

CITY OF FAIRMONT - 100 Downtown Plaza - Fairmont, MN 56031 Phone (507) 238-9461 www.fairmont.org • citygov@fairmont.org

Fax (507) 238-9469

To: **Board of Zoning Appeals** 

Peter Bode, Planner & Zoning Official From:

Subject: Agenda – Regular Meeting

Tuesday, August 1, 2023 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

1) Approval of Agenda Page 1

2) Approval of Minutes – June 6, 2023 Page 2

#### New Business

3) Public Hearing – 2710 Albion Ave – Variance Request Page 4

4) Public Hearing – 227 W 9<sup>th</sup> St – Variance Request Page 15

5) Public Hearing – 236 Krahmer Dr – Variance Request Page 22

#### Old Business

None

6) Adjournment

#### MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting
June 6, 2023
City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Mike Klujeske, Susan Krueger, Council Liaison Wayne Hasek, Council Liaison Jay

Maynard

Members absent: Jon Davis, Adam Smith

Staff present: Planner & Zoning Official Peter Bode

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

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

**Approval of Minutes:** Motion by Krueger and second by Klujeske to approve the May 2, 2023 meeting minutes as presented. Motion carried.

**Public Hearing – Variance Request by Amelia Halstad at 519 Budd Lake Dr:** Chair Klujeske opened the public hearing. Bode introduced a request by Amelia Halstad for a variance to allow a 5-foot instead of 6-foot western and eastern side yard requirement. 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.

The applicant spoke in favor of the request.

Jon Omvig, resident at 523 Budd Lake Drive, spoke in favor of the request.

Julie Alsworth, owner of the subject property, spoke in favor of the request.

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

Members discussed the request.

Motion by Krueger and second by Jacobson to approve the request for a variance to allow a 5-foot instead of 6-foot western and eastern side yard requirement because of the reasons contained in staff's report. Motion carried.

**Public Hearing – Variance Request by Brian Ruschy at 1950 Center Creek Dr:** Chair Klujeske opened the public hearing. Bode introduced a request by Brian Ruschy for a variance to allow a 27-foot instead of 30-foot southern front yard requirement and western side yard requirement. Bode stated that staff's findings support approval of the request because the proposal meets standards governing variances in City Code and State Statute.

The applicant spoke in favor of the request.

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

Members discussed the request.

Motion by Krueger and second by Jacobson to approve the request for a variance to allow a 27-foot instead of 30-foot southern front yard requirement and western side yard requirement because of the reasons contained 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 4:55 p.m.

Respectfully submitted, Peter Bode



#### **GENERAL INFORMATION**

Applicant: Tami Gerhardt (Tami's on the Ave)

Property Owner: Doug & Tami Gerhardt

Purpose: To allow a 7-foot instead of 15-foot parking stall setback requirement from a public

street

Address: 2710 Albion Ave Parcel Number: 23.148.0190

Zoning: R-1 Single Family Residential

Surrounding Uses: Residential
Application Date: July 13, 2023
Review Date: August 1, 2023

#### **BACKGROUND**

This R-1 Single Family lot is situated along Albion Avenue, at the intersection of Krahmer Drive to the lot's north and Interlaken Road to the lot's south. Surrounded by residential uses, this lot hosts a longstanding restaurant which, along with its parking lot, is legally non-conforming. The applicant proposes to replace the deteriorating parking lot with a new surface stall striping. The existing condition of the lot is such that customers park immediately adjacent to the curb of Albion Avenue. The proposed replacement would set back the stalls 7 feet from the curb instead of the 15 feet required by code, and instead of the 0 feet of the current condition.

#### **POLICY CONSIDERATIONS**

The Fairmont Comprehensive Plan guides the use of this area to be neighborhood business, which supports restaurants and associated parking. However, the parcel remains R-1 Single Family Residential, meaning that the restaurant and associated parking lot may be replaced but not expanded because they are both legally non-conforming in the zoning district. The applicant proposes to replace and not expand the area of the parking lot.

The City Public Works and Engineering departments, in addition to Planning & Zoning, have worked with the property owner to develop a parking plan which is safer than the current condition by setting back the parking stalls from the road, stating in support of the variance that "the proposed layout would improve sightlines and visibility for the traffic compared to the existing condition."

#### **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 identifies a special circumstance which is peculiar to both the land and structure which creates a practical difficulty. The existing placement of the restaurant on the eastern portion of the parcel significantly limits the width for needed parking lot stall and aisle. If, hypothetically, a new restaurant were to be built on the lot under 2023 regulations, staff would guide that it be placed farther to the west to accommodate the width needed for the parking lot in the east. The existence of the restaurant in its actual location causes a practical difficulty in complying with the 15-foot setback for parking stalls.

(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.

Parking lots for restaurants are not an allowable use in the district. As discussed above, the one that exists at 2710 Albion Avenue is legally nonconforming. Staff believe granting the requested variance will not alter the essential character of the locality because the restaurant has been a fixture in the locality for many years.

(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 applicant proposes to use the property in a reasonable manner. By setting back the parking stalls on the eastern edge of the lot, as well as setting back parking stalls in the south a full 15 feet where there is room to do so, the applicant proposes not only to continue and not expand the existing use, but also improve the condition.

(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. The proposed location of the parking stalls improves public safety by separating the stalls from traffic and widening intersection viewing angles.

#### **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 applicant proposes to use the land in a reasonable manner by improving the intersection and traffic safety condition, that the characteristics of the land and building are unique because of the building's existing location, and that the proposal would be consistent with the surrounding area because it is not proposed to expand in use.

Staff's findings support granting the variance request for a 7-foot instead of 15-foot parking stall setback requirement from a public street 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: Tami berhard Address:	Phone#: 501236-1668
Street Address of Proposal: 2710 Albion Are Fmt	MD 5603/
Legal Description of Property:	è
Existing Use of Property: Parking Lot	
Proposed Use of Property: Parking Lot	or will any enterior along the will be set of the the second
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Type of Application	Fce	Submission Requirements (Attached)
Appeal/Code Amendment	\$150.00	7
Administrative Appeal	50.00	8
Conditional Use Permit	150.00	4, 6(d-g)
Home Occupation Permit	30.00	9
Minor Plat	90.00	2(a), 5 (a-b)
Planned Unit Development	150.00	1, 4, 6(d-g)
Preliminary Plat	150.00	5 (b), 6
Rezoning	150.00	1
Variance	90.00	2,3

SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

The first of the best of my knowledge.

The first of my knowledge.

The first of my knowledge.

Owner's Signature

Owner's Signature

Applicant's Name (Printed)

Applicant's Signature

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HEREWITH

City Staff Use Only	
DATE FILED: 7-13-23 PI3	
DATE FEE PAID: 7-/3-23 PB	
MEETING DATE: 8-1-23 PB	
NOTICES SENT (DATE):	
NOTIFICATION OF EXTENSION (LETTER SENT):	

#### TAMIS ON THE AVE PARKING RECONSTRUCTION PROJECT PHASE 1B

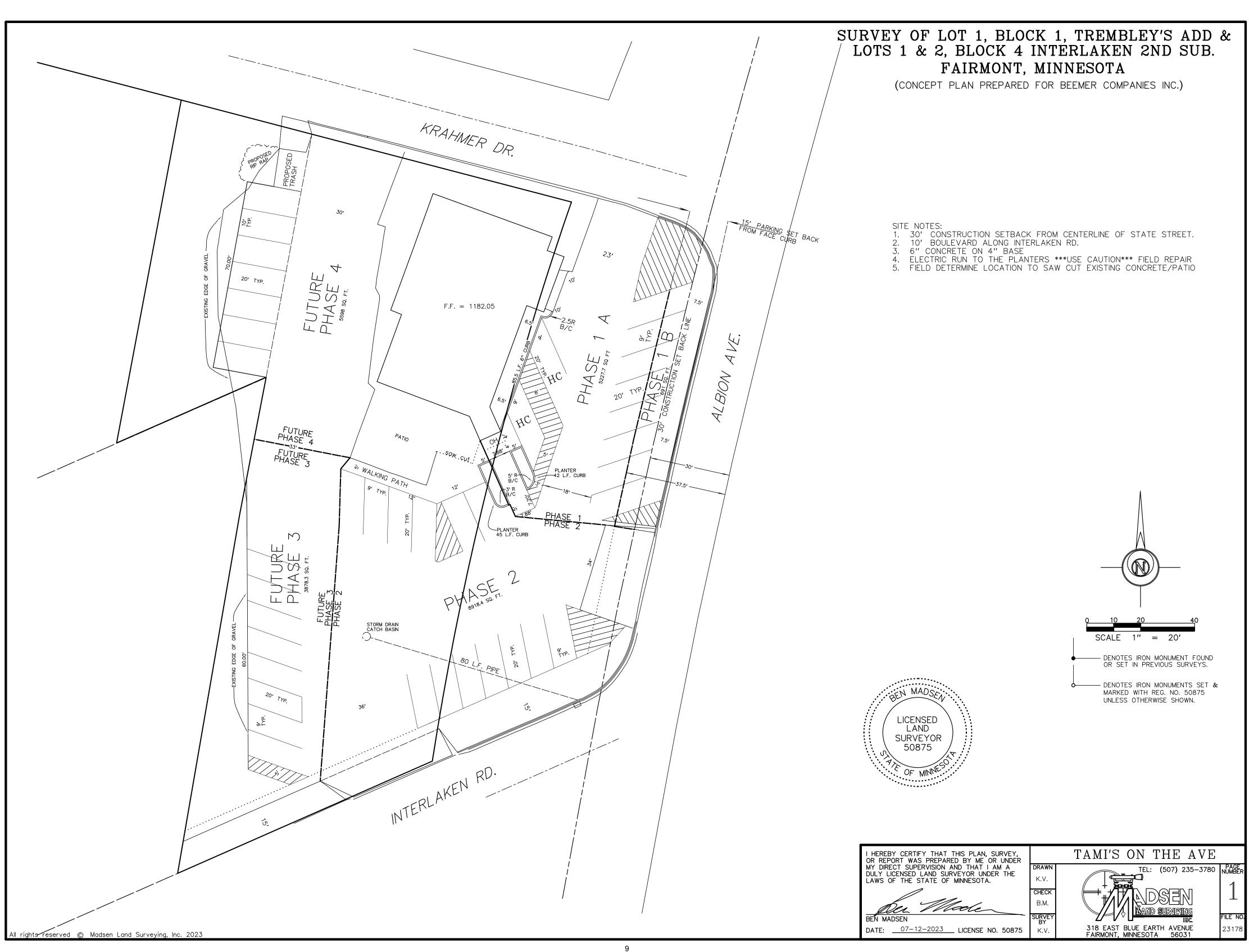
The parking lot at Tamis on the Ave needs resurfacing. A 7.5-foot variance is needed to maintain an adequate number of parking spots. For the last 22 years of the Gerhardt Family owning the Restaurant the patrons have been parking all the way to the curb with no recorded accidents.

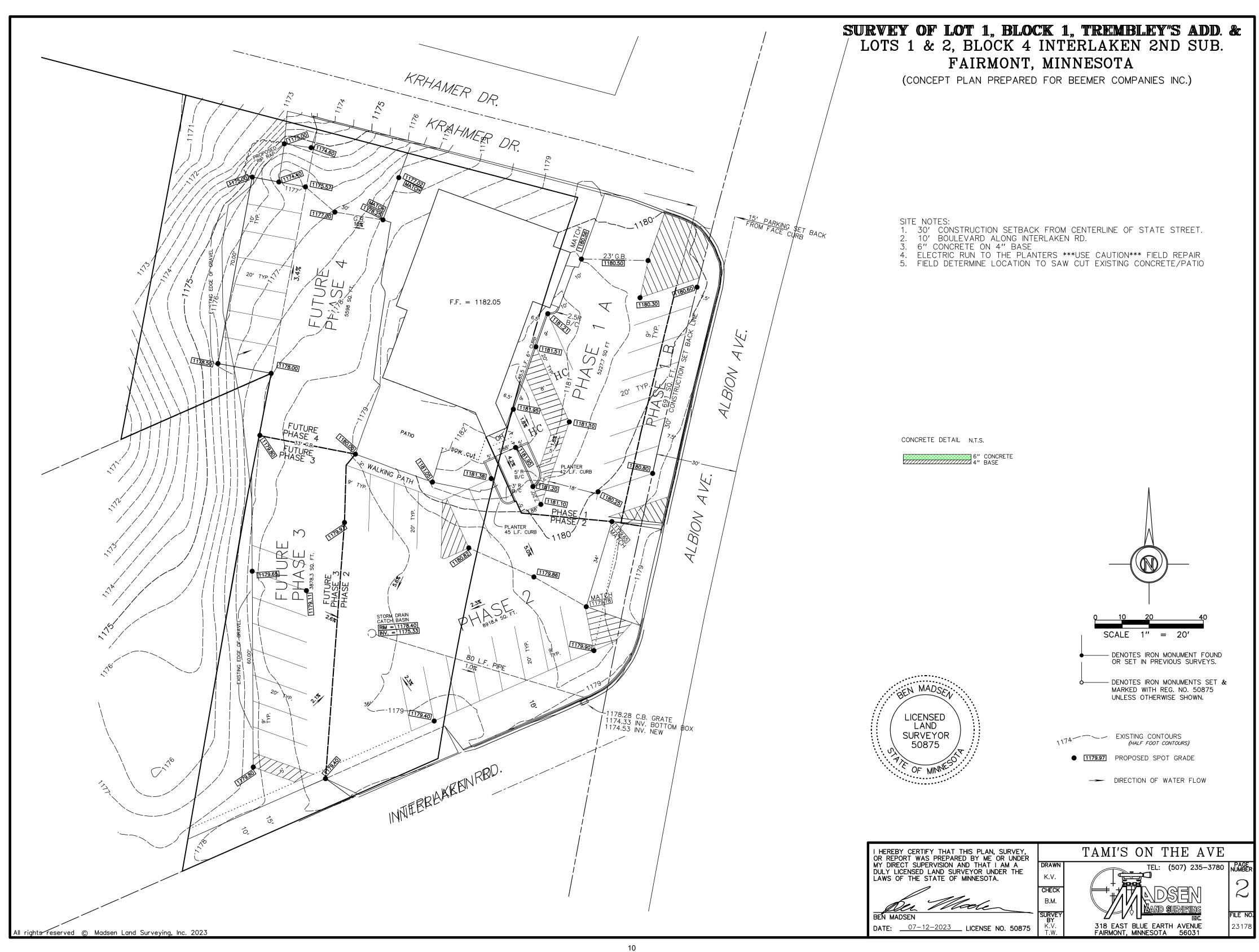
Current code would have us put in a 15-foot boulevard before starting our paved surface. That deep of a boulevard will eliminate multiple parking stalls, creating safety concerns and traffic concerns for patrons to park. We would like a variance for a 7.5-foot boulevard along the east side of the parking lot from Krahmer Drive to the east entrance on Albion Avenue. The parking stalls along Interlaken Road and the corner of Albion Avenue will accommodate a larger boulevard.

Without this variance we will lose 8 of our 31 parking stalls. To become compliant with ADA we have already lost 3 current parking stalls along the east side of the building. Two other restaurants in town have similar parking situations where a boulevard does not exist at all.

The approval is vital to creating safe and trouble-free parking for the guests. A denial will likely result in increased street parking. That is something hard for the business to stop/monitor. To our knowledge no patron has ever had to park on Albion Ave or Interlaken RD. Doug and Tami have always been able to accommodate all guests with off-street parking.

Photos have been taken from current parked vehicles, vehicle backed up to 7.5 feet and vehicles backed up to 15 feet. 15 feet will force the vehicles to be parked parallel to the curb. Resulting in less off-street parking area.













Current condition







# 7.5 feet as requested









15 feet as required









Obstruction



#### **GENERAL INFORMATION**

Applicant: Ross Campbell Property Owner: Ross Campbell

Purpose: To allow a 3-foot instead of 15-foot front yard porch setback requirement

Address: 227 W 9<sup>th</sup> St Parcel Number: 23.244.0760

Zoning: R-1 Single Family Residential

Surrounding Uses: Residential
Application Date: July 13, 2023
Review Date: August 1, 2023

#### **BACKGROUND**

This R-1 Single Family lot is situated just north of the railroad tracks along 9<sup>th</sup> Street. Surrounded by other residential uses, the lot is approximately 16,500 square feet and supports a single family home and detached garage. The home is located very close to the front property line to the north, approximately 8 feet in distance to the sidewalk. The current front landing extends out so that it is approximately 3 feet from the sidewalk, 5 feet in width. A second entrance to the home is located in the south of the structure, well inside the buildable area of the lot.

The applicant proposes to expand the landing so that it extends no further to the property line but widens along the extent of the home, adding 10 feet in width as shown on the applicant's site plan. The area of steps are not included in calculating the landing or for determining setbacks. The applicant states that the practicality of entering the front door with furniture would be greatly improved. A staircase immediately inside the rear door makes that entrance impractical for the same purpose.

#### **POLICY CONSIDERATIONS**

The Fairmont Comprehensive Plan guides the use of this area to be traditional residential neighborhood, which supports single family homes and porches. The parcel is zoned correctly for the use, R-1 Single Family Residential. The district allows front porches to encroach into front yards a distance not to exceed 8 feet in length or 15 feet to the property line, whichever is shorter. The applicant proposes that instead of 15 feet required by code, a variance is granted for 3 feet.

If the variance request is granted, the deck will expand along the width of the home but be the same distance to the public sidewalk. The City Engineering department does not object to the location and does not foresee any associated problems with the sidewalk.

#### **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.

The applicant states that the current size of the porch creates a practical difficulty because of the impracticality of access through the door. Additionally, staff identify that the home's existing location close to the northern property line creates a practical difficulty by limiting any expansion under today's regulations.

(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 code would deprive the applicant of rights commonly enjoyed in the area. Many homes and porches in the neighborhood are nonconforming in their distance to front property lines. Granting the variance 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.

Granting the variance will not convey upon the applicant any special privilege because non-conforming setbacks are common 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. The proposed location of the porch will not encroach upon a side yard to another property, but instead to the public sidewalk.

#### **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 applicant proposes to use the land in a reasonable manner by proposing the porch extend no further to the

front property line than the existing condition, that the characteristics of the land and building are unique because of the building's existing location, and that the proposal would be consistent with the surrounding area.

Staff's findings support granting the variance request for a 3-foot instead of 15-foot front yard porch setback requirement as proposed.

Respectfully submitted,

Peter Bode
Planner & Zoning Official

Attached: Application for variance

Photo of existing condition

#### 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: Ross Campbell Address: 227	9th STW Phone#:
Street Address of Proposal: 227 94 ST. W	Berth documents on
Legal Description of Property: T&J Addn Block	-006 El15' of N144' of W/2
Existing Use of Property: Residence	Anno a sur l'agregation ne
Proposed Use of Property: No Change	m 04 <sup>8</sup>

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 Variance	\$150.00 50.00 150.00 30.00 90.00 150.00 150.00 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 INFORMATION AND EXHIBITS HEREWITH SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Poss Comptell Owner's Name(Printed)	Owner's Signature
Applicant's Name (Printed)	Applicant's Signature
City Staff Use Only DATE FILED:	
DATE FILED.  DATE FEE PAID:  MEETING DATE:  NOTICES SENT (DATE):	office the Alberta
NOTIFICATION OF EXTENSION (LETTER SENT):  18	

#### Statement for Need for Variance – Ross Campbell – 227 9th St W

This Letter of Intent is in support of our request for a variance to the front yard setback requirement for a landing/deck. The intention is to add an additional 10' of deck along the front of the house to the west. The existing front landing footprint is currently 5x4.5' along the front of the house, with a total of 9'x4.5' when including the steps. The proposed new deck would add an additional 10' to that landing footprint. We would be requesting a north porch setback of 3.5' from the property line instead of 15'. The 3.5' would still maintain a fire separation as required by the building code.

Because of the distance from the house to the sidewalk, the code requires that only a landing of 5x5' is permitted, but a larger deck/landing would be desirable for the ability to bring large items and furniture into the house.

The need for a larger front landing is about the practicality of moving furniture and other large items. The rear door does not enter straight into the house because of small staircase that turns up 90 degrees initially after entering the back door. Because of this, getting mattresses, couches and appliances is impossible through the rear door. Having a larger landing at the front of the house would allow moving these large items in and out of the house much easier, without having to turn a sharp corner as is the case now through the front door with the existing landing size and stairs. Furniture could be brought up the front stairs, walked across the larger landing and easily turned into the house with little relative effort.

We would still maintain the 4.5' distance away from the house and not move any closer to the existing sidewalk, so nothing would be built any further distance away from the house.

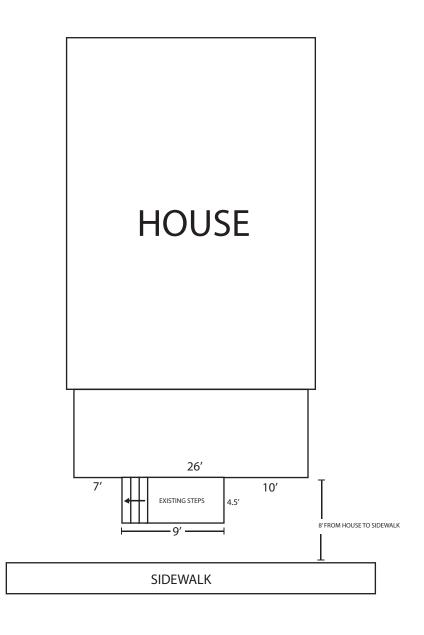
The proposed style and structure of the deck is in step with the existing neighborhood; and the proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by the improvement.

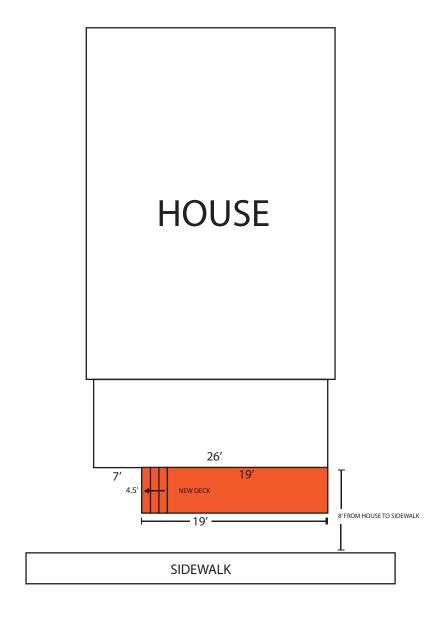
Thank You for your consideration.

Ross & Nancy Campbell & Travis Guyer, Boyum Window & Siding

## **EXISTING SITE PLAN**

### PROPOSED DECK WITH VARIANCE









#### **GENERAL INFORMATION**

Applicant: Scott & Monica Burtis
Property Owner: Scott & Monica Burtis

Purpose: To allow a 28.2% instead of 25.0% impervious surface requirement for a home addition,

lakeside patio, and retaining wall

Address: 236 Krahmer Dr Parcel Number: 23.148.0065

Zoning: R-1 Single Family Residential, Shoreland Overlay District Tier A

Surrounding Uses: Residential, Public water

Application Date: July 13, 2023 Review Date: August 1, 2023

#### **BACKGROUND**

This R-1 Single Family lot abuts Hall Lake and is serviced by Krahmer Drive. Surrounded by other single-family residential uses, the lot's area measures 13,521 square feet and supports a single-family home and garage. The applicant proposes to remove some sidewalk and patio surfaces close to the home to accommodate the added surfaces of a home addition, a new patio by the lake, and retaining wall.

The applicant notes that the lot is smaller than the minimum lot size requirement for a lakeside single-family home lot of 15,000 square feet in area. Additionally, some of the need for the variance is to install new retaining wall to protect against lakeside erosion.

#### **POLICY CONSIDERATIONS**

The Fairmont Comprehensive Plan guides the use of this area to be traditional family neighborhood, of which the proposal is consistent with. In its chapter on natural resources, the Plan states that "preserving the City's natural resources for future generations is critical to the long-term preservation and success of the City's character, social connectedness, and local economy." The Plan goes on to state that development along the lakes should "preserve and enhance natural features and existing resources" in order to maintain the preservation of the community's natural resources.

Impervious surface requirements together are a major component for carrying out the vision of the community's comprehensive plan as well as maintaining the City's conformance with state law on natural resources. These requirements apply to each parcel and its actual area, never restricting impervious surfaces to under 25% of the lot regardless of the lot's area.

The applicant proposes the following:

#### <u>Impervious Surface Coverage</u>

Total lot area	13,251 square feet	100.0%
Maximum coverage allowed	3,313 square feet	25.0%
Current coverage	3,666 square feet	27.6%
Proposed coverage	3,735 square feet	28.2%

As shown on the survey and on the applicant's drawing of proposed surface removals and additions, the lot already supports more impervious surfaces than the Shoreland Management ordinance allows. The applicant proposes to remove less impervious surfaces than they propose to add to the lot.

The City administers its Shoreland Management ordinance in consultation and partnership with Minnesota Department of Natural Resources. Attached to this report is DNR's comment on the application.

#### **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.

The applicant states that two primary circumstances cause practical difficulties. First, the applicant states that a portion of the land was sold to a neighbor before the applicant purchased the parcel, resulting in a smaller parcel size than the minimum lot size of 15,000 square feet in Shoreland Overlay District Tier A. The applicant goes on to state that if the lot were to be 15,000 square feet, the proposal would comply with the impervious surface requirement.

Staff find that this circumstance does not cause a practical difficulty as defined by state statute. Staff note that the lot was sold to the applicant in 2010 under the still-current set of shoreland management regulations having to do with impervious surfaces and area requirements. The impervious surface requirement of 25% is intended to scale to the size of each parcel and so should only present a difficulty if a lot size is so small that not even the usual minimum features of a parcel – those being a home, a garage, and potentially a small patio - would not comply. The applicant proposes to keep most of one patio and add a second patio by the shore. In this respect, staff view the proposal as personal preference.

The applicant also states that the replacement of existing rip rap with stronger, but more impervious, retaining wall represents a solution to the practical difficulty of erosion of the land to the lake. Staff visited the site and agree with this assessment. Staff believe a practical difficulty exists relating to the proposed retaining wall.

(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 the Shoreland Management ordinance would not deprive the applicant of rights commonly enjoyed in the same district. The impervious surface requirement of 25% scales in applicability to each property.

(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 that granting the variance would convey upon the applicant a special privilege. A notable variance was granted in 2021 to a lakeshore lot at 204 Lake Street. Among the practical difficulties established in that case were that the lot was smaller in area that the minimum requirement of 15,000 square feet. However, the solution which was crafted between staff and the applicant over a period of months included the noted conditions that:

- a) The lot was much smaller, a size of 7,443 square feet, meaning a total impervious surface requirement of only 1,861 square feet maximum. As stated above, staff believe the lot size may represent a practical difficulty if it is so small that even minimal features would not be allowed by the ordinance.
- b) Even though the lot was much smaller, the total impervious surface levels were still reduced by granting the variance, from 2,290 square feet to 2,119 square feet. The solution removed as much impervious surface from the lot as staff could reasonably recommend.

Staff believe today's proposal would not be a reasonable use of the property because it increases impervious surfaces from the current condition rather than reducing them, and because it proposes more than minimal usual features on a lot which is non-conforming in size.

(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. Staff find that the proposal would cause actual impairment to the public welfare by increasing beyond a reasonable level the pollution of Hall Lake.

#### **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 applicant does not propose to use the property in a reasonable manner because the proposal would increase impervious surfaces where they could reasonably be reduced. The applicant demonstrates a unique practical difficulty by noting the need for retaining wall, but does not propose an impervious surface condition which limits additions to addressing this need. Instead, the applicant proposes to keep most patio surfaces and add additional patio outside of impervious surface requirements, which is not in accordance with the purpose of City Code. While patios and other surfaces are typical in the neighborhood, the 25% impervious surface requirement is intended to scale to the size of each parcel.

Staff's findings support denial of the variance request for a 28.2% instead of 25.0% impervious surface coverage requirement for a home addition, lakeside patio, and retaining wall.

The Board of Zoning Appeals may grant the variance or deny the variance. The Board may recommend to the applicant in addition to denial that the applicant amend their proposal and apply for a new variance, if the Board so desires.

Respectfully submitted,

Peter Bode
Planner & Zoning Official

Attached: Application for variance

**DNR** comment

#### 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.

Monicat	
Name of Applicant: Scott Burtis Address: 236 Krahmer Dr Phone#: 507.236	7991
Street Address of Proposal: 236 Krahmer Dr Fairmont MN 56031	
Legal Description of Property: Lot 6 Block / Interlaken 200 Subd.	¥
Existing Use of Property: Single Family home	
Proposed Use of Property: Smale Family home	

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

Scott's Monia Burts Owner's Name(Printed)	Owner's Signature
Scott & Mania Burts 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):	

July 13, 2023

Attn: Peter Bode

Planning and Zoning Official

City of Fairmont Fairmont, MN

RE: Request for Variance for 236 Krahmer Dr

Dear Peter,

Thank you for meeting with us today. Please refer to the survey map enclosed as a reference to these changes. Additions are marked out in blue, removals are marked in red. Here are the changes we intend to make:

Additions:

Retaining wall: 87 sq ft
Fire pit: 140 sq ft
Home addition: 330 sq ft

Removals:

Cement slab: 134 sq ft
Front yard non-exempt concrete: 235 sq ft
West side Paver Patio: 119 sq ft

Total after changes: 3,735 sq ft

Please note that our driveway does not take advantage of the full exemption of 22 feet in width. If this were the case, we would be using another 129 square feet.

This amount still brings us in under the amount allotted for a normal conforming property of 3,750 square feet.

Please find below the explanation of need for variance and explanation of how circumstances are creating a difficulty. Please let us know before the end of the day if we are missing anything.

Sincerely,

Scott & Monica Burtis

Special Conditions and Circumstances:

We feel that special conditions and circumstances do exist. Previous owners sold a portion of the property to a neighboring lot. As a result of this our lot does not fit the criteria of minimum lot area for shoreline lots of 15,000 feet. As you know our current lot is 13,251 square feet. If we had a conforming lot size we would be able to use 3,750 in impervious land. There is not the opportunity to build up as a second floor already exists. There is no other way to obtain this improvement in living space than a variance.

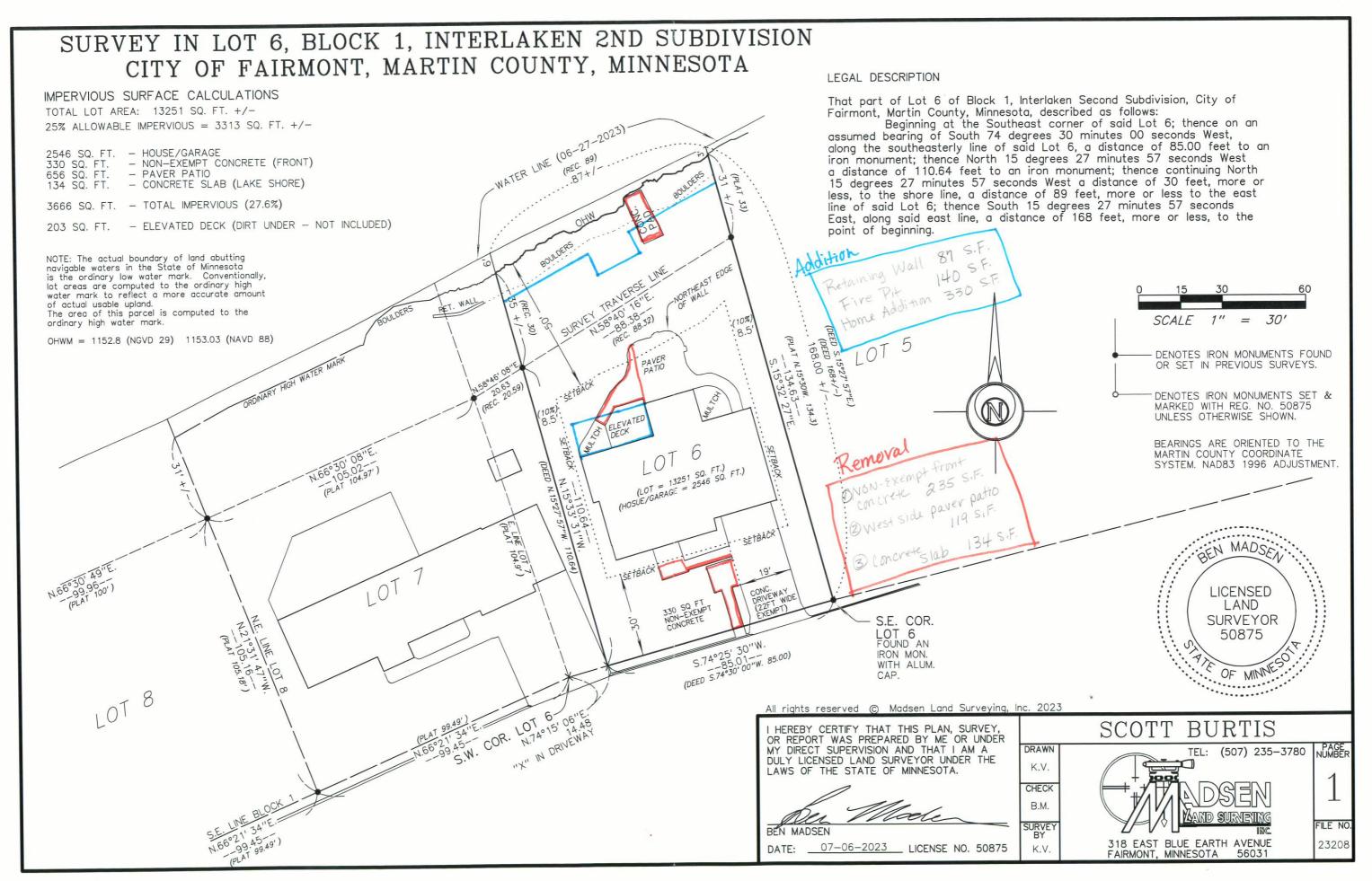
Basing our restrictions on literal interpretation and current lot size would deprive us of the opportunity enjoyed by others of conforming lot size. Other properties in the area have been able to take advantage of the "normal" lot size to build additions and make changes. Limiting us based on current lot size will deprive us of the same opportunities. Granting this variance will give us appropriate living area enjoyed by other properties in the area. Furthermore, allowing this variance will not change the general character that is seen in other properties in this area.

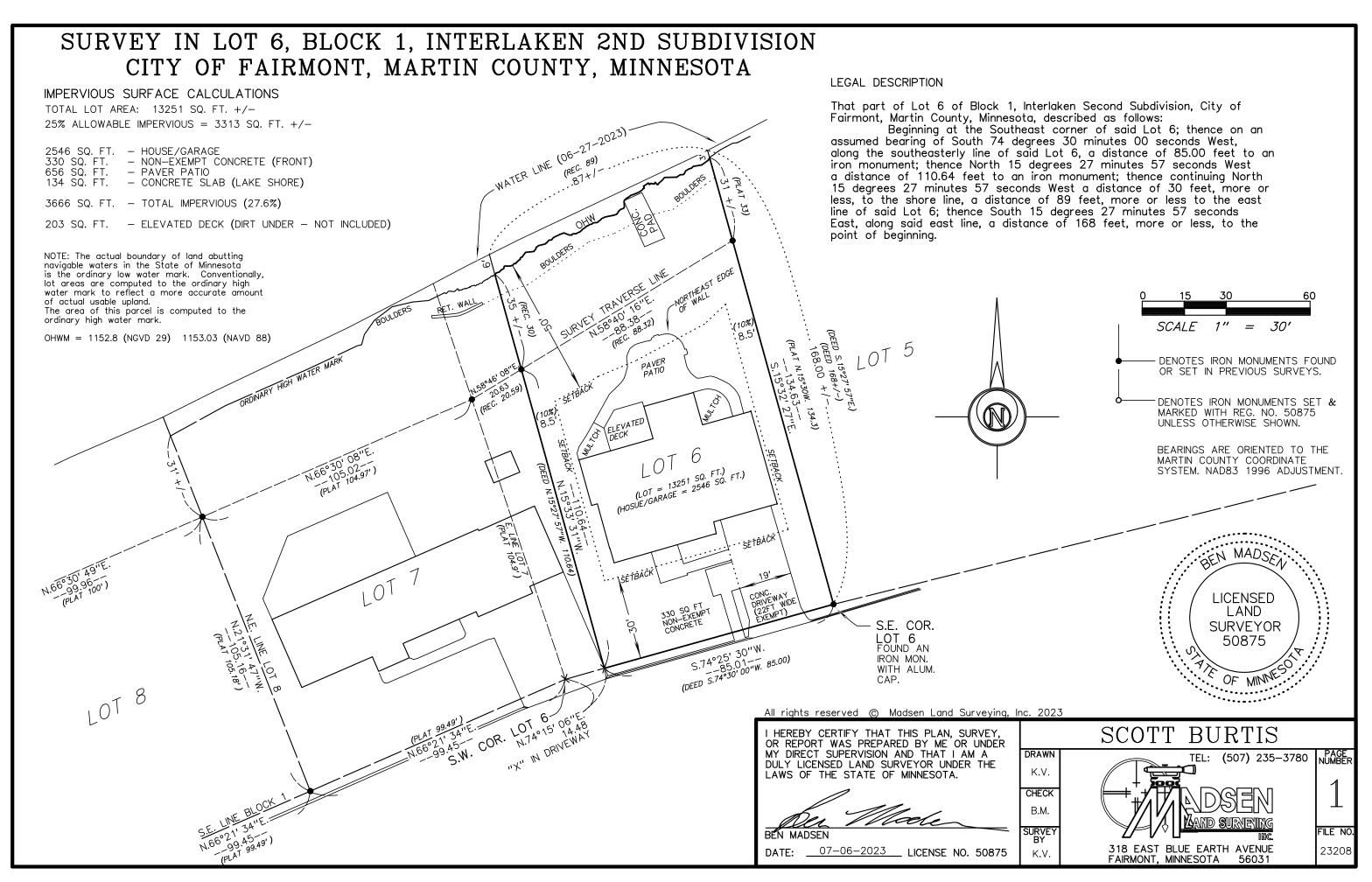
Granting this variance will not give us any special privileges or rights not enjoyed by others in the area. Other variances have been granted in our areas, most recently for a boathouse on the shore a few houses down. A number of building projects have recently been completed in our area and this project will allow us to maintain neighborhood character.

Much of the reason behind putting in a new retaining wall is our interest in maintaining shoreland integrity. In the ten years we have been here we have seen marked erosion of ground soil. A new retaining wall will limit this and decrease run-off of soil into the lake.

We do intend to continue to use this property in a reasonable manner. This is a single- family unit we have owned for over 10 years and will continue to be used as such.

Finally, this variance will not negatively affect air and/or light to adjacent property, or diminish nearby property values within the area or otherwise affect public welfare.







July 24, 2023

Peter Bode – Planning & Zoning Official City of Fairmont 100 Downtown Plaza Fairmont, MN 56031

#### RE: Variance Application Comments for Burtis - PID 231480065, Hall Lake, Martin County

Dear Mr. Bode,

Thank you for sending the variance application for review. The application requests to increase the impervious surface area on the lot to 28.2%, exceeding the maximum impervious surface coverage of 25% identified in the City of Fairmont Shoreland Management Ordinance. The proposed changes, taking into consideration both additions and removals of impervious surfaces, result in a net increase of 69-square feet. The current impervious surface coverage of this lot already exceeds the maximum with 27.6% coverage.

As the current impervious surface coverage already exceeds the maximum threshold, measures should be taken to either reduce the proposed impervious surface area or the existing 27.6% coverage; this means that 69-square feet of impervious surface should be removed either from the proposed spaces or existing areas of coverage. This could potentially be achieved by reducing the "fire pit" area to a smaller size and/or further downsizing the "paver patio," for example.

An additional increase of impervious surface coverage does not meet requirements of the shoreland ordinance and as such, does not reflect best management practices for the adjacent shoreline and water body. I recommend that consideration be given to retaining the maximum impervious surface coverage of 27.6% for this lot. Additionally, please note that should any work below the OHWL occur, a DNR Public Waters Work Permit may be required.

Sincerely,

Erynn Jenzen

Area Hydrologist

507-389-8809

erynn.jenzen@state.mn.us

anyn Tenn

EC: Todd Kolander, DNR District Manager

Minnesota Department of Natural Resources • Ecological & Water Resources 117 Rogers St, Mankato, MN 56001



Phone (507) 238-9461

#### CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031 www.fairmont.org ◆ citygov@fairmont.org

Fax (507) 238-9469

# CITY OF FAIRMONT NOTICE OF PUBLIC HEARING

Notice is hereby given that the Fairmont Board of Zoning Appeals will meet at the City Hall Council Chambers, 100 Downtown Plaza, Fairmont, MN 56031 at 4:30 p.m. on Tuesday, August 1, 2023 to conduct a Public Hearing to review the following item(s):

Tami Gerhardt (Tami's on the Ave)
2710 Albion Ave (PIN 23.148.0190)
Variance Request
7-foot instead of 15-foot parking stall setback requirement from public street

Ross Campbell 227 W 9<sup>th</sup> St (PIN 23.244.0760) Variance Request 3-foot instead of 15-foot front yard requirement for a porch

Monica & Scott Burtis
236 Krahmer Dr (PIN 23.148.0065)
Variance Request
28.2% instead of 25.0% impervious surface requirement for an addition and patio

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 by providing your name, street address, and comment. Public comment is visible to the general public so your private contact information should not be provided.

If you would like a copy of a submitted application or have any questions about a proposal, please contact Peter Bode, Planner & Zoning Official at <a href="mailto:pbode@fairmont.org">pbode@fairmont.org</a> or 507-238-3940.

Patricia Monsen
City Clerk
(Published in Fairmont Sentinel on July 20, 2023)



Phone (507) 238-9461

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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.

ARDIS M KOENECKE LE ETAL 1479 21 1/2 ST CAMERON, WI 54822 CARDINAL ACRES, LLC 1988 135TH ST FAIRMONT, MN 56031 CATHERINE J BARTZ 126 W INTERLAKEN RD FAIRMONT, MN 56031

CHARLES A & PEGGY R HAUGEN

851 270TH AVE GRANADA, MN 56039 CITY OF FAIRMONT 100 DOWNTOWN PLZ FAIRMONT, MN 56031 CLARE C & NANCY K HYBBERT 117 INTERLAKEN RD FAIRMONT, MN 56031

DENNIS & BONNIE GILLIAM 2722 ALBION AVE FAIRMONT, MN 56031 DOUGLAS GERHARDT 502 HOMEWOOD DR WELCOME, MN 56181 DOUGLAS R & TAMELA L GERHARDT 2710 ALBION AVE FAIRMONT, MN 56031

ERIC L MARTIN 132 INTERLAKEN RD FAIRMONT, MN 56031 GARY M & JULIE A FOWLER 2902 LYNN ST FAIRMONT, MN 56031 INTERLAKEN GOLF & BOAT CLUB 277 AMBER LAKE DR FAIRMONT, MN 56031

JAMES & MARLENE LIBRA 104 DOROTHY ST FAIRMONT, MN 56031 JEROME A JORGENSON 119 INTERLAKEN RD FAIRMONT, MN 56031 LARRY & DAWN PETROWIAK 135 W INTERLAKEN RD FAIRMONT, MN 56031

LOCKWOOD REVOCABLE TRUST 134 INTERLAKEN RD FAIRMONT, MN 56031 LOGAN Q KAHLER 103 INTERLAKEN RD E FAIRMONT, MN 56031 LRB PROPERTIES LLC 614 W INTERLAKEN RD FAIRMONT, MN 56031

ONA K SPRINGER 2903 LYNN ST FAIRMONT, MN 56031

PAUL W KASTNING 102 E INTERLAKEN RD FAIRMONT, MN 56031 RICHARD L & JULIE R WOLF 106 INTERLAKEN RD E FAIRMONT, MN 56031

RICHARD TOWNSEND, CHERYL TOWNS 102 DOROTHY ST FAIRMONT, MN 56031 ALAN LEE & HOPE M WHITMORE 912 N MAIN FAIRMONT, MN 56031

815 WILLNETT PL FAIRMONT, MN 56031

**BRUCE TENNEY &, BEVERLY TENNEY** 213 W 10TH ST FAIRMONT, MN 56031

CARL JR & BEVERLY J LAVEN 237 W 10TH ST FAIRMONT, MN 56031

DANIEL C & NANCY A THIESSE 229 W 10TH ST FAIRMONT, MN 56031

**BRUCE & KATHLEEN DAVISON** 

DANIEL D & SHELLIE T POETTER 42324 110TH ST BLUE EARTH, MN 56013

DANIEL T & CHERIE L MADSEN 821 N MAIN ST FAIRMONT, MN 56031

DARREL E & SANDRA KRAHLER 217 W 10TH ST FAIRMONT, MN 56031

EMIL F & BETTY J LEMKE 434 E 11TH ST FAIRMONT, MN 56031

**EVELYN M POULSON** 120 9TH ST W FAIRMONT, MN 56031 **GARRY N OSKERSON** 223 W 10TH ST FAIRMONT, MN 56031

**GARY ZAMZOW** 826 N MAIN FAIRMONT, MN 56031

JAMES M MARUSHIN 229 W 9TH ST FAIRMONT, MN 56031

JAMIE J MILLER 802 N MAIN ST FAIRMONT, MN 56031

JEAN L & ROMAN E JOHNSON 916 LAKE GEORGE PL FAIRMONT, MN 56031

JEFFREY A SAUCK &, K S ANDERSON 910 LAKE GEORGE PL FAIRMONT, MN 56031

JERALD D NASALROAD, PATRICIA A NA JERRY R MILLER 915 LAKE GEORGE PL FAIRMONT, MN 56031

815 N MAIN ST FAIRMONT, MN 56031

JODI R MARTIN 721 N AVE N FAIRMONT, MN 56031

JOHN & TAMMY FORD 224 9TH ST W FAIRMONT, MN 56031

KAREN ANN LEIDING 811 N MAIN FAIRMONT, MN 56031

KAY LOUISE NELSON 219 W 10TH ST FAIRMONT, MN 56031

KEVIN L & LUCAS L SCHOMBERG 806 N MAIN FAIRMONT, MN 56031

LANDMARK IX LLC 900 N AVE N FAIRMONT, MN 56031

LAURA HENRY & JOHN HENRY III 1623 170TH ST FAIRMONT, MN 56031

LORI DITZLER 825 MAIN ST N FAIRMONT, MN 56031 MARIFE P. STORHOFF, TROY D. STORH 1639 1ST AVE N ESTHERVILLE, IA 51334

MARK & SUSAN K ALBERS 214 8TH ST W FAIRMONT, MN 56031

MARLAN & RHONDA KUTNINK 820 MAIN ST N FAIRMONT, MN 56031

MATHEW F. FOGELSON, ET AL 903 N MAIN ST FAIRMONT, MN 56031

MICHAEL & VICKI K HARTMANN 207 10TH ST W

FAIRMONT, MN 56031

MICHAEL C REIGEL 713 N MAIN FAIRMONT, MN 56031 MICHAEL W DIEKMANN 719 N MAIN ST FAIRMONT, MN 56031

PAMELA J WEDEL LIVING TRUST 909 LAKE GEORGE PL FAIRMONT, MN 56031 RICHARD D & MILLICENT J ADAMS 917 N MAIN FAIRMONT, MN 56031 ROSS CAMPBELL 227 9TH ST W FAIRMONT, MN 56031

RUSSELL OLSON 931 BUDD ST FAIRMONT, MN 56031 RUTH M ENGELBY 903 LAKE GEORGE PL FAIRMONT, MN 56031 SOUTHERN MN MUNICIPAL POWER, AG 500 1ST AVE S W ROCHESTER, MN 55902

STEVEN CHASE 11901 23RD AVE N PLYMOUTH, MN 55441 THOMAS W LEFEBVRE ET AL 526 E 1ST ST N TRUMAN, MN 56088 BARBARA A SCHEEF 1509 CHARLES ST FAIRMONT, MN 56031 CHRIS & KATHRYN CARLSON 246 KRAHMER DR FAIRMONT, MN 56031 CITY OF FAIRMONT 100 DOWNTOWN PLZ FAIRMONT, MN 56031

JAN A & JACQUELYN B BOSMA 220 KRAHMER DR FAIRMONT, MN 56031 JOHN B & SUSAN LUND 221 KRAHMER DR FAIRMONT, MN 56031 KENNETH C KLUG 226 KRAHMER DR FAIRMONT, MN 56031

MARVEL M SNYDER REV LIVING TST 6641 VANCOUVER LN NAPLES, FL 34104 MARVEL M SNYDER 6641 VANCOUVER LN NAPLES, FL 34104

SCOTT BURTIS & MONICA BURTIS 236 KRAHMER DR FAIRMONT, MN 56031

WILLIAM R & CHRISTINE KRUMHOLZ 222 KRAHMER DR FAIRMONT, MN 56031