

CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031
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To: Board of Zoning Appeals

From: Peter Bode, Planner & Zoning Official

Subject: Agenda – Regular Meeting

Tuesday, June 6, 2023 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

1) Approval of Agenda Page 1

2) Approval of Minutes – May 2, 2023 Page 2

New Business

3) Public Hearing – 519 Budd Lake Dr – Variance Request Page 3

4) Public Hearing – 1950 Center Creek Dr – Variance Request Page 11

Old Business

None

5) Adjournment

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting
May 2, 2023
City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Mike Klujeske, Susan Krueger, Adam Smith, Council Liaison Jay Maynard

Members absent: Jon Davis, Council Liaison Wayne Hasek

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 Jacobson and second by Klujeske to approve the agenda as presented. Motion carried.

Election of Officers: Jacobson nominated Klujeske for chair. There were no further nominations. Motion by Jacobson and second by Smith to elect Klujeske chair. Motion carried and Klujeske was elected chair.

Jacobson nominated Smith for vice chair. There were no further nominations. Motion by Jacobson and second by Klujeske to elect Smith vice chair. Motion carried and Smith was elected vice chair.

Approval of Minutes: Motion by Krueger and second by Jacobson to approve the November 1, 2022 meeting minutes as presented. Motion carried.

Public Hearing – Variance Request for Gypsy Road Holdings at 1329 E 8th **St:** Chair Klujeske opened the public hearing. Bode introduced a request by Gypsy Road Holdings for a variance to allow a 2.45 acre instead of 2.5 acre minimum lot size requirement for an industrial PUD at 1329 East 8th Street. Bode stated that staff's findings support approval of the request because the proposal meets the standards governing variances in City Code and State Statute.

Barbara and Randy Phelps, representing Gypsy Road Holdings, provided comment.

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

Members discussed the request.

Motion by Jacobson and second by Smith to approve the request for a variance to allow a 2.45 acre instead of 2.5 acre minimum lot size requirement for an industrial PUD at 1329 East 8th Street because of the reasons stated in staff's report. Motion carried.

Adjournment: There were no further agenda items. Motion by Jacobson and second by Krueger to adjourn. Motion carried and the meeting adjourned at 4:42 p.m.

Respectfully submitted, Peter Bode



GENERAL INFORMATION

Applicant: Amelia Halsted

Property Owner: Julie Alsworth

Purpose: To allow a 5-foot instead of 6-foot western side yard requirement

To allow a 5-foot instead of 6-foot eastern side yard requirement

Address: 519 Budd Lake Dr Parcel Number: 23.064.0120

Zoning: R-1 Single Family Residential

Surrounding Land Use: Residential, public water

Application Date: May 15, 2023 Review Date: June 6, 2023

BACKGROUND

This R-1 Single Family Residential lot is situated along the northern shore of Budd Lake. Budd Lake Drive services the parcel to the north. The lot is adjacent to two similar single-family residences to the west and east. According to a survey completed this year, the existing home here is located 5.1 feet from the western side property line and 4.8 feet from the eastern side property line. For purposes of zoning administration, City Code considers distances to be measured by the nearest foot.

The applicant proposes to add on to the home on the west side, with the entire addition to be built under an existing cantilevered roof. The addition would not be closer to the western property line than the existing structure. Additionally, the applicant proposes a deck attached to the southeastern side of the house which would extend no further to the eastern property line than the existing structure.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this area to be residential as proposed. The parcel is zoned R-1 Single Family Residential, which supports single-family homes and attached decks. City Code requires a side yard setback of 10 percent of the lot's width on either side, which in the case of this lot is 6 feet.

The City's Shoreland Management regulations require a 30-foot setback from the top of the bluff and no more than 25 percent of the entire land area may be covered with impervious surfaces. The applicant proposes to comply with both these requirements.

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 circumstance exists which is peculiar to the land and existing buildings involved. Most homes along Budd Lake Drive were built prior to the City's contemporary zoning code requiring 6-foot side yard setbacks. Most of these homes retain 5-foot setbacks or less to their side property lines. The practical difficulty in complying with the 6-foot side yard requirement is caused by existing neighborhood conditions and not the actions of the applicant.

(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.

5-foot setbacks in this neighborhood are commonly enjoyed by homeowners. Staff find that granting a variance in this case will not alter the essential character of the locality.

(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 believe the applicant proposes to use the property in a reasonable manner. The proposed setbacks are in keeping with the surrounding area, which was largely developed before the contemporary zoning code. This would be in contrast to a more unreasonable request in a neighborhood with existing setbacks that generally comply with current code.

(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?

Upon review of the statutory and code requirements related to practical difficulties, staff find that the petitioner proposes to use the land in a reasonable manner, that the characteristics of the land and buildings are unique, and that the proposal would be consistent with the surrounding area.

Considering these requirements, staff's findings support granting the variance request for 5-foot instead of 6-foot western and eastern side yard requirements.

Respectfully submitted,

Peter Bode
Planner & Zoning Official

Attached: Application for variance

Survey

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: Amelia Halsted	Address: 16652 Jackpin	ne Trail, Lakeville, MN 55044 Phone#:
Street Address of Proposal: 519 Budd L	ake Drive, Fairmont MN 56031	
Legal Description of Property: LOT 10, B	BLOCK TWO OF BIRD'S BUDD LAKE AD	DITION, CITY OF FAIRMONT, MARTIN COUNTY, MN
Existing Use of Property: Residential		·
Proposed Use of Property:Residentia	ıl	
Type of Application	Fee	Submission Requirements (Attached)
Appeal/Code Amendment Administrative Appeal Conditional Use Permit Home Occupation Permit Minor Plat Planned Unit Development Preliminary Plat Rezoning X Variance	\$150.00 50.00 150.00 30.00 90.00 150.00 150.00 150.00 90.00	7 8 4, 6(d-g) 9 2(a), 5 (a-b) 1, 4, 6(d-g) 5 (b), 6 1 2,3
I HEREBY CERTIFY THAT THE IN SUBMITTED ARE TRUE AND COF Julie A Alsworth Owner's Name(Printed) Amelia E Halsted		
Applicant's Name (Printed)		Applicant's Signature
DATE FILED: DATE FEE PAID:		
NOTICES SENT (DATE): NOTIFICATION OF EXTENSION	(LETTER SENT):	

From: Amelia Halsted

Planning and Zoning Applicant

Lakeville, MN



To: Peter Bode

Planner & Zoning Official City of Fairmont (507) 238-3940

May 15, 2023

SUBJECT: Planning & Zoning Application for 519 Budd Lake Drive

Dear Peter,

In response to the April 2023 Permit Application and subsequent Stop Work Order for the subject property, 519 Budd Lake Drive, please find the attached Planning and Zoning Application Form, with applicable attachments.

This project was designed to update the property, enhance the look of the house from the lake, and increase the homeowner's enjoyment of the property while preserving the existing footprint and character of the neighborhood. The attached site plan for the proposed project highlights that the project is not making any changes to existing footprint of the house. The attached survey shows the western property line is 5.1 feet, which is in line with the other properties on the same street and nearly meets the city's requirement for the setback.

Best Regards,

Amelia Halsted

Attachment to City of Fairmont Planning and Zoning Application Form 519 Budd Lake Drive – May 15, 2023

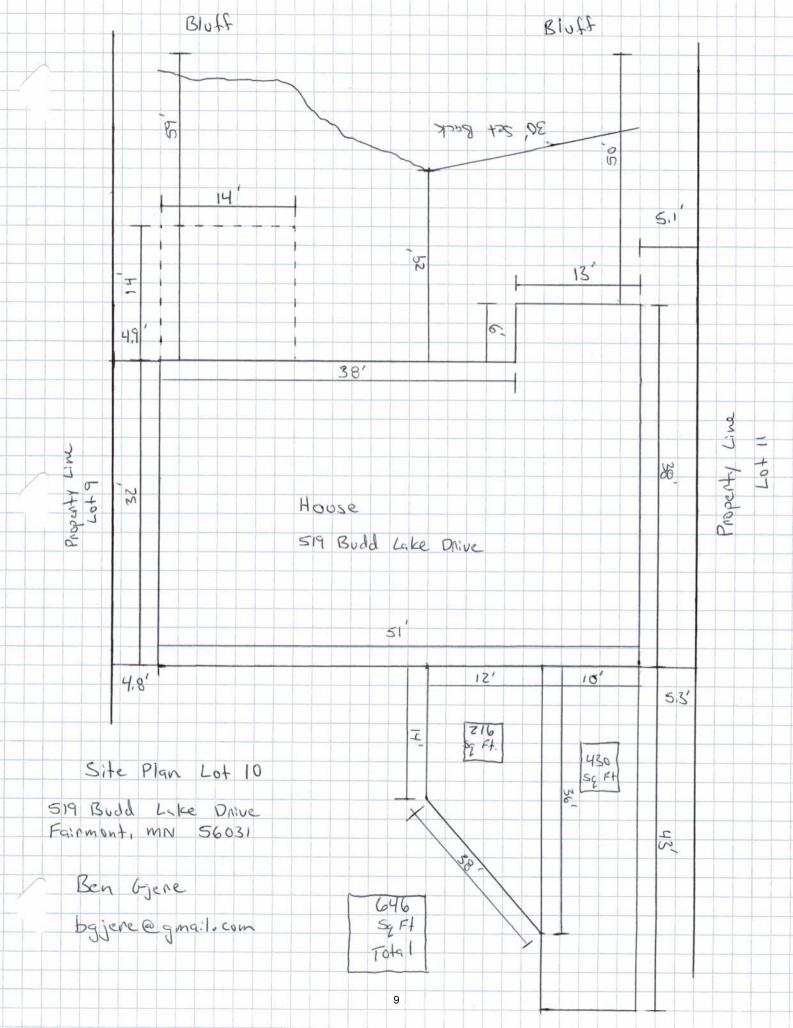
- 2. a) See attached survey from Madsen Land Surveying
- 2. b) See attached site plan
- 3. a) i. The house located at 519 Budd Lake Drive was built in 1953, and has not had any major updates or improvements since the 1970s. The current owners of the property have hired a professional architect and contractor for this project to improve and modernize the property. The proposed changes do not move any structure closer to the property lines than what already exists; they do not modify the existing foundation or the roof footprint.

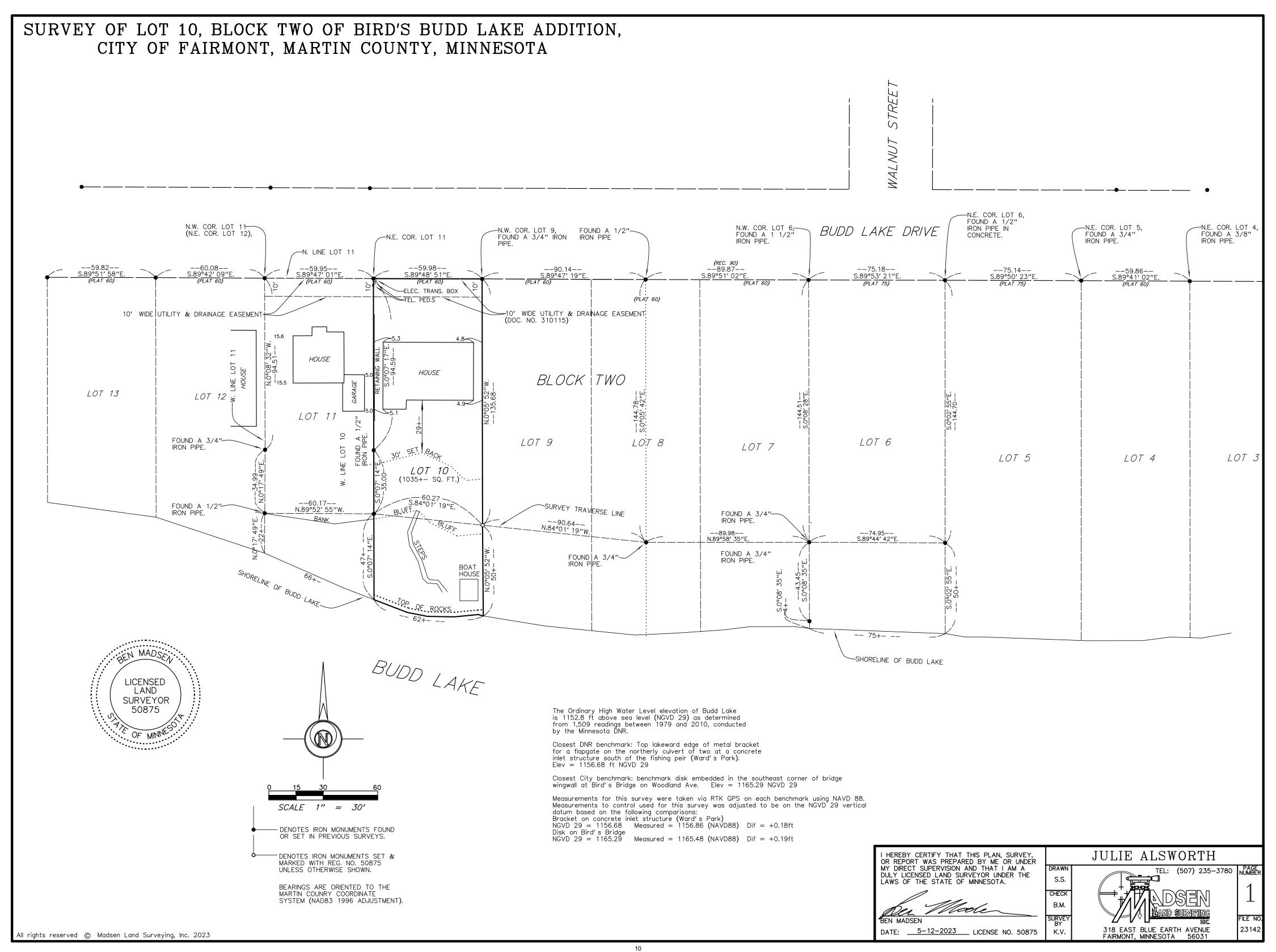
<u>The proposed changes on the southwest side of the property</u> include converting existing garage space to living space (sunroom), adding a 20 inch cantilever and windows, all of which utilize the existing foundation and roof overhang. All of these changes preserve the existing setback distance to the property line of 5.1 feet.

The proposed changes on the southeast side of the property include the addition of a 14'x14' deck, which extends straight out from the house and does not move any structure closer than the existing 4.9 feet from the property line.

- 3. a) ii. From the City of Fairmont's 2040 Comprehensive Plan, one of the "Community Priorities and Focus Areas" is to "Preserve, protect and rehabilitate the existing housing stock, housing values, and neighborhoods". The homeowners feel that the proposed changes incorporate an updated design that still fits the lot and neighborhood, and does not encroach onto neighbors.
- 3. a) iii. Homeowners are requesting a variance to the setbacks for the east and west property lines.

 This request meets the requirements for "practical difficulties" due to the fact that the proposed changes:
 - Do not move or add any structure closer than the existing setbacks, which have been in place likely since the property was built in 1953.
 - Do not alter the essential character of the property.







GENERAL INFORMATION

Applicant: Brian Ruschy

Property Owner: United Hospital District

Purpose: To allow a 27-foot instead of 30-foot southern front yard requirement

To allow a 27-foot instead of 30-foot western side yard requirement

Address: 1950 Center Creek Dr Parcel Number: 23.338.0040 Zoning: B-3 General Business

Surrounding Land Use: commercial Application Date: May 18, 2023 Review Date: June 6, 2023

BACKGROUND

This B-3 General Business lot is situated to the north off of Center Creek Drive, immediately off of Highway 15 to the west. Surrounded by other commercial and light industrial land, the lot currently supports a medical center. The applicant proposes a 27-foot instead of 30-foot southern front yard setback and western side yard setback requirement for placement of a basement mechanical equipment room, which would rise above grade about 1 foot, and a roof overhang of 3 feet to the west, proposed to be built approximately 15 feet above grade at its lowest point.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this area to be commercial as proposed. The parcel is zoned B-3 General Business, which supports clinics for human care. City Code requires both a front yard and side yard setback of 30 feet in the district.

Both basements and roofs are subject to normal structure setback requirements, although they may be less impactful to the surroundings.

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 identify that the basement, which would rise above grade by 1 foot, and the roof overhang are less impactful than a typical structure or addition. This may present a special circumstance if they are proposed to be placed in the most reasonable location on the lot. In the case of the roof overhang, the applicant reports that shifting the roof to the east would misalign the corridors of the building. A smaller basement mechanical room, or one moved to the east of the building, would be less than fully useable due to the potential need to lift equipment in and out.

(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.

Rights to build basements and roof overhangs within required setbacks are not commonly enjoyed by other commercial buildings in the locality. However, the gabled roof as proposed and the basement mechanical equipment room would not alter the essential character of the locality because of their unique placement to avoid nearby impacts.

(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.

The ability to place structures within required setbacks is generally denied to other structures in the area. However, this development may present a unique circumstance due to the difficulty of construction and low impact of the proposal as discussed in item #1.

(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. Both structural elements would be minor in character and impact.

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?

Upon review of the statutory and code requirements related to practical difficulties, staff find that the petitioner proposes to use the land in a reasonable manner, that the characteristics of the land and buildings are unique, and that the proposal would be consistent with the surrounding area.

Considering these requirements, staff's findings support granting the variance request for a 27-foot instead of 30-foot southern front yard requirement and a 27-foot instead of 30-foot western side yard requirement as proposed.

Respectfully submitted,

Peter Bode
Planner & Zoning Official

Attached: Application for variance

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: United Hospital District	t Inc Address: 515 S. Mo	pore St. Blue Earth Phone#:
Street Address of Proposal: 1950 Center	Creek Drive	
Legal Description of Property: Center	Creek Commons Addition, Lot-	-001 Block-002
Existing Use of Property: Medical Clinic		•
Proposed Use of Property: Medical Clin	ic	
Type of Application	Fee	Submission Requirements (Attached)
Appeal/Code Amendment Administrative Appeal Conditional Use Permit Home Occupation Permit Minor Plat Planned Unit Development Preliminary Plat Rezoning X Variance I HEREBY CERTIFY THAT THE IN SUBMITTED ARE TRUE AND COR		
Owner's Name(Printed) Brian Ruschy	May 18, 2023 3	0 10
Applicant's Name (Printed)		Applicant's Signature
DATE FILED: DATE FEE PAID: MEETING DATE: NOTICES SENT (DATE): NOTIFICATION OF EXTENSION (City Staff Use Only LETTER SENT):	



Request: Set back variance

Project: Addition to Dulcimer Medical Center as part of transition to UHD Fairmont Clinic

Location: 1950 Center Creek Drive, Fairmont, MN

Date: 5/18/23

UHD is seeking a variance to reduce the required 30' setback at the south property line adjacent to center creek drive for the addition of an area well.

UHD is also seeking a variance along the west property line for the building roof overhang.

UHD is planning to build single story addition on the south side of the exiting Center Creek Clinic (Dulcimer Medica Center) to expand the facilities exam room and procedure rooms. The current footprint of the addition utilizes the current green space to the south of the existing building and is proposed to abut the set back at the west and south sides of the property where the addition occurs. The current addition program is set to maximize the existing available space while avoiding changes to the existing parking lot and is sized to accommodate the anticipated needs of the clinic. Based on the current number of parking spaces in the existing parking lot the proposed addition is within the City standards for parking provided the addition can be constructed without reducing the current number of parking spaces.

The Addition will include a basement for mechanical equipment which requires access to the exterior for exhaust ventilation as part of the procedure area air handling requirements. The exhaust area well will also be used for installation and future removal of mechanical equipment in the event of changes or replacement of equipment.

The proposed design would include a below grade area well 8'x10' at the west end of the south side of the building that would encroach on the south setback by 3.1' feet. The area well would consist of a concrete foundation wall with removable bar grating at the top and would extend approximately 1' above the finished grade. The area well would be screened by landscaping thus it would have a minimal visual impact.

Based on the above information the design team believes the variance meets the variance standards based on the following points.

- Visual impact is minimal.
- The area well will not impact adjacent properties air, light or access.
- The approval of the variance will allow the project to fully utilize the site while minimizing impact to the site.
- The proposed location of the area well is remote from pedestrian and automobile traffic.
- The roof overhangs will not affect adjacent buildings, properties or public utilities.

