



CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031

Phone (507) 238-9461

www.fairmont.org

Fax (507) 238-9469

TO: Board of Zoning Appeals

FROM: Peter Bode, Planner/Zoning Official

DATE: January 4, 2022

SUBJECT: **Agenda – Regular Meeting**
Tuesday, January 4, 2022 at 4:30 p.m.
Fairmont City Council Chambers, 100 Downtown Plaza

- 1) Approval of Agenda
 - 2) Approval of Minutes – December 7, 2021
- New Business*
- 3) Public Hearing – Variance Request, 445 Kings Rd

Old Business

None

- 4) Adjournment

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

December 7, 2021 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Mike Klujeske, Jay Maynard, Council Liaison Bruce Peters

Members absent: Susan Krueger, Council Liaison Randy Lubenow

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

Chair Maynard called the meeting to order at 4:30 p.m.

Approval of Agenda: Motion by Klujeske and second by Jacobson to approve the agenda as presented. Motion carried.

Approval of Minutes: Motion by Jacobson and second by Klujeske to approve the July 6, 2021 meeting minutes as presented. Motion carried.

Public Hearing - Variance Request for 2319 Albion Ave: Chair Maynard opened the public hearing. Bode introduced a request by Troy and Jadee Menke at 2319 Albion Ave for variances to allow a 2-foot in lieu of 50-foot OHWL setback from Hall Lake and a 0-foot in lieu of 30-foot front yard setback requirement from Albion Avenue. Bode stated that staff's findings supported denial of the request.

Troy and Jadee Menke discussed the proposal with the Board and spoke in favor of their request. Bode stated that no further public comments have been received.

There were no additional public comments. Motion by Jacobson and second by Klujeske to close the public hearing. Motion carried.

The Board discussed the proposal. Members indicated a preference to give time to the applicants to apply for a required public waters work permit from the Minnesota Department of Natural Resources. Bode stated that the Board has 60 days from the public hearing to decide on the variance request.

The Board tabled the request.

Motion by Jacobson and second by Klujeske to adjourn. Motion carried and the meeting adjourned at 4:58 p.m.

Old Business: *None*

Adjournment: Motion by Maynard and second by Klujeske to adjourn the meeting at 4:46 p.m. Motion carried.

*Respectfully submitted,
Peter Bode*

GENERAL INFORMATION

Applicant: Dan Hilgendorf
Property Owner: Keri Blomster & Dan Hilgendorf
Purpose: To allow a 17-foot in lieu of 20-foot front yard setback requirement
Address: 445 Kings Road
Parcel Number(s): 23.157.0080
Zoning: Single Family Residential (R-1), Shoreland Overlay District (SOD)
Surrounding Land Use: Single Family Residential (R-1)
Application Date: November 29, 2021
Review Date: January 4, 2022

BACKGROUND

This conforming single-family residential (R-1) lot measures approximately 113 feet wide by 117 feet long. The lot abuts Lake Sisseton and is in the middle of a single-family neighborhood. On the lot exists a single-family home, an attached garage, and various impervious patios and walkways.

The applicant proposes to build a series of additions on the rear and front of the home. A proposed garage in the front of the home would extend 17 feet and 6 inches from the front property line. The City’s Zoning Code considers half distances to be rounded to the lower instead of the higher foot. Therefore, the applicant requests a variance setback of 17 feet in lieu of the 20 required.

The property’s front property line is located approximately 15 feet from King Road’s street surface.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this neighborhood to be traditional family. The parcel is zoned R-1, of which attached garages are permitted.

Zoning Code normally requires a 30-foot front yard setback in this district. However, the setback can be reduced to 20 feet if the average setback of adjacent existing homes is less than 30 feet. In this case, the average of the northern and southern neighboring properties is approximately 20 feet. *Section 26-152(e)(4)(a)* states: “On lots of record where adjacent structures have less than the required setback, the front yard minimum setback shall be the average of adjacent structures. In no case shall the minimum front yard setback be less than twenty (20) feet.”

REVIEW OF VARIANCE STANDARDS

City Code Section 26-101 guides the Board of Zoning Appeals in how to review variance requests:

No variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards.

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff find that a circumstance exists in which Kings Road angles towards the property as it runs south. This, combined with a right-of-way of 66 feet in width and the existence of Lake Sisseton to the rear of the property, limits the reasonable buildable area for a garage to the northwest corner of the property as proposed.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

The essential character of this neighborhood is shaped by Lake Sisseton to the east and Budd Lake to the south. To prevent encroachment on the public water's shore impact zone and structural buffer, the Zoning Code intends to allow some accessory development closer to the street of properties which are riparian.

In September of 2019, the Board of Zoning Appeals granted a variance of 23 feet in lieu of 30 feet for similar reasons at 799 Shoreacres Avenue. In that case, adjacent structures maintained conforming setbacks, so the front yard setback was the standard 30 feet.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Because the neighborhood is located between the winding shorelines of Lake Sisseton and Budd Lake, nonconforming setbacks can be found in the area. To the south at 455 Kings Road, the home maintains approximately 14 feet from the front property line. Across the street at 458 Kings Road, a corner setback of approximately 21 feet is maintained where 25 feet is normally required.

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff believe that granting the proposed variance will not impair supplies of air or light to adjacent property, or otherwise impact the public welfare or property values.

RECOMMENDATION

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

By placing the garage in the northwest of the property, staff assess that the landowner intends to use the property in a reasonable manner. Kings Road's winding route along Lake Sisseton and Budd Lake creates a unique characteristic for this property and those to the south. This condition is part of what makes up the neighborhood's essential character.

Considering applicable statute and code, staff's findings support the request for a variance to allow a 17-foot in lieu of 20-foot front yard setback requirement.

Respectfully submitted,

Peter Bode

Planner/Zoning Official

232030070

231570160

231570090

231570150

231570080

231570080



BLOMSTER, KERI A & D
HILGENDORF
DANIEL W HILGENDORF
445 KINGS RD
Value \$465300 Note:

[View: Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)

232000050

231570070

00030

**CITY OF FAIRMONT
Planning & Zoning
Application Form**

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

Name of Applicant: Dan Hilgendorf / Keri Hilgendorf Address: 445 Kings Rd / Fairmont, MN 51031 Phone#: 507-234-0300 / 507-234-0301 Dan Keri

Street Address of Proposal: 445 Kings Rd

Legal Description of Property: _____

Existing Use of Property: Residential Home

Proposed Use of Property: Residential Home

Type of Application	Fee	Submission Requirements (Attached)
<input type="checkbox"/> Appeal/Code Amendment	\$150.00	7
<input type="checkbox"/> Administrative Appeal	50.00	8
<input type="checkbox"/> Conditional Use Permit	150.00	4, 6(d-g)
<input type="checkbox"/> Home Occupation Permit	30.00	9
<input type="checkbox"/> Minor Plat	90.00	2(a), 5 (a-b)
<input type="checkbox"/> Planned Unit Development	150.00	1, 4, 6(d-g)
<input type="checkbox"/> Preliminary Plat	150.00	5 (b), 6
<input type="checkbox"/> Rezoning	150.00	1
<input checked="" type="checkbox"/> Variance	90.00	2,3

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Daniel Hilgendorf & Keri Hilgendorf / [Signature]
Owner's Name(Printed) / Owner's Signature

Daniel Hilgendorf & Keri Hilgendorf / [Signature]
Applicant's Name (Printed) / Applicant's Signature

City Staff Use Only

DATE FILED: _____

DATE FEE PAID: _____

MEETING DATE: _____

NOTICES SENT (DATE): _____

NOTIFICATION OF EXTENSION (LETTER SENT): _____

November 29, 2021

Peter Bode
Planner/Code Enforcement Technician
100 Downtown Plaza
Fairmont, MN 56031

RE: Variance Request for 445 Kings Rd / Parcel #231570080

Dear Peter:

As you know, we have been working with you on a home improvement project since July 2020. We finalized a plan with the help of Hertzke Construction and applied for and received approval for a building permit (#2021-0617) for a garage and bedroom addition on 10/21/21. As construction began and the dimensions of the garage were laid out, we realized the area would not accommodate a compact vehicle, which was our intent. Through working with you, we know that the current approved garage addition is the maximum allowed under current zoning rules. Therefore, we would like to submit a variance request for a front yard setback of 18.0 feet in lieu of the current allowable set back of 20.0 feet.

A detailed drawing of the property including the new additions was submitted with the building permit application. An updated drawing is included with the variance application showing the proposed new measurements. We have also reviewed and discussed with you the four required standards of the variance request as well as the City's Comprehensive plan and we are confident the application meets those requirements.

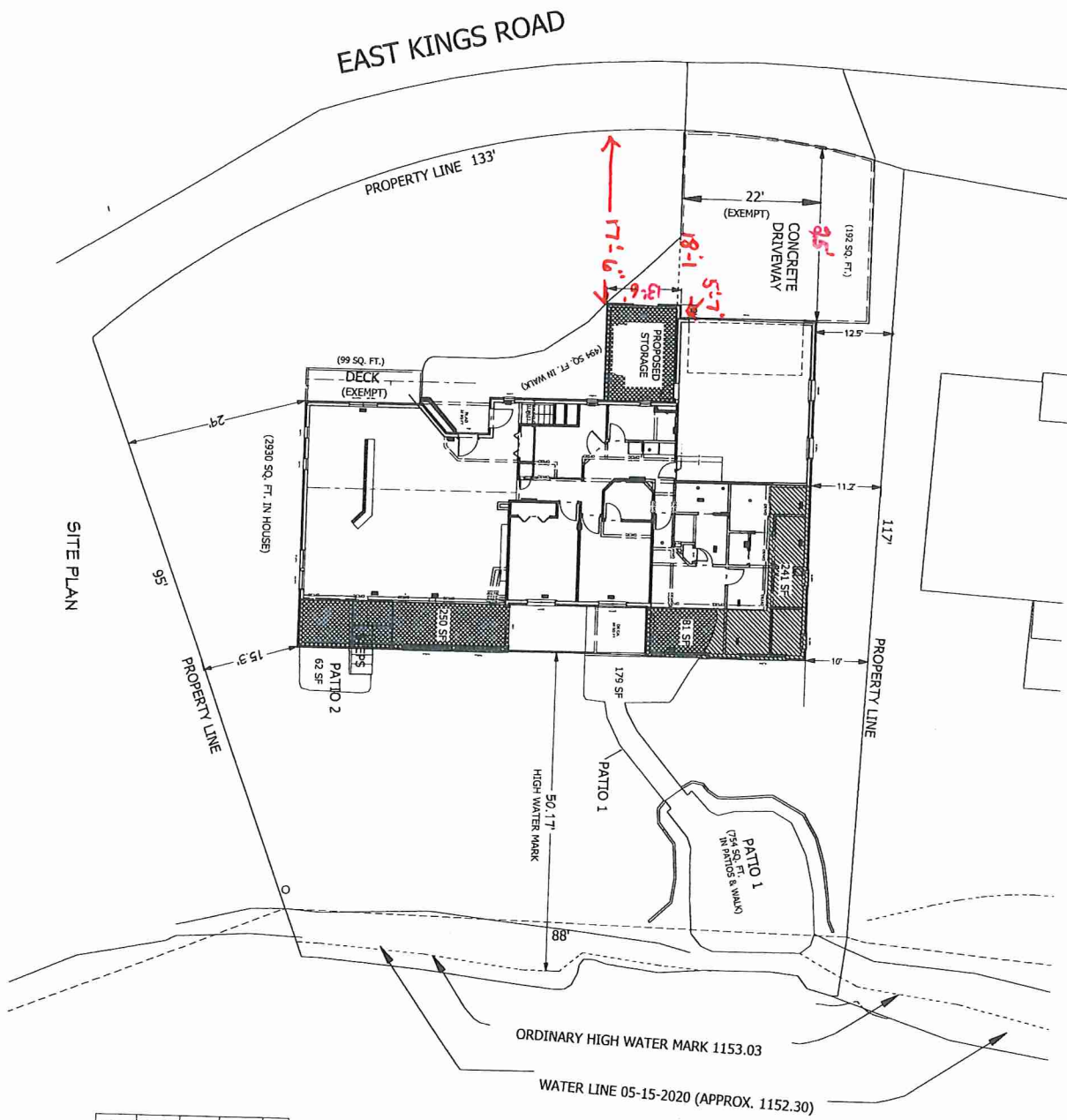
Included with the variance application is a letter of support signed by nearby property owners we contacted to inform of the project.

Please review the information submitted and contact us with questions and/or comments. Thank you for your consideration.

Sincerely,



Dan & Keri Hilgendorf
445 Kings Rd
Fairmont, MN 56031

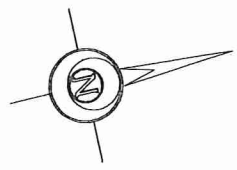


SITE PLAN

EAST KINGS ROAD

SISSETON LAKE

KEY	
	EXISTING
	ADDITION (641 SF)
	ADDITION OVER EXISTING IMPERVIOUS (EXISTING PAVEMENT OR BASEMENT) AREA
	EXISTING IMPERVIOUS TO BE REMOVED (179 SF + 62 SF + 241 SF)



SP1
SITE PLAN

DATE:
11/4/2020

GENERAL CONTRACTOR:

JULIA ZETTLER DESIGN
303.718.2292
WWW.JULIAZETTLERDESIGN.COM

DAN & KERI HILGENDORF
445 KINGS ROAD
FAIRMONT, MN 56031

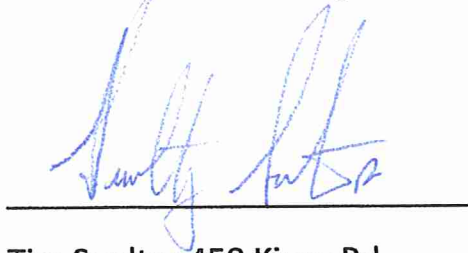
Julia Zettler
DESIGN

11/27/2021

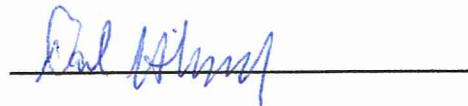
We, as neighbors, have no problems or objections if the garage addition at 445 Kings Rd. was extended two feet towards the street.

A handwritten signature in blue ink, appearing to read "Steve Janssen", written over a horizontal line.

Steve Janssen 455 Kings Rd

A handwritten signature in blue ink, appearing to read "Tim Soelter", written over a horizontal line.

Tim Soelter 458 Kings Rd

A handwritten signature in blue ink, appearing to read "Daniel Hilgendorf", written over a horizontal line.

Daniel Hilgendorf 441 Kings Rd



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**CITY OF FAIRMONT
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Fairmont Board of Zoning Appeals will meet at the City Council Chambers, 100 Downtown Plaza, Fairmont, MN 56031 at 4:30 p.m. on Tuesday, January 4, 2022 to conduct a Public Hearing to review the following item:

Keri Blomster & Dan Hilgendorf
445 Kings Rd (Parcel ID 23.157.0080)
Front yard setback variance 17 feet in lieu of 20 feet

Members of the public wishing to provide public comment may attend the meeting. Written comments can also be submitted to City of Fairmont, attention Patricia Monsen, 100 Downtown Plaza, Fairmont, MN 56031.

Questions about the proposal can be directed to Peter Bode, Planner/Code Enforcement Technician at pbode@fairmont.org or 507-238-3940.

Patricia Monsen
City Clerk
(Published in Fairmont Photo Press on December 22, 2021)



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Patricia Monsen
City Clerk

You are receiving this notice by mail as a neighboring property owner who could be affected by the proposed request. You have the right to provide public comment.

ANDERSON, CONRAD A & R. GUNTHER, F 522 KINGS RD FAIRMONT, MN 56031	BLOMSTER, KERI A & D HILGENDORF, D/ 445 E KINGS RD FAIRMONT, MN 56031	CORE, MICHAEL ALLEN, JAIME LEE CORI 414 KINGS RD E FAIRMONT, MN 56031
DALEY PROPERTIES MINNESOTA LLC 121 S 8TH ST STE 1460 MINNEAPOLIS, MN 55402	DAVISON, JAMES G & TERESA M 807 REIMAN COURT FAIRMONT, MN 56031	DOUGLAS, RANDY J & KAREN L 811 REIMAN CRT FAIRMONT, MN 56031
GOULD, RICHARD 440 KINGS ROAD FAIRMONT, MN 56031	GRIES, NICOLE 815 REIMAN COURT FAIRMONT, MN 56031	HILLSLEY, SHANE & KEISHA 425 KINGS ROAD FAIRMONT, MN 56031
HINRICHSEN, HANS, CYNTHIA K HINRICH 461 KINGS RD FAIRMONT, MN 56031	HUGHES, JOHN & CHERYL 819 REIMAN CRT FAIRMONT, MN 56031	JANSSEN, STEVEN & LAURA A 455 E KINGS RD FAIRMONT, MN 56031
JOHNSON, DAVID P & BECKY J 520 KINGS RD FAIRMONT, MN 56031	JOHNSON, NEIL S & NANCY M 501 S FAIRLAKES AVE FAIRMONT, MN 56031	JUAREZ-RAMIREZ, EBER NOE 820 REIMAN CT FAIRMONT, MN 56031
LINK, FRED E 501 KINGS RD FAIRMONT, MN 56031	LYTLE, MATTHEW 430 KINGS RD FAIRMONT, MN 56031	MOORE, GERALD D, KARILINE MOORE LI 417 KINGS RD FAIRMONT, MN 56031
OLINGER, LENORE J 505 S FAIRLAKES AVE FAIRMONT, MN 56031	OLSON, NORMA J 527 KINGS RD FAIRMONT, MN 56031	OLSON, NORMA J 527 KINGS ROAD FAIRMONT, MN 56031
REIMAN, JANE 524 KINGS RD FAIRMONT, MN 56031	ROSLANSKY, WILLIAM M & NANCY E 433 KINGS RD FAIRMONT, MN 56031	SOELTER, TIMOTHY & SANDRA 458 KINGS RD FAIRMONT, MN 56031
SOELTER, TIMOTHY A & SANDRA K 458 KINGS RD FAIRMONT, MN 56031	VOGEL, DAVID G & SHELLY J 420 E KINGS RD FAIRMONT, MN 56031	WOODWARD III, CHARLES V, JOANN C W 803 REIMAN CT FAIRMONT, MN 56031