



CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
www.fairmont.org

Phone (507) 238-9461

Fax (507) 238-9469

TO: Board of Zoning Appeals

FROM: Peter Bode, Planner/Zoning Official

DATE: September 30, 2022

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

- 1) Approval of Agenda
- 2) Approval of Minutes – July 5, 2022

New Business

- 3) Public Hearing – Variance Request for Jim Draper at 109 Sisseton Dr
- 4) Public Hearing – Variance Request for John Madsen at 318 E Blue Earth Ave

Old Business

None

- 5) Adjournment

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

July 5, 2022 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Mike Klujeske, Susan Krueger, Jay Maynard, Adam Smith, Council Liaison Wayne Hasek, Council Liaison Bruce Peters

Members absent: *None*

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

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

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

Approval of Minutes: Chair Krueger suggested an edit to the March 1, 2022 submitted minutes changing the member seconding the motion to approve the previous meeting minutes to Jacobson instead of Smith. Motion by Maynard and second by Jacobson to approve the March 1, 2022 meeting minutes as amended. Motion carried.

New Business: *None*

Public Hearing – Relocation of Home to 512 N Elm St: Chair Krueger opened the public hearing. Bode introduced a request by Habitat for Humanity to relocate an existing home to 512 N Elm St. Bode stated that staff's findings support approval because relocation of the home would have a neutral or positive impact on the neighborhood.

Lowell Ableson, residing at 522 N Elm St, spoke against the request.

Lon Luhmann, residing at 522 N Elm St, spoke against the request.

There were no further public comments. Motion by Maynard and second by Smith to close the public hearing. Motion carried.

Members discussed the request.

Motion by Maynard and second by Smith to approve relocation of the home to 512 N Elm St as requested. Motion carried.

Public Hearing – Variance at 512 N Elm St: Chair Krueger opened the public hearing. Bode introduced a variance request by Habitat for Humanity to allow a structural height of 33 feet where 30 feet is normally required. Bode stated that staff's findings support approval of the variance request.

Lowell Ableson, residing at 522 N Elm St, spoke against the request.

Lon Luhmann, residing at 522 N Elm St, spoke against the request.

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

Members discussed the request.

Motion by Maynard and second by Smith to approve the variance request for a 33-foot structural height requirement where 30 feet is normally required. Motion carried.

Adjournment: There were no additional agenda items. Chair Krueger adjourned the meeting at 4:58 p.m.

Respectfully submitted,
Peter Bode

GENERAL INFORMATION

Applicant: Jim Draper
Property Owner: Jim Draper
Purpose: To allow a 15-foot in lieu of 30-foot front yard setback
Address: 109 Sisseton Drive
Parcel Number: 23.072.0250
Zoning: R-1 Single Family Residential, Shoreland Overlay District Tier B
Surrounding Land Use: Low-density residential
Application Date: August 25, 2022
Review Date: October 4, 2022

BACKGROUND

This non-conforming and irregularly shaped R-1 Single Family Residential lot is approximately 12,545 square feet in area. Located south of Lake Sisseton, along the narrow stretch of Sisseton Drive, the lot's irregularity is defined by conjoining streets and blocks as they are planned around the lake.

The applicant proposes to build a garage in the southwest of the lot, 15 feet from the front property line where 30 feet is normally required.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this neighborhood to be traditional residential neighborhood. The parcel is zoned R-1, of which detached garages are permitted. Shoreland management regulations here require a maximum of 30% impervious surface coverage on the lot, which is met by the proposed request.

City Code requires a 30-foot setback from front property lines in this district. The applicant proposes to place the structure 15 feet from the front property line.

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 special condition exists related to the land itself. The lot exists at the apex of a bend in Sisseton Drive, as the road extends south away from the lake. As a result, the buildable area of this lot is significantly impacted relative to a standard rectangular lot so that the buildable depth is abnormally short. As Sisseton Drive bends to the south, the front yard setback extends to cover much of the lot's north and west.

(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.

Staff find that literal interpretation of the provisions of this chapter would deprive the applicant of the substantial property rights enjoyed by others in the same district. Residences and garages in the neighborhood are routinely closer to their respective front yards than required as a result of the crowded arrangement of parcels and streets here. It is staff's opinion that the proposal will not be out of character with its surroundings.

(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.

Staff find that the applicant proposes to use the property reasonably. Granting the variance will not confer on the petitioner any special privilege denied to other structures in the area.

(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 find that granting the request 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?**

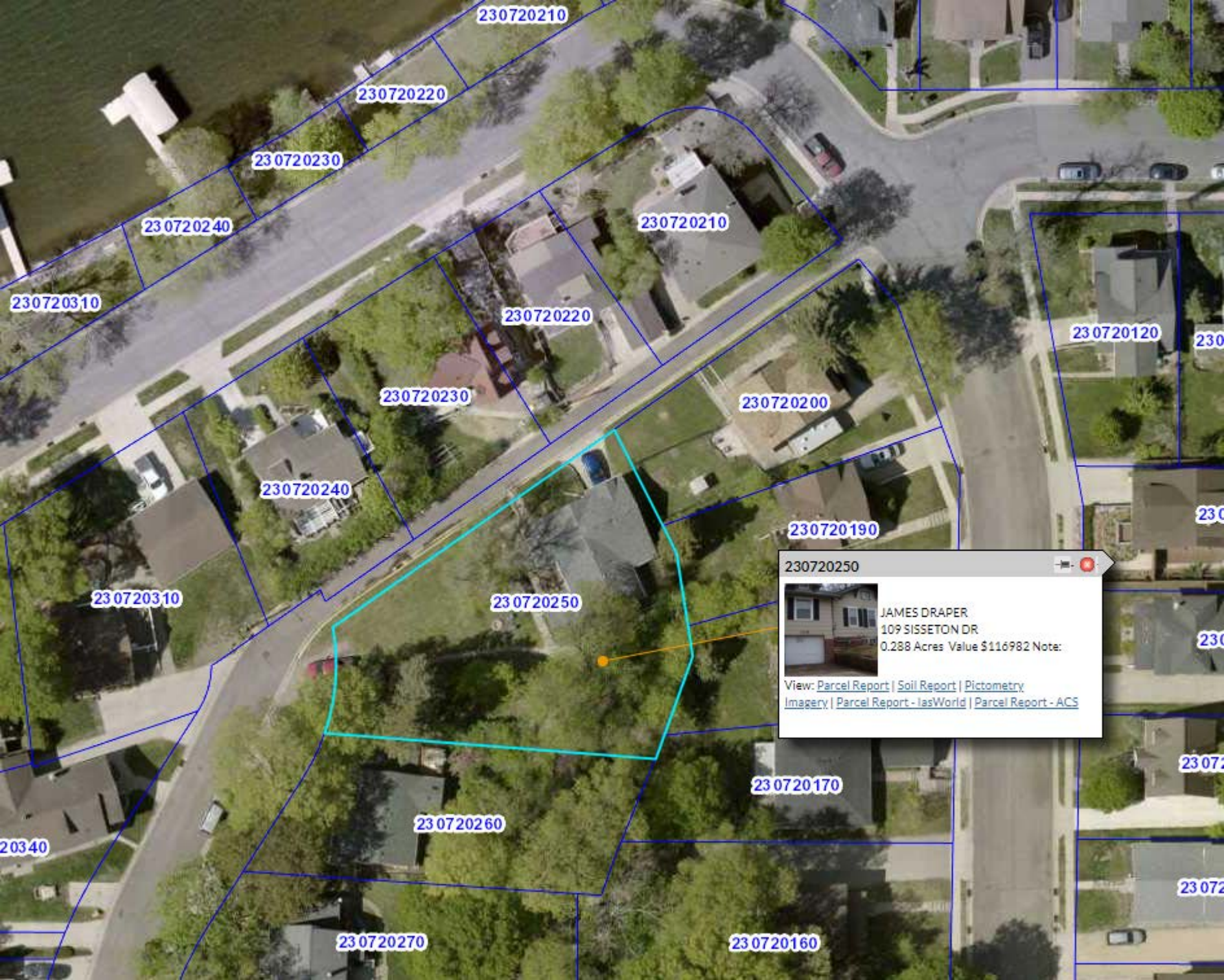
Staff find that the applicant intends to use the property in a reasonable manner. The proposed garage will not increase the impervious surface coverage of this lot over the requirement, resulting in a reasonable amount of open space remaining on the lot. The lot's unique shape adjacent to Sisseton Drive creates a unique characteristic reducing the ability to place an accessory structure. The proposal will not be inconsistent with the surrounding area.

Considering applicable statute and code, staff's findings support the request for a variance to allow a 15-foot in lieu of 30-foot front yard setback requirement.

Respectfully submitted,

Peter Bode

Planner & Zoning Official



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JAMES DRAPER
109 SISSETON DR
0.288 Acres Value \$116982 Note:

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

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**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: Jim Draper Address: 221 Lake Park Blvd ^{Drive} Phone#: 236-4521

Street Address of Proposal: 109 Sisseton Drive

Legal Description of Property: Brooks Lake Park Lots 11 & 12 Block 3

Existing Use of Property: Second home currently renting

Proposed Use of Property: Build Garage with Living quarters on top

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.

James Draper
Owner's Name(Printed)

James Draper
Owner's Signature

James Draper
Applicant's Name (Printed)

Jason Jansal
Applicant's Signature

City Staff Use Only

DATE FILED: _____
DATE FEE PAID: _____
MEETING DATE: _____
NOTICES SENT (DATE): _____
NOTIFICATION OF EXTENSION (LETTER SENT): _____


August 25, 2022

Dear City of Fairmont,

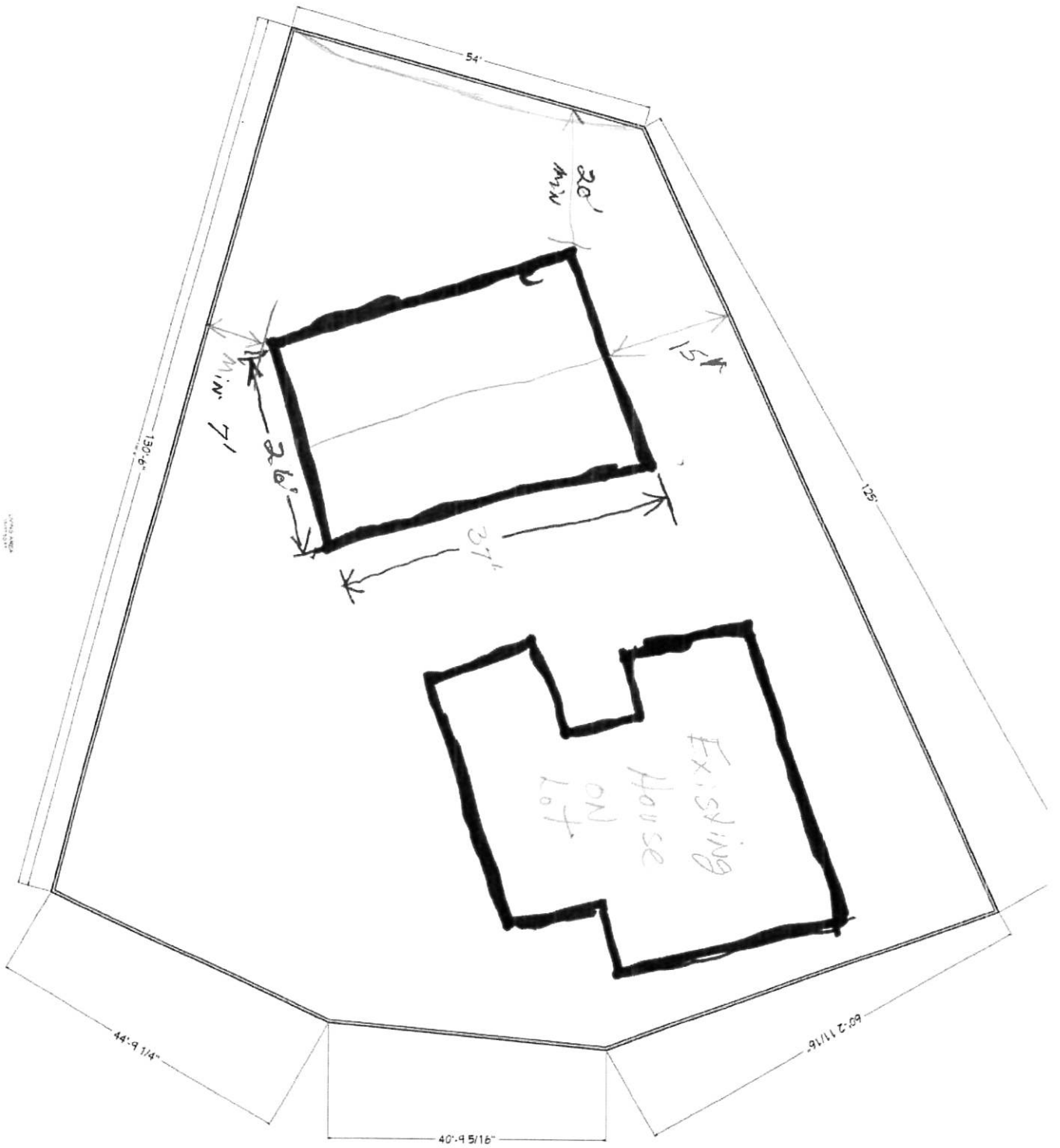
I would like to ask the city for a variance for building my garage closer to the street so that it is more in line with the home that is already on the property.

Please see the attached drawing which is a 30.2 ft setback and I would like to have it be a 15 ft setback. Similar distance that the neighbors' garage (143 Linden Drive) was built a year or so ago. I will be using the same contractor.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "James Draper". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jim Draper
109 Sisseton Drive
Fairmont, MN 56031
507-236-4521



GENERAL INFORMATION

Applicant: Ben Madsen

Property Owner: John Madsen

Purpose: To allow a 5-foot in lieu of 10-foot eastern side yard setback requirement

Address: 318 E Blue Earth Ave

Parcel Number: 23.269.0590

Zoning: B-1 Neighborhood Business

Surrounding Land Use: Small format business, residential

Application Date: September 15, 2022

Review Date: October 4, 2022

BACKGROUND

This non-conforming B-1 Neighborhood Business lot measures approximately 75 feet in width, 133 feet in length, and 9,975 square feet in area. Located along the Blue Earth Avenue corridor, a surveying office exists here surrounded by other small-format commercial buildings and one single family home to the southeast and south of the property.

The applicant proposes to add on to an existing garage in the southeast of the lot, 5 feet from the eastern side property line where 10 feet is normally required.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of the corridor to be mixed use neighborhood – which is intended to combine small-format business with accessible housing. The parcel is zoned B-1 Neighborhood Business, of which offices and their accessory storage structures are permitted.

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 special circumstances exist which are peculiar to the land and structure. First, the existing garage to which the applicant proposes the addition be attached is already located 5 feet to the eastern and southern property lines. This is significant because the southeast corner, where this existing garage is located, is the most sensitive area of the lot as it abuts a single family home. While the applicant could

place the addition to the west of the existing garage instead of the north, this would extend commercial structural development close to residential development. Placing the addition to the north, to abut another commercial property, helps to keep reasonable separations between commercial and residential development. Staff believe this condition relating to the existing garage's location represents a special circumstance.

Additionally, the lot's substandard width creates a condition in which placing the addition to the west of the garage provides difficult parking access.

(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.

Staff find that literal interpretation of the provisions of this chapter would deprive the applicant of the substantial property rights enjoyed by others in the same district. Commonly along Blue Earth Avenue, particularly among lots which are substandard, existing accessory and principal developments can be found very close to property lines.

(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.

Staff find that the applicant proposes to use the property reasonably. Granting the variance will not confer on the petitioner any special privilege denied to other structures in the area.

(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 find that granting the request 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?**

Staff's evaluation indicates that the landowner intends to use the property reasonably by proposing to build to the north, closer to another business and Blue Earth Avenue, instead of along the southern property line. Unique characteristics of the land, namely the substandard width of the parcel and the existing garage's location, create the circumstance. The essential character of the Blue Earth Avenue corridor would not be impacted by the proposed addition.

Respectfully submitted,

Peter Bode

Planner & Zoning Official

E BLUE EARTH AVE

SELM ST

S PRAIRIE AVE

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232560000

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JOHN S MADSEN TRUST &
GLENDA F MADSEN TRUST
318 BLUE EARTH AVE E
0.465 Acres Value \$130876 Note:

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

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**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: Ben Madsen Address: 318 E. Blue Earth Ave Phone#: (507) 236-7140

Street Address of Proposal: 318 E. Blue Earth Ave, Fairmont

Legal Description of Property: Lot numbered Three (3), in Block numbered Five (5) of Wester and Johnsons Addition to the Village (now City of Fairmont, according to the plat thereof on file and of record in the office of the County Recorder

Existing Use of Property: Surveying Office and Apartment

Proposed Use of Property: Surveying Office and Apartment

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.

John Madsen
Owner's Name(Printed)

John Madsen
Owner's Signature

Ben Madsen
Applicant's Name (Printed)

Ben Madsen
Applicant's Signature

City Staff Use Only
DATE FILED: _____
DATE FEE PAID: _____
MEETING DATE: _____
NOTICES SENT (DATE): _____
NOTIFICATION OF EXTENSION (LETTER SENT): _____



Providing Quality Land Surveying Services Since 1979.

318 E. Blue Earth Ave. Lot & Farm Surveys
Fairmont, MN 56031 Subdivision Platting
Phone: (507) 235-3780 Topographic Surveys
Fax: (507) 235-3781 Construction Surveys
madsenlandsurveying@hotmail.com ALTA Surveys

September 15, 2022

Peter Bode
Planning & Zoning
City of Fairmont

RE: Variance request for garage addition at Madsen Land Surveying, Inc. office,
318 E. Blue Earth Ave., Fairmont.

Dear Peter,

Accompanying this letter is the variance form. As you've discussed with John, we are looking into adding onto the existing garage which currently houses our ATV's. In the last couple of years, we have added personnel and vehicles as we've grown, and are now finding ourselves in a situation of having a lack of secure, sheltered parking for the work trucks. The plan is to add two stalls to the existing garage to fill this need. Outside parking is not an option for these kinds of vehicles, as they contain tens of thousands of dollars-worth of surveying equipment. Currently the additional vehicles are housed in my father's garage, but this is not permanent solution.

The reason for the variance is that adhering to current setbacks would place an additional garage directly in the middle of the normal parking area, which is simply not feasible. The most logical way to add the space needed is to add onto the existing structure, on the north side of the building.

We are therefore requesting a variance that would allow for the addition as proposed on the accompanying survey. Note that the addition would not be closer to the property lines than any of the buildings that currently exist on the property.

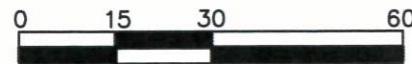
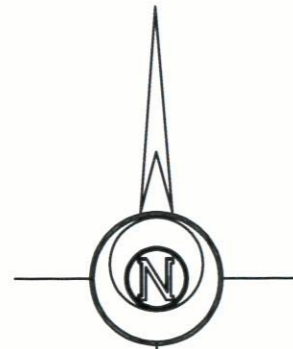
Thank you,

Ben Madsen, L.S.
Madsen Land Surveying, Inc.
318 E. Blue Earth Ave.
Fairmont, MN 56031

SURVEY OF LOT 3, BLOCK 5, WEBSTER & JOHNSONS ADD., CITY OF FAIRMONT, MARTIN COUNTY, MINNESOTA

LEGAL DESCRIPTION

Lot numbered Three (3), in Block numbered Five (5) of Wester and Johnsons Addition to the Village (now City of Fairmont, according to the plat thereof on file and of record in the office of the County Recorder in and for said County and State.



SCALE 1" = 30'

- DENOTES IRON MONUMENTS FOUND OR SET IN PREVIOUS SURVEY.
- DENOTES IRON MONUMENTS SET & MARKED WITH REG. NO. 13593 UNLESS OTHERWISE SHOWN.

BEARINGS ARE ORIENTED TO THE MARTIN COUNTY GLOBAL POSITIONING SYSTEM (G.P.S.) COORDINATE SYSTEM.

REVISED 09-15-2022 TO SHOW PROPOSED GARAGE ADDITION

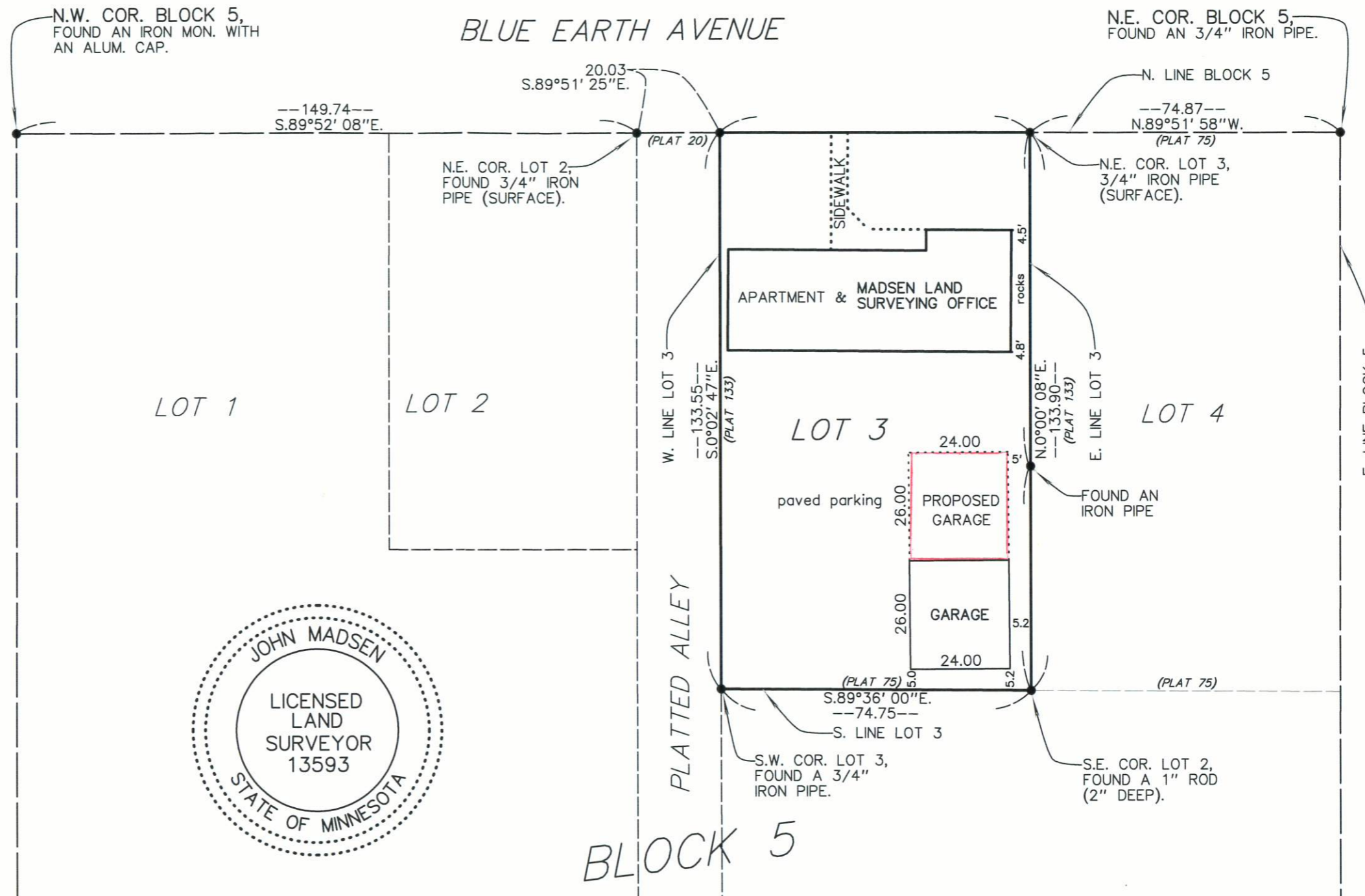
MADSEN LAND SURVEYING, INC.

I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

John Madsen

DATE: 09-15-2022 REGISTRATION NO. 13593

DRAWN S.S.	TEL: (507) 235-3780	DRAWING NUMBER 1
CHECK J.M.	<p>MADSEN LAND SURVEYING INC.</p>	FILE NO. 10080
SURVEY BY B.M. M.M.		318 EAST BLUE EARTH AVENUE FAIRMONT, MINNESOTA 56031



BLOCK 5