



## MEMORANDUM

To: St. Anthony Village Planning Commission  
From: Stephen Gritman, City Planner  
Date: Planning Commission Meeting - November 15, 2022  
NAC Project No. 323.01 – 22.04  
Request: Request for Variance to Side/Back Yard Setback Requirement  
Property Address: 2919 Silver Lane NE  
Property PID: 313023240008

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## STAFF RECOMMENDATION

The applicant proposes to construct an additional shop/garage to the northwest side of an existing home at the above noted address. The proposed garage would be an additional 20 by 27 feet in size, adjoining the north property line. Because the north property line is defined by the zoning ordinance as the rear lot line, the required setback would be 25 feet. The applicant is seeking a variance to this aspect of the Zoning Ordinance, redefining the rear yard as the west property line, and the subject north line as a side yard. .

An complicating factor in this request is that the applicant has provided a hand-drawn site plan that projects a 14 foot setback from the corner of the new garage to the north property line, consistent with the zoning ordinance's requirement for a 5 foot side yard setback. However, the applicant's plan varies significantly from Ramsey County GIS mapping, which shows only about 20 feet of space between the existing building and the actual boundary. With a 5 foot building separation, and even if approved, a 5 foot "side" yard setback requirement, only 10 feet of garage width would be possible.

Staff has notified the applicant that he will need to provide additional evidence of property description – presumably by a survey. Even with the variance redescribing the side yard, the proposed 20 foot wide building would appear to encroach onto the neighbor's property by 5 feet, more than merely violating the side setback.

**Without this additional evidence, staff recommends denial of the North property line setback encroachment as proposed.**

Staff has reviewed for height, use, other setbacks, and impervious surface; the request appears to meet all other code requirements. The proposed impervious surface would be just under 26.5%, within the allowance for up to 35% coverage.

## GENERAL INFORMATION

Applicant:	Chadd Olson
Owner:	Dennis Olson
Location:	2919 Silver Lane NE
Existing Land Use	Low-Density Residential
Zoning:	R-2, Two Family Residential District
Surrounding Land Use / Zoning:	North: Low-Density Residential / Zoned: R-2, Two Family Residential East: Multi Family (New Brighton) South: Park-Recreational / Zoned: ROS Recreational West: Low-Density Residential / Zoned: R-1A Single Family District
Deadline for Agency Action:	Application Complete Date: 11/10/2022 60 Days: 1/10/2023 Letter Sent: No 120 Days: 3/10/2023

## ANALYSIS

### 1. Background

The applicant is proposing to construct site modifications that will encroach into the required North property line setback. The parcel in question is shown on the zoning map below and is 145 feet in width and approximately 12,020 square feet in area.

The applicant has previously presented this addition to staff in concept, but was advised to place the new garage on the west side of their property where there is space and would not encroach on the property line with proper adjustments to the layout of the addition. Under the current code requirement, the front of a corner lot is defined as that which provides the main access to the home. Opposite the front is the rear, with side yards on either side.

As such, the applicant is seeking a variance to redefine the side and rear yards on the subject property, changing the code-based interpretation to define the north portion of the lot as the side, and the west side of the lot as the rear. This would have the effect of changing the setback requirement from the north property line from 25 feet to 5 feet.

The applicant claims that their proposed design will make better use of the landscape because it is unable to grow lawn or other plants. In addition, it is suggested that a building in the proposed location will hide it from the street side, minimizing the visibility of it from the community and the park space to the south.



Variations. The zoning ordinance sets out a series of criteria for a request to qualify for variance consideration. Those criteria are found in §152.245, (C) *Evidence of the Zoning Chapter*, and are included in this report for reference below. The criteria can be summarized as whether there are unique conditions on the property that contribute to creation of a practical difficulty in putting the property to what would otherwise be considered a reasonable use – reasonable use is often thought of as one that would be common and acceptable in the area. Variations may not be entirely economic in nature, nor be the result of the actions of the applicant.

In this case, there are conditions suggesting that this request is within the requirements of the variance ordinance standards. First is the definition of “reasonable use”. By far the most common condition in single family neighborhoods would be a garage. Because the variance standard incorporates conditions common in the area, the lack of a two-car garage can be considered a factor in whether the regulations prohibit reasonable use on the property.



The applicant suggests that the requested encroachment will permit them to upgrade the house, retaining or enhancing neighborhood character as a result. It is presumed that the addition will match the existing structure architecturally and with similar materials.

The proposed design does not appear to be out of character with the neighborhood. For any variance, the underlying requirement must be that the proposed use of property is reasonable, that is, a condition that most would presume to be a common and expected use of property. If so, the next test is whether unique conditions exist on the property, and whether those conditions create “practical difficulties” in using the property reasonably.

As noted above, however, staff recommends denial of the variance for the North property line encroachment for the proposed garage addition. The treatment of the north yard as a side yard would indeed be a reasonable configuration for this site. However, it appears that the application is based on a misunderstanding of the lot line locations, with the applicant’s sketch suggesting a much greater buildable area than shown on official County property records. Unless there is evidence that the County’s records are incorrect, staff cannot recommend approval, since the addition would then actually encroach onto neighboring property.

At the applicant’s request, the Planning Commission could hold the application open for 30 days to provide the applicant an opportunity to supplement the record as to the proper boundary.

## 2. Representative Codes Referenced.

Title XV Land Usage, Chapter 152 Zoning Code, Section §152.039 (F) *Side yards*. Each dwelling must have 2 side yards, each having a width of at least 5 feet and having a combined width of at least 15 feet. Any side yard adjacent to a street must be at least 30 feet in width

Title XV Land Usage, Chapter 152 Zoning Code, Section §152.039 (G) *Rear yard*. The rear yard must have a depth equal to the greater of 20% of the depth of the entire lot or 25 feet.

Title XV Land Usage, Chapter 152 Zoning Code, Section §152.245 VARIANCES (A) Application states that “An owner of property with an existing structure which does not comply with the zoning code, or of property on which such a structure is proposed to be constructed, may apply for a variance upon payment of the fee specified in Chapter 33”.

## 3. Criteria for and Consistency with Criteria for Variance Approval. Title XV Land Usage, Chapter 152 Zoning Code, Section §152.245, (C) *Evidence*, lists the criteria the City Council must consider in determining whether to grant or deny a variance.

**Request:** Request to redefine the side and rear yards for a single family parcel. The applicable criteria include:

1. *The subject matter of the application is within the scope of this section.*
2. *Strict enforcement would cause practical difficulties because:*
  - a. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
  - b. *The plight of the property owner is due to circumstances unique to the property not created by the property owner;*
  - c. *The variance, if granted, will not alter the essential character of the locality; and*
  - d. *Economic considerations alone are not the basis of the practical difficulties.*
3. *The variance, if granted, would be consistent with the City's comprehensive land use plan.*
4. *The granting of the variance is in harmony with the general purposes and intent of the zoning code.*

## **SUMMARY AND STAFF RECOMMENDATION**

***North Property Line Setback Variance.*** Staff recommends denial of the requested north property line setback encroachment variance at 2919 Silver Lane NE.

This recommendation is based on a finding that the proposed addition is based on a site plan that appears to overstate the available buildable area, compared to Ramsey County mapping records. As such, the building would be unable to meet the required setbacks (even if the variance were to be approved), and may encroach onto neighboring property.

## **ALTERNATIVE ACTIONS**

### **Decision 2. Variance to North Property Line Setback**

1. Request Additional Information and Table Action, subject to the pending submission of additional information from the applicant.

## **ATTACHMENTS**

Exhibit A: Application and Supporting Material