consistent with the purpose and intent of the R-1 Zoning District and with the policies within the City’s Comprehensive Plan. A single-family detached dwelling is a permitted use within the Low Density Residential land use designation and the R-1 Zoning District.*

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.

*The Subject Property is non-conforming with the R-1 district standards due to the preexisting lot depth. The Applicants have stated that without the granting of some form of variances the property would not be able to be put to a reasonable use such as construction of a home. They’ve indicated that their proposed home would be the same distance away from Ridgewood Road as the home directly to the north, and the proposed access to Snelling Avenue North will be similar to the adjacent circumstances in keeping with the character of the neighborhood.*

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

*As confirmed by the City Attorney, a variance from the R-1 District minimum lot depth of 130 feet reduced to a mean lot depth of 97.4 feet would be necessary for future development of the Subject Property to occur.*

*The Applicants have further stated that they are not responsible for the original configuration of the Subject Property which is driving the need for the variances requested. They've noted that the request for the driveway access off of Snelling Avenue North is a result of the unsafe conditions that would be created with access off of Ridgewood Road due to the significant elevation difference between the available building pad and the road.*

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

*The Applicants have stated that they have orientated the house and configured the layout of the parcel in a manner that would ensure consistency and compatibility within this neighborhood.*

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.*

### **Additional Review**

#### *Building Official*

The Building Official has reviewed the plans and has no additional comments at this time. A Building Permit will be required prior to any construction taking place.

#### *Public Works Director/City Engineer*

The Public Works Director/City Engineer has reviewed the plans and has the following comments which have been included in the draft recommended conditions of approval:

- Grading and Erosion Control Permit would be required
  - As-built required, also showing utilities
- RCWD review and approval is required
- Two (2) Right-of-Way Permits will be needed
  - Snelling Avenue N driveway access construction. Through review it will be determined if a full-width patch on Snelling Ave N will be required. Reconstruction of the trail and curb will have to meet ADA standards. Potential conflict with the existing catch basin, driveway may need to be shifted to the South. All patches will have to match existing trail/street pavement section thickness.
  - Ridgewood Rd utility connections. Full-width patch will be required and must match the existing street pavement section. Inspection will be required and proper backfill material must be approved by Public Works.
- Sanitary Sewer Connect Permit required
- Water Connect Permit required

- Through plan submittals, Engineering will review in more detail and may have more comments.

## **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-1 Zoning District lot depth, front yard setback, and driveway access at the Subject Property, 3588 Ridgewood Road.
2. The Subject Property is a nonconforming lot of record deeded to the City through the State and County from the Old Snelling Avenue corridor right-of-way (now referred to as Snelling Avenue North).
3. The Subject Property is a nonconforming lot with a mean lot depth of 97.4 feet and does not comply with the minimum R-1 district standards for lot depth of 130 feet.
4. The Subject Property is currently undeveloped.
5. The Planning Commission has determined that a potential sale of the City owned property at 3588 Ridgewood Road would be in compliance with the City's Comprehensive Plan.
6. The proposed single-family dwelling would not require a side yard setback variance.
7. The proposed single-family dwelling on the Subject Property would conform to all other requirements and standards of the R-1 Zoning District.

### *Variance Findings:*

8. Variances are only permitted when they are in harmony with the general purposes and intent of the ordinance.
9. The variance would be consistent with the City's Comprehensive Plan because it meets the City's housing goal of encouraging redevelopment that is complimentary to and enhances the character of the City's established neighborhoods.
10. A single-family dwelling is a permitted use within the R-1 Zoning District.
11. A single-family dwelling is a reasonable use of the property that would not be allowed under the rules of the Zoning Code without the requested variance.
12. The nonconforming lot depth for the R-1 Zoning District is a unique circumstance that is attributed to the dimensions of the Old Snelling Avenue corridor right-of-way (now referred to as Snelling Avenue North) turned over to the City.
13. The proposed single-family dwelling would not alter the essential character of the neighborhood because the configuration of development on the Subject Property would be consistent and compatible with the neighborhood.
14. 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 22-019 for a Variance at 3588 Ridgewood Road, based on the findings of fact and the



submitted plans, as amended by the conditions in the November 9, 2022, 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.
  3. A Grading and Erosion permit shall be obtained from the City's PW/Engineering Division prior to commencing any grading, land disturbance or utility activities.
  4. Upon completion of grading and utility work on the site, a grading as-built and utility as-built shall be provided to the City.
  5. Final grading, drainage, utility, and site plans shall be subject to approval by the Public Works Director/City Engineer and Community Development Director prior to the issuance of a grading and erosion control permit or other development permits.
  6. Heavy duty silt fence and adequate erosion control around the entire construction site shall be required and maintained by the Applicants during construction to ensure that sediment and storm water does not leave the project site
  7. The Applicants shall be responsible for providing verification of approval and obtaining any permit necessary from the Rice Creek Watershed District prior to the start of any site activities.
  8. A separate right-of-way permit for each roadway shall be required for work performed within the City right-of-way.
  9. All Public Works Director/City Engineer comments as stated in the November 9, 2022 Staff Report for driveway access connection and utility connections shall be addressed and are adopted herein by reference. The Applicants shall be financially responsible for 100 percent of the costs for connections.
  10. The Applicants shall be responsible for obtaining a Sanitary Sewer Connect Permit.
  11. The Applicants shall be responsible for obtaining a Water Connect Permit.
  12. Prior to the issuance of a building permit, the Applicants shall be financially responsible for 100 percent of all applicable sewer connection, sewer availability, water connection, water availability and Metropolitan Council SAC charges.
  13. A Tree Preservation Plan shall be required as part of the Building Permit application for the new dwelling. Any tree removal, preservation, and mitigation shall be completed in accordance with City Code Section 1325.055.
- Recommend Approval as Submitted: Motion to recommend *approval* of Planning Case 22-019 for a Variance at 3588 Ridgewood Road, based on the findings of fact and the submitted materials in the November 9, 2022 Report to the Planning Commission.
  - Recommend Denial: Motion to recommend *denial* Planning Case 22-019 for a Variance at 3588 Ridgewood Road, 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 22-019 for a Variance at 3588 Ridgewood Road: *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 October 28, 2022. A public meeting notice for this planning case was published in the Pioneer Press on October 28,

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.

### **Public Comments**

The City has not received any public comments regarding this planning case as of November 2, 2022.

### **Deadline for Agency Actions**

The City of Arden Hills received the completed application for this request on October 3, 2022. Pursuant to Minnesota State Statute, the City must act on this request by December 1, 2022 (60 days), unless the City provides the petitioner with written reasons for an additional 60 day review period. The City may, with the consent of the applicant, extend the review period beyond the initial 120 days.

### **Attachments**

- A. Land Use Application
- B. Location Map
- C. Narrative
- D. Site Survey
- E. Supplemental Info