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Phone (507) 238-9461

CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031  
[www.fairmont.org](http://www.fairmont.org) ♦ [citygov@fairmont.org](mailto:citygov@fairmont.org)

Fax (507) 238-9469

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**To:** Board of Zoning Appeals

**From:** Peter Bode, Planner & Zoning Official

**Subject:** **Agenda – Special Meeting**  
**Tuesday, November 21, 2023 at 4:30 p.m.**  
**Second Floor Conference Room, City Hall, 100 Downtown Plaza**

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1) Approval of Agenda

New Business

2) Public Hearing – 819 Reiman Ct – Variance Request

Unfinished Business

None

3) Adjournment

**GENERAL INFORMATION**

Applicant: John Hughes  
 Property Owner: John & Cheryl Hughes  
 Purpose: To allow a 10-foot instead of 25-foot southern rear yard requirement  
 Address: 819 Reiman Ct  
 Parcel Number: 23.203.0080  
 Zoning: R-1, SOD-B  
 Surrounding Uses: Low-density residential  
 Application Date: November 8, 2023  
 Review Date: November 21, 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	<b>8 feet</b>	Original home <b>did not</b> meet 10-foot side yard requirement

The applicant proposes a buildable area 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	25 feet	Proposed home meets 25-foot corner yard requirement
Rear yard (south): 25 feet	<b>10 feet</b>	Proposed home <b>does not</b> meet 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.

Following discussion with the Board of Zoning Appeals at the November 7 regular meeting, the applicant requests a variance to allow a buildable area 10 feet from the southern property line instead of the 25 feet required as a rear yard setback.

## **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 10-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;**

Staff find the request is in harmony with the general purposes and intent of the zoning code. The purpose of the rear yard requirement is to allow a substantial distance between homes and to lower density of structures in the neighborhood. The neighboring home to the south is approximately 10 feet from the property line,

similar to the proposal, and this lot is also regulated by impervious surface requirements, meaning the overall area of the proposed home and therefore the density of the lot will still be limited.

**(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;**

Staff find that the property owner proposes to use the property in a reasonable manner. By maintaining front and corner yard setbacks and indicating the home be placed no closer to the southern property line than the neighboring structure, the proposal represents a reasonable request.

**(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 find the request will not alter the essential character of the locality. Neighboring structures are located at or within 10 feet of interior property lines.

## **RECOMMENDATION**

Staff's review of the variance standards of Minnesota Statutes, section 462.357, subd. 6 indicates that the applicant demonstrates consistency with the requirements of statute and code.

Staff's findings support approval of the request to allow a 10-foot instead of 25-foot southern rear 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.

*Respectfully submitted,*

*Peter Bode*

*Planner & Zoning Official*

**Attached:** Variance Criteria Guidance  
BZA Resolution 2023-5  
Application for variance

CITY OF FAIRMONT, MINNESOTA  
BOARD OF ZONING APPEALS RESOLUTION BZA #2023-5

A RESOLUTION BY THE BOARD OF ZONING APPEALS OF THE CITY OF FAIRMONT,  
MINNESOTA, APPROVING 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)(d) sets the principal structure setback from the rear property line at 25 feet, which is 25 percent of the lot depth of 100 feet; and
- WHEREAS, the Applicant desires to and has requested a variance to the above standard in order to place a structure 10 feet from the rear property line; and
- WHEREAS, pursuant to Minnesota Statutes, section 462.357, subd. 6, the Board of Zoning 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 21, 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 10-foot instead of 25-foot rear yard setback is hereby approved based upon the above-referenced adopted findings.

PASSED by the Board of Zoning Appeals of the City of Fairmont this 21<sup>st</sup> 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**