



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

Phone (507) 238-9461

Fax (507) 238-9469

To: Board of Zoning Appeals

From: Peter Bode, Planner & Zoning Official

Subject: **Agenda – Regular Meeting**
Tuesday, November 7, 2023 at 4:30 p.m.
City Council Chambers, City Hall, 100 Downtown Plaza

- 1) Approval of Agenda
- 2) Approval of Minutes – September 5, 2023

New Business

- 3) Public Hearing – 819 Reiman Ct – Variance Request

Unfinished Business

None

- 4) Adjournment

GENERAL INFORMATION

Applicant: John Hughes
 Property Owner: John & Cheryl Hughes
 Purpose: To allow a 17-foot instead of 25-foot western corner yard requirement
 Address: 819 Reiman Ct
 Parcel Number: 23.203.0080
 Zoning: R-1, SOD-B
 Surrounding Uses: Low-density residential
 Application Date: October 16, 2023
 Review Date: November 7, 2023

BACKGROUND

This R-1 Single Family Residential lot is situated on the corner of Reiman Court and Fairlakes Avenue, to the southwest of Sisseton Lake. Surrounded by other single-family homes, the lot measures approximately 9,700 square feet in area and approximately 99 feet in width at the buildable area lateral. Both the area and width of the lot meet the R-1 district’s minimums, so this is a conforming lot.

Following a fire in 2022, the home on the lot was demolished and the lot is now graded and empty save for the original driveway. According to a site plan on file publicly, the original home was setback to the following:

ORIGINAL HOME SETBACKS

<i>Setback requirements</i>	<i>Original home setbacks</i>	<i>Comment</i>
Front yard (north): 30 feet	30 feet	Original home met 30-foot front yard requirement
Corner yard (west): 25 feet	25 feet	Original home met 25-foot corner yard requirement
Rear yard (south): 25 feet	25 feet	Original home met 25-foot rear yard requirement
Side yard (east): 10 feet	8 feet	Original home did not meet 10-foot side yard requirement

The applicant proposes to build a new home on the lot with the following setbacks:

PROPOSED HOME SETBACKS

<i>Setback requirements</i>	<i>Proposed home setbacks</i>	<i>Comment</i>
Front yard (north): 30 feet	30 feet	Proposed home meets 30-foot front yard requirement
Corner yard (west): 25 feet	17 feet	Proposed home does not meet 25-foot corner yard requirement
Rear yard (south): 25 feet	26 feet	Proposed home meets 25-foot rear yard requirement
Side yard (east): 10 feet	10 feet	Proposed home meets 10-foot side yard requirement

As shown above, the original home was indicated to be placed 8 feet from the eastern property line where 10 feet was required. Staff note that this may have been allowed because of the methodology used to determine the lot's width. The photo below shows one methodology of measuring the lot width of approximately 80 feet and another of 99 feet.

MEASUREMENT OF WIDTH (80 FEET VS. 99 FEET)



Staff use 99 feet because this most common methodology is more relevant to the development of a home at the buildable lateral. Using 99 feet, the applied eastern side yard requirement is 10 feet instead of 8 feet. The applicant proposes to place the home 10 feet from the eastern property line, which would conform with the eastern side yard requirement.

The applicant requests a variance to allow a 17-foot instead of 25-foot western corner yard requirement. The zoning code allows for a reduction in this 25-foot requirement if the requirement would reduce the buildable width of the lot to less than 25 feet. In this case, because the lot is conforming in width, the 25-foot corner yard requirement and the 10-foot side yard requirement together result in a buildable width of 64 feet. Therefore, code provides that the corner yard requirement remains 25 feet.

Along Fairlakes Avenue north and south of the subject lot, 8 out of 8 principal structures (homes) meet the required setbacks to Fairlakes Avenue. However, at least 3 small accessory structures exist along this portion of Fairlakes Avenue closer to the street than setbacks allow.

REVIEW OF VARIANCE STANDARDS

The Board of Zoning Appeals may hear requests for variances from the requirements of the zoning ordinance. The Board shall only grant variances where the applicant establishes that each of the following criteria required under Minnesota Statutes, section 462.357, subd. 6 are met for each requested variance.

Variance 1: To allow a 17-foot instead of 25-foot western corner yard requirement

(a) The variance is in harmony with the general purposes and intent of the zoning code;

The purpose of the corner yard requirement for the R-1 Single Family Residential district is to provide a common distance for structures in the district from public streets, just like the front yard requirement. This is done both to ensure a common pattern of distances in a neighborhood and to improve vision for drivers on the public street. The code builds in a potential reduction of the requirement if the requirement would reduce buildable width to an unreasonable degree.

Staff find that the request is not in harmony with the general purposes and intent of the zoning code. The request would allow a principal structure to extend closer to Fairlakes Avenue than the zoning code intends and is common in the neighborhood.

(b) The variance is consistent with the Comprehensive Plan;

The Fairmont Comprehensive Plan guides the use of this area to be traditional residential neighborhood, which supports single family homes.

Staff find that the request is consistent with the Comprehensive Plan.

(c) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;

The applicant states that the proposed home is relatively small by today's standards, slightly under 1,600 square feet and that a two-stall garage is common and desired.

Staff find that while the intent to build a 1,600 square foot home and two-stall garage would be generally reasonable by today's standards on a larger lot, it would be unreasonable to grant a corner yard variance at this subject parcel. The lot is conforming in both width and area, the original home on the lot was able to meet the corner yard requirement, and homes along Fairlakes Avenue generally comply with corner and front yard requirements.

(d) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

The applicant states that the unique circumstance of a 10-foot wide utility easement in the rear yard reduces space to build in the rear yard. The zoning code allows building detached garages, which could be an alternative to an attached garage, in rear yards.

Staff find that a unique circumstance exists in that the 10-foot wide utility easement reduces the area by which an alternative accessory structure could be built in the rear yard. Detached garages like this are also required to be placed 5 feet from the home for fire suppression purposes, further reducing the area by which an alternative might be possible in the rear yard.

(e) The variance, if granted, will not alter the essential character of the locality.

Staff's review of front and corner yard setbacks along Fairlakes Avenue indicates that 8 out of 8 principal structures are conforming. However, at least 3 smaller accessory structures like sheds are closer than their respective requirements.

The applicant states that homes to the east and south are close to property lines. Staff are not able to identify non-conforming front or corner yard setbacks for these structures.

Staff find that granting the variance will alter the essential character of the locality. Allowing a 17-foot corner yard requirement at the subject parcel will change the pattern of development for principal structures along Fairlakes Avenue to be closer to the public street than currently exists in the neighborhood.

RECOMMENDATION

Staff's review of the variance standards of Minnesota Statutes, section 462.357, subd. 6 indicates that the applicant demonstrates consistency with the Comprehensive Plan and that there is a unique circumstance relating to the land itself. However, every standard of statute must be met in order to grant the variance.

Staff find that the request is not in harmony with the general purposes and intent of code because the lot is conforming in area and width and because the code already builds in a potential reduction of the corner yard requirement if the standard requirement itself is unreasonable. While the size of the proposed home is relatively reasonable by today's standards, this lot which conforms to the zoning code simply may not be large enough to accommodate the proposal. Reducing the corner yard setback to 17 feet for a principal structure would alter the established pattern of development in the neighborhood.

Staff's findings support denial of the requested variance to allow a 17-foot instead of 25-foot western corner yard requirement. 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.

The applicant and Board may consider discussing a less impactful request. Reducing the width of the home, removing the attached garage, placing a smaller detached garage in the rear yard, and moving the dwelling portion of the home to be 30 feet from the front property line may prove to be a more reasonable use of the land. While the applicant will want to avoid the utility easement, moving the dwelling forward would provide more room in the rear of the lot for a garage.

Respectfully submitted,

Peter Bode

Planner & Zoning Official

Attached: Variance Criteria Guidance
BZA Resolution 2023-4
Application for variance
Original home site plan

Variance Criteria Guidance – City of Fairmont

The underlined questions below represent the required statutory criteria, pursuant to Minn. Stat. § 462.357, subd. 6, which must be considered and answered affirmatively in order for the Board of Zoning Appeals or the City Council, as applicable, to grant a variance application. For purposes of establishing a record, a majority of the members of the governing body must agree upon the answers given to each question below. The following guidance is intended to assist the governing body in developing its written findings on each of the below underlined statutory criteria:

1) Is the variance in harmony with the purposes and intent of the ordinance?

Some of the more common purposes and intent of zoning ordinances, which may be considered in evaluating this criterion include, but are not limited to, the following:

- a. To promote the public health, safety, morals, comfort and general welfare;
- b. To conserve and protect property and property values;
- c. To secure the most appropriate use of land; or
- d. To facilitate adequate and economical provisions for public improvements.

2) Is the variance consistent with the Comprehensive Plan?

What is the future land use category for the subject property?

Does the request align with this category and other provisions of the Comprehensive plan?

3) Does the proposal put property to use in a reasonable manner?

Would the request put the property to use in a reasonable way but cannot do so under the rules of the ordinance? It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of this factor is whether the request to place a building there is reasonable. For example, is it reasonable to put a building in the proposed location?

4) Are there unique circumstances to the property not created by the landowner?

Are there unique physical characteristics of the property not caused by the landowner? The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner (i.e. size of the lot, shape of the lot, layout of the building, topography, trees, wetlands, etc.). For example, when considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees?

5) Will the variance, if granted, retain the essential character of the locality?

If granted, will the use of the land or the structure be of appropriate scale, in a suitable location, or otherwise be consistent with the surrounding area? For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

6) Are there other considerations for the variance request besides economics?

State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exist only when the statutory factors are met.

If there are affirmative answers to questions 3, 4, and 5, the application then satisfies the practical difficulties test, and if the answer is yes to this question, then in that event, the application may proceed if the other criteria (1 and 2) above are also met.

If there are not affirmative answers to questions 3, 4, and 5, then the practical difficulties test is not satisfied, and if the answer to this question is no, then in that event, the application must be denied for failure to meet the practical difficulties test.

Other Considerations:

Neighborhood opinion. Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While the BZA or City Council, as applicable, may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the above statutory factors. Residents can often provide important facts that may help the governing body in addressing the above questions, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision.

Conditions. A city may impose a condition when it grants a variance so long as the condition is directly related to and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the effect of excess height.

CITY OF FAIRMONT, MINNESOTA
BOARD OF ZONING APPEALS RESOLUTION BZA #2023-4

A RESOLUTION BY THE BOARD OF ZONING APPEALS OF THE CITY OF FAIRMONT,
MINNESOTA, DENYING A VARIANCE REQUEST AT 819 REIMAN CT

- WHEREAS, JOHN HUGHES (the “Applicant”) is the owner of a parcel of land located at 819 REIMAN COURT (PID No. 23.203.0080) in the City of Fairmont; and
- WHEREAS, the above-referenced property is legally described by Exhibit A, which is attached hereto and incorporated herein by reference (the “Property”); and
- WHEREAS, Fairmont City Code, Chapter 26-152(e)(4)(c) sets the principal structure setback from the corner property line at 25 feet; and
- WHEREAS, the Applicant desires to and has requested a variance to the above standard in order to place a structure 17 feet from the corner property line; and
- WHEREAS, pursuant to Minnesota Statutes, section 462.357, subd. 6, the Zoning Board of Appeals may only grant applications for variances where practical difficulties in complying with the zoning code exist and each of the following criteria are satisfied (see also City Code Section 26-101):
- (a) The variance is in harmony with the general purposes and intent of the zoning code;
 - (b) The variance is consistent with the Comprehensive Plan;
 - (c) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
 - (d) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - (e) The variance, if granted, will not alter the essential character of the locality; and

WHEREAS, the Board of Zoning Appeals held a public hearing, following required public notice thereof, on November 7, 2023, and has reviewed the requested variances and has considered the required statutory variance criteria identified in the staff report and proposed findings with respect to such criteria.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF FAIRMONT, MINNESOTA, that the Fairmont Board of Zoning Appeals has duly considered the required criteria contained in state law and City Code as applicable to the above-requested variance regarding the property legally described in Exhibit A, and hereby adopts the findings of fact contained in the staff report regarding the same, which is attached hereto and incorporated herein by reference as Exhibit B.

BE IT FURTHER RESOLVED that the requested variance to allow a 17-foot instead of 25-foot corner yard setback is hereby denied based upon the above-referenced adopted findings.

PASSED by the Board of Zoning Appeals of the City of Fairmont this 7th day of November, 2023.

Mike Klujeske, Chair

Adam Smith, Vice Chair

VOTE: ___ DAVIS ___ JACOBSON ___ KLUJESKE
 ___ KRUEGER ___ SMITH

EXHIBIT A

Property Legal Description

Lot 8 of Block 1 of Reiman Fairlakes Fourth Addition

EXHIBIT B

Findings of Fact:

INSERT STAFF REPORT WITH CRITERIA

CITY OF FAIRMONT
Planning & Zoning
Application Form

PO CK# 3195

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: John Hughes Address: 114 Forest St. Phone#: [REDACTED]
 Street Address of Proposal: 819 Reiman Ct. Fairmont, MN
 Legal Description of Property: Lot 8 of Block 1 of Reiman Fairlakes 4th Addn.
 Existing Use of Property: Vacant, was a single family home P18
 Proposed Use of Property: Single Family Home

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

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

John Hughes Owner's Name (Printed) John Hughes Owner's Signature
John Hughes Applicant's Name (Printed) John Hughes Applicant's Signature

City Staff Use Only

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

City of Fairmont

Planning and Zoning Committee

October 16, 2023

Applicant: John Hughes, 114 Forest St. Fairmont, MN 56031

For the property at 819 Reiman Ct., Fairmont, MN 56031

Members of the Committee,

In August of 2022 the house at 819 Reiman Ct. was severely damaged by fire. It was deemed a total loss by my insurance company, and I had the house fully removed in January of this year (2023). I do want to thank the City for the assistance with the demolition, as it certainly helped pay the bill which was over \$25,000! My insurance picked up just over \$18,000 of the bill so it was not nearly as painful as it could have been. Again, thank you for your assistance!

I am requesting the variance on this property to enable placing a structure similar to what was there in the past, bi-level walk out basement with 1850 Sq. ft. on the top and 1820 sq. ft. on the bottom floor. The issue at hand is the requirement for a full 30' setback on all sides vs. the current setback that was in place since 1983 which would reduce the usable area of the lot significantly reducing its value and also creating a lot that would not support a structure that is in line with those in the surround court and neighborhood.

My request is to leave the setbacks as those now on record in the Fairmont City Offices and as shown to me by Peter Bode just recently. This would allow the lot to keep it's value and entice a new resident to build a home similar to those in that area. Note that the lot is currently listed for sale Exit Realty-Great Plains at a price of \$19,500. My intent is to get the lot sold quickly to get that neighborhood back to normal! (See page two for contact information.)



I believe that this request is in line with both the City's Comprehensive plan and that it meets the requirements of "Practical Difficulties" set forth in the MN Statute 462.357 Subd. 6; Appeals and Adjustments.

Respectfully,

A handwritten signature in black ink that reads "John Hughes". The signature is written in a cursive style with a long, sweeping tail on the letter "s".

John Hughes, 114 Forest St., Fairmont, MN 56031



Variance Request
819 Reiman Court, Fairmont, MN

1. Is the variance in harmony with the purposes and intent of the ordinance?

Yes. Currently, the piece of property is sitting vacant. It formerly had a house on it, which was destroyed in a fire. We would like to purchase the land, build a new house on it, landscape the property, and return beauty to this corner lot. Our current home was featured on the garden tour a number of years ago, due to the beauty of our landscaping and perennial flower beds. We take pride in maintaining our home and yard.

2. Is the variance consistent with the Comprehensive Plan?

Yes. This piece of property is zoned residential. We want to build a single-family house on it, not a business.

3. Does the proposal put property to use in a reasonable manner?

Yes. The house we want to build is not a large house – it is slightly under 1600 square feet, with a two-stall garage located in the front of the home. As we age, we are trying to build a one level home that does not require us to climb stairs daily. Our intent is to include an unfinished basement below it for storage with a walkout, which would allow a future homeowner to add living space if they so choose. The variance we are requesting is for the west side of the property, which is situated on Fairlakes Avenue and involves crossing the required setback. (Refer to plat survey.)

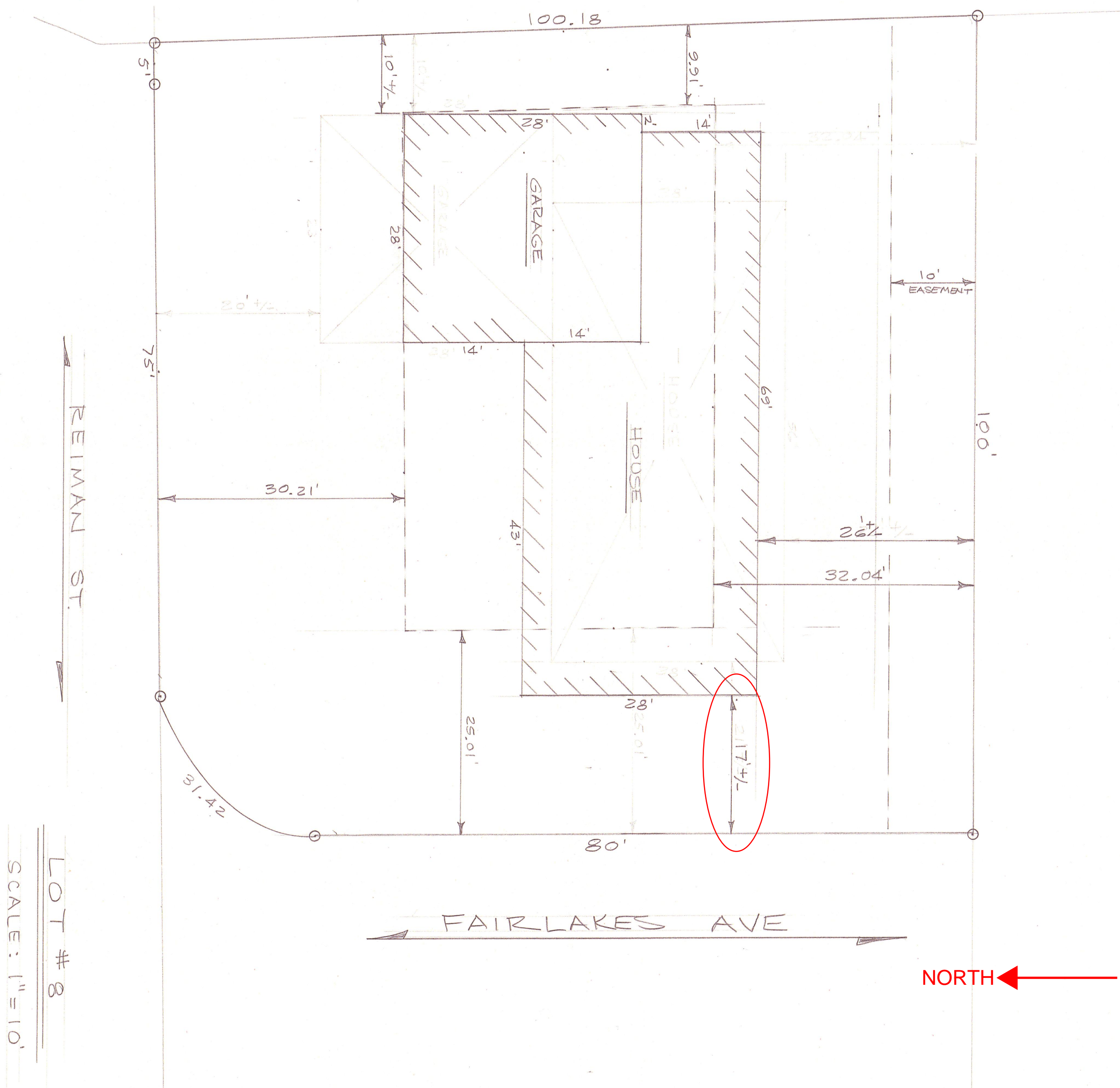
4. Are there unique circumstances to the property not created by the landowner?

Yes. This piece of property is a corner lot, which means there are two 30-foot setbacks – one on the front side (Reiman Court) and one on the west side (Fairlakes Avenue). There is also a 10-foot wide city utility easement on the south side of the lot, limiting the space available for use. It is not a large piece of property, which we find desirable. However, it is difficult to fit our small design on this property without exceeding a setback on one side.

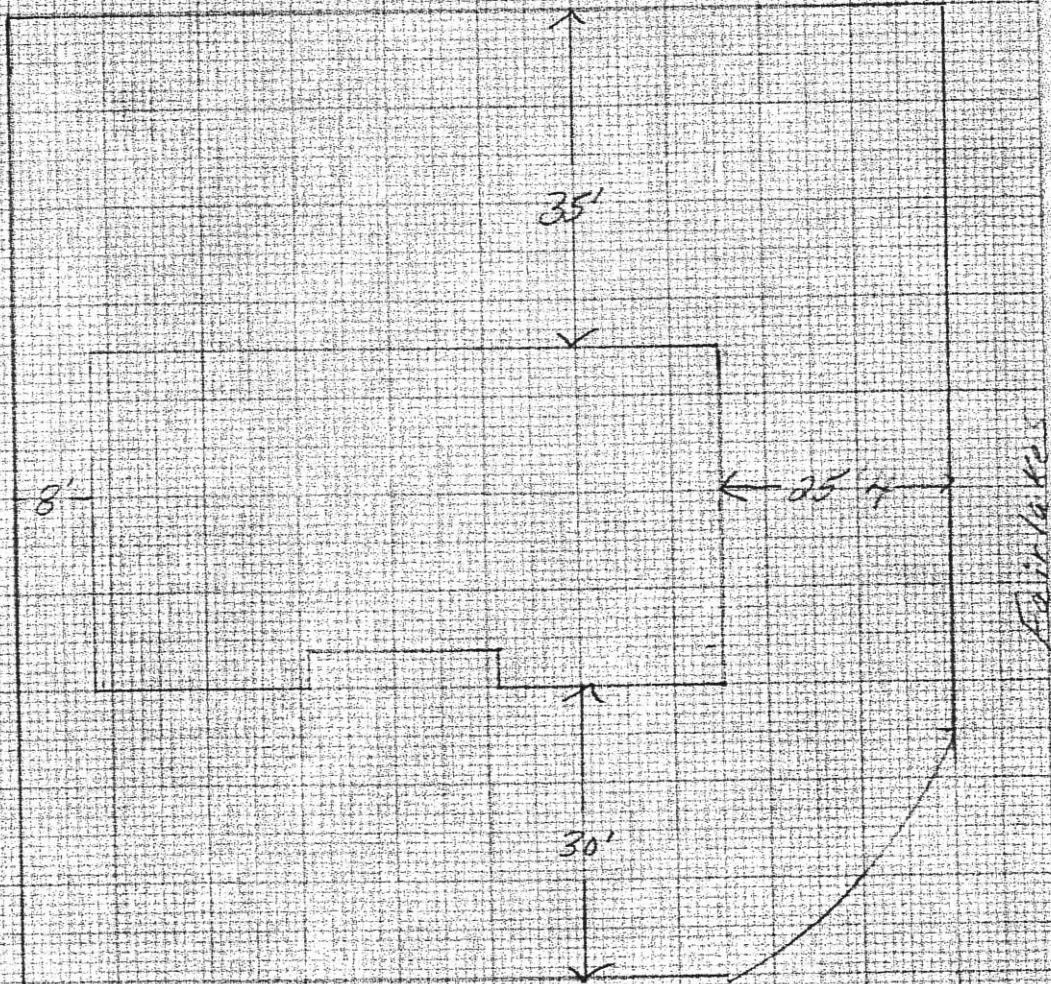
5. Will the variance, if granted, retain the essential character of the locality? Yes. The house will be situated in the center of the property. The two neighboring houses on the east and the south are both built close to the property line. The size and style of our proposed house are similar to those of the other homes in the neighborhood.

6. Are there other considerations for the variance request besides economics? Yes. We are interested in this lot for the following reasons:

- a. The lot is smaller. We are attempting to down size our house and yard size. We do not want a large lot to mow.
- b. The neighborhood is known to be a good place to live.
- c. There are not many vacant lots to build on in Fairmont. The few that we have looked at are much larger than we would like to maintain as we prepare to down size and retire in the future.



LOT # 8
 SCALE: 1" = 10'



819 Reiman Court

Site plan for original home