CITY OF Fargo

PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
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MEMORANDUM

TO: Board of Adjustment
FROM: Aaron Nelson, Planner AN
DATE: May 16, 2017
RE: Board of Adjustment Meeting

The next meeting of the Board of Adjustment will be held on Tuesday, May 23, at 9:00 a.m. in the City Commission Room at Fargo City Hall. If you are not able to attend, please contact staff at 241-1474 or planning@cityoffargo.com. Thank you.

BOARD OF ADJUSTMENT
Tuesday, May 23, 2017 9:00 a.m.
City Commission Room
AGENDA

1. Approve Minutes of April 25, 2017 Meeting

2. Old Business
   a-1) Variance Request – 1423 7th Avenue South
   Request for a variance of Section 20-0403 of the LDC. The requested variance is to allow construction of a detached garage that would encroach into the required interior-side setback area within the SR-3, Single-Dwelling Residential, zoning district.

   a-2) Appeal of an Administrative Decision
   Appellant claims that staff erred in issuing a stop work order for construction of a detached garage.

3. New Business
   a) Variance Request – 1641 5th Street North
   Request for a variance of Section 20-0501 of the LDC. The requested variance is to allow a building addition to encroach into the required street-side setback area within the SR-2, Single-Dwelling Residential zoning district.

4. Other Business

5. Adjournment

Board of Adjustment meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.cityoffargo.com/streaming. They are rebroadcast each Tuesday at 9:00 a.m. for one month following the meeting.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 241-1474 or TDD at 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

EQUAL HOUSING OPPORTUNITY

Printed on Recycled paper.

BOARD OF ADJUSTMENT
MINUTES

Regular Meeting: Tuesday: April 25, 2017

The Regular Meeting of the Board of Adjustment of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 9:00 o'clock a.m., Tuesday, April 25, 2017.

The Members present or absent were as follows:

Present: Deb Wendel-Daub, Matthew Boreen, Russell Ford-Dunker, Michael Love, Mark Lundberg

Also present: Erik Johnson, Jodi Bertrand, Bruce Taralson

Absent: Mike Mitchell

Chair Wendel-Daub called the meeting to order.

Item 1a: Approve Order of Agenda
Member Love moved the Order of Agenda be approved as presented. Second by Member Lundberg. All Members present voted aye and the motion was declared carried.

Item 1b: Approval of Minutes: Regular Meeting of February 28, 2017
Member Lundberg moved the minutes of the February 28, 2017 Board of Adjustment meeting be approved. Second by Member Boreen. All Members present voted aye and the motion was declared carried.

Item 2: New Business
a-1) Variance Request – 1423 7th Avenue South
Request for a variance of Section 20-0403 of the Land Development Code. The requested variance is to allow construction of a detached garage that would encroach into the required interior-side setback area within the SR-3, Single-Dwelling Residential zoning district: CONTINUED TO MAY 23, 2017
Planner Aaron Nelson presented the staff report and noted item a-2 is associated with this same property and applicant. He noted two letters in the packet from adjacent property owners opposing this request, and a petition that was submitted to the Board. Mr. Nelson reviewed the background information and explained the criteria used during staff's analysis of the request. Mr. Nelson stated staff is recommending denial as review criteria a, b, and c have not been met.

Discussion by the Board began regarding the setback violation and encroachment onto the neighboring property, a Certificate of Survey dated 3-30-17 submitted by this neighbor that is included in the packet; the property owner's responsibility to confirm

property lines before construction begins; and clarification of the process and responsibility of the property owner to hire and pay a licensed land surveyor or engineering company to legally determine and verify the boundary/property lines.

Applicant and property owner Chad Klimek spoke on behalf of the request.

Further discussion ensued, and it was suggested items 2a.1 and 2a.2 be continued to the May 23, 2017 Board of Adjustment meeting, to provide the applicant the opportunity to hire a licensed land surveyor to legally determine and issue a Certificate of Survey for the property at 1423 7th Avenue South. Mr. Klimek agreed to this continuation.

Member Love moved Items 2.a-1 and 2.a-2 be continued to the next meeting of the Board of Adjustments. Second by member Boreen. All members voted aye and the motion was declared carried.

a-2) Appeal of an Administrative Decision
Appellant claims that staff erred in issuing a stop work order for construction of a detached garage: CONTINUED TO MAY 23, 2017
See discussion and motion in item 2.a-1.

b. Variance Request – 1023 1st Avenue South
Request for a variance of Article 21-06 of the Municipal Code. The requested variance is to allow the opening of a proposed building to be approximately 3.7 feet lower, and the fill around the building to be approximately 3.45 feet lower, than would otherwise be required by the City's Floodproofing Code: APPROVED WITH CONDITIONS
Aaron Nelson presented the staff report. Mr. Nelson referred to the criteria used during staff's analysis of the request and their recommendation for approval with conditions.

Inspections Administrator Bruce Taralson spoke in agreement with staff's recommendation for approval with the stated conditions.

Stormwater Engineer Jody Bertrand spoke in approval of the application.

Applicant Jesse Craig, Craig Development, Inc. spoke on behalf of the application.

Project Manager Nick Horner, spoke on behalf of the application.

Member Love moved the findings of staff be accepted and the variance to allow the opening of a proposed building to be approximately 3.7 feet lower, and the fill around the building to be approximately 3.45 feet lower be approved on the basis that the review considerations of Section 21-0603 have been satisfied with the following conditions:

1. The applicant sign and submit a waiver of liability against the City;
2. The owner administering an emergency response plan for flood events;

3. Building services susceptible to flood damage, such as electrical and mechanical equipment, shall be located above the 41' WSEIZ elevation of 903.3 feet;
4. The first floor of the building shall be designed to automatically allow free flow of floodwater into the structure in order to equalize floodwater pressure against the building; and
5. The proposed building shall not have a basement.

Second by Member Lundberg. Upon call of the roll Members Lundberg, Love, Boreen, Ford-Dunker, and Wendel-Daub voted aye. Absent and not voting: Member Mitchell. The motion was declared carried.

Item 4: Other Business
No other business was discussed.

Item 5: Adjournment:
Member Ford-Dunker moved to adjourn the meeting at 10:06 a.m. Second by Member Love. All Members present voted aye and the motion was declared carried.

CITY OF FARGO - Board of Adjustment
Variance Staff Report

Item No: 2.a-1	**Date:** April 20, 2017 **Update:** May 16, 2017
Address: 1423 7th Avenue South	
Legal Description: Lot 9, Browns Subdivision of Wright & Stones Subdivision of Block 5, Darlings Addition	
Owner(s)/Applicant: Chad Klimek	
Reason For Request: To construct a garage within the required setback area.	
Zoning District: SR-3, Single Dwelling Residential	
Status: Board of Adjustment Public Hearing: May 23, 2017	

SR-3 Dimensional Standards		Proposed Accessory Structure Standards	
Setbacks:		**Setbacks:**	
Front:	20’	**Front:**	>20’
Interior-Side:	3’	**Interior-Side:**	**1’ 10”**
Rear:	3’	**Rear:**	3’

Background:
On September 19, 2106, a building permit was issued to the applicant, Chad Klimek, to remove an existing garage and construct a new 22’ x 30’ detached garage in the rear yard of a single-family home located at 1423 7th Avenue South, which is within the SR-3, Single-Dwelling Residential, zoning district. The new garage was to be located at least 3 feet away from the interior-side and rear property lines, in order to conform to the required setbacks for rear-yard accessory structures within the SR-3 zoning district. Section 20-0403(B)(3) of the LDC allows accessory structures to be constructed as close as 3 feet from interior-side and rear property lines, provided that the accessory structure is located within the rear yard of the property. The applicant, however, has substantially constructed the garage one foot and two inches (1’2”) from the interior-side lot line. Accordingly, the applicant is requesting a variance in order to allow the garage to encroach one foot and 10 inches (1’ 10”) into the required interior-side setback area.

According to the applicant, he intended to construct the garage in conformance with the three-foot setback and based his determination on the location of the property line on existing conditions of the property such as the location of the driveway, fence, and previously existing garage. However, a survey submitted by the applicant’s neighboring property owner showed that the applicant’s garage was being constructed within the required three-foot setback. The City does not survey or determine the location of private property lines when reviewing or approving building permit applications. It is the responsibility of the property owner and permit holder to ensure that they are meeting all city code requirements, such as setbacks. Because the City was presented with evidence of a setback violation (i.e. a survey produced by a registered land surveyor), the City Building Official issued a stop work order for the construction of the garage. The applicant disagrees with the survey submitted by the neighboring property owner and has also appealed staff’s discussion to issue the stop work order, in addition to this requested variance.

Criteria for Approval & Staff Analysis:

§20-0914.E.1 of the LDC states that, “A variance may be granted by the Board of Adjustment upon an affirmative finding that <u>all</u> of the following conditions exist.”

a. The requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner’s intentional action;

The subject property is 6,249 square feet in area, which is 1,249 square feet more than the minimum required lot size of 5,000 square feet in the SR-3 zoning district. In addition, the minimum lot width in the SR-3 zoning district is 50 feet and subject property is 50 feet wide. Of the 61 single-family lots within 300 feet of the subject property, the median lot area is 7,103 square feet and the median lot width is 50 feet. As a result, no unique dimensional conditions were identified for the property.

In addition to the lot dimensions being typical for the neighborhood, the 3-foot accessory structure setback applies to all single-family zoning districts. Consequently, staff finds that the requested variance does not arise from conditions that are unique to the subject property not ordinarily found in the same zoning district, as the subject property does not differ from properties within the surrounding neighborhood and no unique conditions have been identified. **(Criteria NOT satisfied)**

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

In accordance with the notification requirements of the LDC, neighboring property owners were provided notice of the variance request. To date, staff has received two written comments on this application from neighboring property owners who own the property to the north and to the west of the subject property, both objecting to the requested variance. Copies of these letters are attached. The property owner to the north has concerns with the dimensions and location of the garage and the property owner to the west has concerns related to encroachment onto his property. **(Criteria NOT satisfied)**

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

According to the applicant, the variance is being requested in order to allow a garage, which is a typical accessory structure permitted with single-family homes. Specifically, the applicant states that the variance is needed to allow construction of the garage within the western interior-side setback area in order to avoid impeding the back entrance of the house on the property.

However, staff finds that the property can be used for an otherwise allowed use without coming into conflict with applicable side development standards. A garage could be accommodated on the subject property while meeting the dimensional standards of the Land Development Code. The existing house currently sits approximately 65 feet from the rear property line and the lot width is 50 feet. As a result, there is about 62 linear feet of buildable distance between the back of the house and the required rear setback line and 44 linear feet of buildable distance between interior side setback lines. This equates to an accessory building envelop of approximately 2,728 square feet in the rear yard of the property. Staff finds that there is currently enough buildable area behind the existing house to construct an attached garage without coming into conflict with the applicable site development standards.

Ultimately, staff finds that the strict application of the applicable standards does not constitute an unnecessary physical hardship because the subject property can be used for a garage (as an accessory use) without coming into conflict with applicable development standards. **(Criteria NOT satisfied)**

d. The variance desired will not adversely affect the public health, safety or general welfare;

Staff has no data that would suggest an adverse effect on public health, safety or general welfare. No public health, safety or general welfare issues have been identified. **(Criteria satisfied)**

e. The variance is the minimum variance that will overcome the hardship;

As mentioned above, staff suggests that there is no hardship because a garage could be constructed without coming into conflict with applicable site development standards and the requested variance does

not appear to arise from conditions that are unique to the subject property not ordinarily found in the same zoning district. However, if a hardship were found to exist, the proposed variance would be the minimum variance needed for the applicant to construct the garage in the location proposed by the applicant. **(Criteria satisfied)**

Update 5/15/2017:
This item was originally heard by the Board of Adjustment on April 25, 2017, in conjunction with a related application for an appeal of an administrative decision related to the subject property. At the April 25th Board of Adjustment meeting, it was suggested by the Board that these two items be continued to the next month's meeting, in order to provide the applicant the opportunity to hire a licensed land surveyor to issue a Certificate of Survey for the subject property. The applicant, Mr. Klimek, agreed to this continuation and the Board voted unanimously to continue these items to the May 23, 2017 Board of Adjustment meeting.

Staff reached out to the applicant on May 15 regarding the status of any survey for the subject property. The applicant informed staff that he had not had the property surveyed but that he would like to proceed with having his applications heard by the Board on May 23. Consequently, staff has no additional information regarding these applications and staff's recommendations have not changed.

Staff Recommendation: "To accept the findings of staff and deny the requested variance to allow a garage to be constructed within the required interior-side setback in the SR-3 zoning district on the basis that the review criteria of Section 20-0914.E.1 (a, b, & c) have not been met."

THE CITY OF Fargo FAR MORE

Legend

AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5

1423 7th Avenue South

0 75 150 Feet

N

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200 Third Street North
Fargo, North Dakota 58102
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VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

1) The application and a nonrefundable fee of $185 are due at the time of submittal
2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

d. The variance desired will not adversely affect the public health, safety or general welfare; and;

e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (*Signature*): Chad Klose Date: 4-7-17

Note: *A nonrefundable filing fee of $185.00 must be accompanied with the application at time of submittal.*

Office Use Only

Date Filed:_____ Planning Contact:_____ Nonrefundable Fee $185.00:_____

APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in **unnecessary physical (not economic) hardship** to the property owner.

Property Owner Information:	
Name (printed):	Chad Klimek
Address:	2075 Rose Creek Blvd S.
Primary Phone:	701 306 1471
Alternative Phone:	
Fax:	
Email:	fargoatm@yahoo.com

Representation Information: *(if applicable)*	
Name (printed):	
Address:	
Primary Phone:	
Alternative Phone:	
Fax:	
Email:	

Location of property requesting a variance:	
Address:	1423 7th Ave S.
Zoning District:	
Legal Description:	Lot [redacted] #9 of Brownes Subdivision of Wright and Stones subdivision of Block 5 Darlings Addition

Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

[redacted] setback

Please describe difference between the standard and the proposed (e.g. The standard is 10 ft. and my project would propose a 7' setback).

Standard is 3ft currently it is at [redacted] 14 inches right now and 95% completed.

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

The garage is 22x30 and is [redacted] 14 inches away from the property line. It supposed to be 3ft. However we believe the survey is inaccurate. (Enclosed is letter from Houston Engineering.) In order to be accurate the whole block must be surveyed ~~to~~ due to lack of pins. We can justify the need for a variance if we put in a fire wall on the west side of garage.

Criteria for Approval:

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

Generally in the 1920's garages and fences were built close to the property lines. This was not my intention the garage was built even further away than the previous garage.

2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

None of the garage including the over hang is on their property. I beleive it to be 4 1/2 feet on my side of the property

3) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

If the garage was placed any further inside my property it would impede on the back entrance of the house

4) The variance desired will not adversely affect the public health, safety or general welfare; and

Does not Apply to any of the above.

5) The variance is the minimum variance that will overcome the hardship.

I'm asking for 22 inches variance

Item 2a-1 & 2a-2

Aaron Nelson

From: Steve Peterson <stevepeterson58103@gmail.com>
Sent: Wednesday, April 12, 2017 12:11 PM
To: Aaron Nelson
Subject: Variance Request: 1423 7th Ave S

Follow Up Flag: Follow up
Flag Status: Flagged

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Dear Mr Nelson

My wife, Jane and I own the property at 1426 6th Ave S, directly north of the above referenced property.

The variance request notification points to a 3-foot encroachment into the interior-side setback. My wife and I object and protest this request for approval of a variance.

Further, we are asking your office to confirm that the proposed structure meets Code for back-side setback, as well as overall height.

Also, would you please describe the distribution pattern of your "written notice" letter; e.g., was the notification sent to all property owners in a one/two/three-block radius?

Thank you for your assistance in this matter.

Steve and Jane Peterson
1426 6th Ave S
Fargo, ND 58103
701-799-1036

Sent from mobile device

04/13/2017

To Whom It May Concern:

The following is my response to Chad Himeks' request for a variance. I, Michael Eisert, the adjacent property owner believes this request should be denied. Why? Let me list my reasons why.

1. I have informed him in person and by text message that he is required to have a three foot set back from the property line for his building project.
2. He was also informed by the city permit office of these regulations when he applied for his permit.
3. City attorney, Erik Johnson also passed this information on to him.
4. He has already poured a long driveway that is actually 3 feet on my property. How do I know that? I had Neset Land Surveys Inc. do a survey. Pins were set by Cole Neset clearly showing the property line, and how he is not only in violation of the three foot setback, but he has in effect captured three feet of my property with that illegal concrete pour.
5. He has also done damage to my property during this construction.
6. He has an attitude to just go full bore ahead without thoroughly checking things out, or listening to the several people, including myself, who have tried to work with him in a responsible way.

Respectfully submitted,

Michael J Eisert

CITY OF FARGO

FARGO, NORTH DAKOTA

BUILDING PERMIT

DATE 9/19/2016

PERMIT NO. BL20161938

SPECIAL FLOOD HAZARD ☒ FLOOD PROTECTION ELEVATION _____

SPECIAL FLOOD HAZARD PERMITS SHALL BE CONSTRUCTED IN ACCORDANCE TO THE FLOOD PROOFING CODE OF THE CITY OF FARGO.

PERMIT ADDRESS 1423 7 AVE S

ADDITION 0540

LEGAL DESCRIPTION

LOT 9 BLK 5 ADDN# 0540 (Darlings 1st) ADDITIONAL INFO: BROWNS SUBD

TOWNSHIP _____

		PHONE	VENDOR	LICENSE#
OWNER	KLIMEK, CHAD			
CONTRACTOR	CASH SALE	701-306-1471	C100	CASH
ADDITIONAL CONTRACTORS				

ARCHITECT OR DESIGNER _____

WORK CLASS ING CONTACT _____

DESCRIPTION OF WORK

Remove existing garage. Construct 22'x26' detached garage. Garage to be located completely in the rear yard with a max. height of 15'. Min. separation of 3' clear side yards to interior side property lines and min. set back to prop. lines for street side yards as required by the LDC. All work to comply with all applicable requirements of the City of Fargo including the 2015 Fargo Building Code.

VALUATION $8,000.00 PLAN FEE $0.00 PERMIT FEE $68.60 INVESTIGATION FEE $0.00 TOTAL FEE $68.60

BLDG. SQ. FT. _____ HEIGHT _____ NUMBER OF STORIES _____ OCCUP. GROUP R-3

WIDTH _____ DEPTH _____ NUMBER OF UNITS _____ OCCUP. LOAD _____

TYPE CONSTRUCTION VB

TREATED PLATES	Required	FOUNDATION	Concrete
SMOKE DETECTORS		ROOF	
WINDOW AREA		HEATING	
EXITS REQUIRED		BASEMENT	
FIRE SPRINKLERS		FIREPLACES	

ZONE SR-3 LOT SIZE 6250.00

FRONT YARD 20 SIDE YARD 10/10 REAR YARD 15 STREET _____ MAX. LOT COVER 35

Lot Width Front 50 Lot Depth1 125

Lot Width Back 50 Lot Depth2 125 NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, AIR CONDITIONING, PARKING LOTS AND SIGNS.

PLEASE BE SURE TO READ THE DISCLAIMER ON THE REVERSE SIDE OF THIS PERMIT.

Signature of Contractor or Authorized Agent _____ Date _____

Signature of Owner(If owner builder) Chad Klimek Date 9-19-16

Signature of Issuer Melissa Dalgo 9/19/16 Date _____

Date _____

DATE 9/19/2016

PERMIT NO. **BL20161938**

***Note: This permit becomes void if construction is not begun within 180 days or is suspended or abandoned at any time for 180 days after work is commenced.

Building Permit Acknowledgments

1. I understand and certify that issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction, in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction exist.

2. Through application for and acceptance of this building permit the permit applicant/holder/owner understands and agrees that the City will conduct periodic observations of construction, but that such observation or review of plans and/or construction does not constitute either explicit or implied certification that the plans and/or construction comply with City Codes or any other applicable requirements. The permit applicant/holder/owner at all times remains responsible for ensuring that the construction, plans, and specifications comply with all requirements of all City Codes and other applicable requirements. The City will not provide continuous on-site observation of construction, and disclaims any responsibility for defects in materials or workmanship.

3. The City encourages and recommends the permit applicant/holder/owner hire a private, on-site inspector or other professional as the applicant/holder/owner deems necessary in order to ensure that all aspects of the plans and/or construction comply with applicable codes and all other requirements.

AS PERMIT APPLICANT, I ACKNOWLEDGE THAT I HAVE BEEN MADE AWARE OF THE ABOVE STATEMENTS AND CONDITIONS.

APPLICANT INITIALS: CK **DATE:** 9-19-16

AS BUILDING OFFICIAL, I ACKNOWLEDGE THAT I HAVE MADE THE PERMIT APPLICANT AWARE OF THE ABOVE STATEMENTS AND CONDITIONS.

BUILDING OFFICIAL INITIALS: MAS **DATE:** 9/19/16

Detached Garages and Accessory Buildings

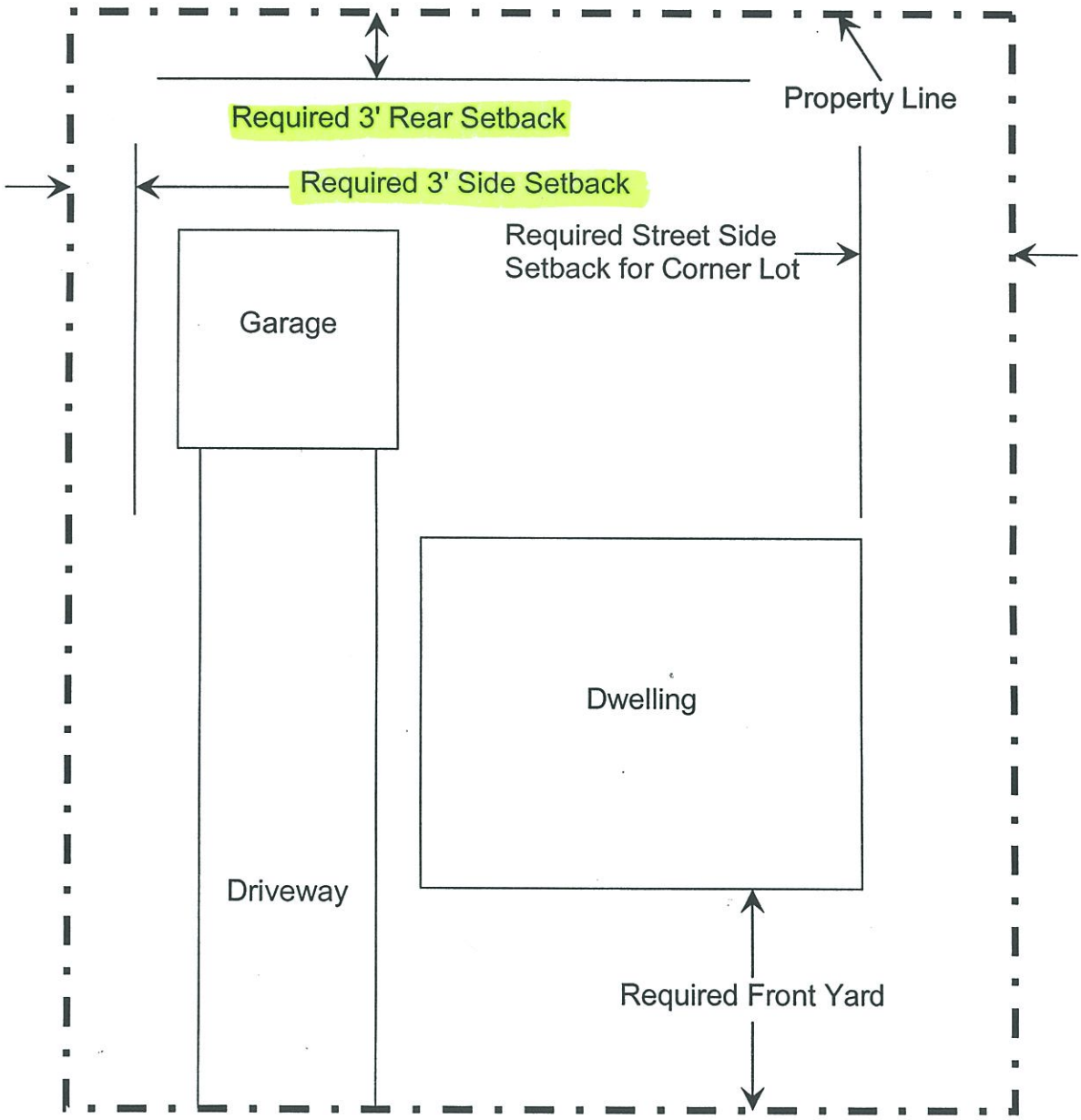
CITY OF FARGO
BUILDING INSPECTION DEPARTMENT

The State of North Dakota requires that you call *1-800-795-0555* at least two business days before you dig.

This handout does not address any covenants or easements assigned to the property, nor does it relieve you of code compliance with items that may not have been included from the International Residential Code (IRC).

Location on Property

Detached garages and accessory buildings may not be built within three (3) feet of the side or rear lot lines. If your property is on a corner you are required to meet the street side setbacks in the table on the previous page. Construction on easements is prohibited. If the structure will be within six (6) feet of a residence special fire protection regulations may apply.



CITY OF Fargo

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

October 28, 2016

Chad Klimek
2705 Rose Creek Blvd. S.
Fargo, ND 58104

By US Mail and email (fargoatm@yahoo.com)

Michael Eisert
3725 Burritt St. S.
Fargo, ND 58104

By US Mail and email (meisert@ideaone.net)

RE: City building permit for garage issued to Mr. Klimek

Dear Mrrs. Klimek and Eisert:

It has come to my attention that there is a boundary line dispute between the two of you, as owners of adjoining properties. Mr. Eisert is the owner of the property located at 1429 7th Ave. S., Fargo. Mr. Klimek is the owner of the property at 1423 7th Ave. South. Mr. Klimek has obtained a building permit from the City for a garage to be constructed in his rear yard. Mr. Eisert claims that the wooden forms for the concrete slab and thickened foundation for the garage structure, yet to be built, encroaches upon Mr. Eisert's property. Mr. Klimek disagrees with Mr. Eisert and claims that the wooden forms and, therefore, the ultimate concrete slab and garage structure itself are located wholly within the boundaries of his property.

This letter is to inform you that the City is not in a position to resolve this boundary line dispute. This is a matter that must be resolved between the property owners. The City has no authority to serve as an arbiter of a boundary line dispute. As has been made clear to you both the City's issuance of a building permit is NOT a representation made by the City as to whether or not the structure that is the subject of the permit is, or will be, located in the appropriate location. It is the responsibility of the property owner requesting the building permit (or the owner's agent, such as a contractor) to construct the structure in the proper location. The role of the City's inspector is NOT to establish or maintain boundary lines or to ensure that structures being inspected are within boundary lines.

A properly qualified surveyor may be able to resolve all doubt regarding the dispute in question. Certainly, if there is an error in the location of a building and a nearby property boundary, there may be significant consequences--legal, financial or otherwise. Therefore, you are hereby urged to act with caution. As with any dispute, I urge you both to work to resolve your differences amicably.

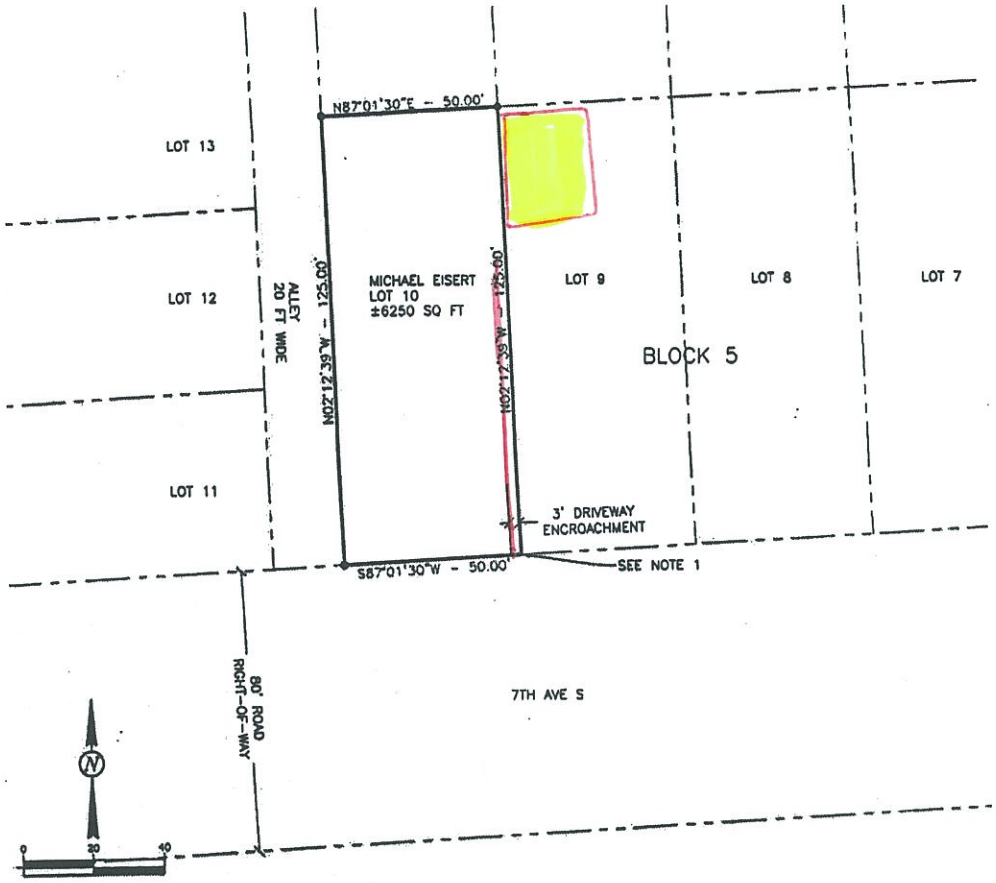
Sincerely,

Erik Johnson

ERJ/lmw
cc: Bruce Taralson, Building Official

CERTIFICATE OF SURVEY

LOT 10 OF BROWNES SUBDIVISION OF WRIGHT & STONES SUBDIVISION OF BLOCK 5 DARLING'S ADDITION TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA



DESCRIPTION

LOT 10 OF BROWNES SUBDIVISION OF WRIGHT & STONES SUBDIVISION OF BLOCK 5 OF DARLING'S ADDITION TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA. SAID TRACT OF LAND CONTAINS ±6250 SQUARE FEET MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF SIGHT AND RECORD.

REGISTERED LAND SURVEYOR
COLE A. NESET
LS - 7513
DATE 3-30-17
NORTH DAKOTA

SURVEYORS CERTIFICATE

I, COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN, AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

COLE A NESET
LS-7513

3-30-17
DATE

LEGEND

- MONUMENT SET
- MONUMENT FOUND
- EX. EASEMENT
- EX. PROPERTY LINE
- PROPERTY BOUNDARY LINE
- CENTER LINE/SECTION LINE

Neset
LAND SURVEYS

NOTE 1: THE SOUTHEAST CORNER OF THE SUBJECT PARCEL WAS NOT SET BY THE SURVEYOR DUE TO A NEW CONCRETE DRIVEWAY

DRAWN BY: CWD
CHECKED BY: CAN
DATE: 03/29/17

LAND SURVEYS

1111 Westrac Drive, Suite 108
Fargo, ND 58103

Phone (701) 235-0199
Fax (701) 235-2074

April 4, 2017

City of Fargo Inspections
200 3rd St N
Fargo, ND 58102

RE: Residential Property Survey at 1429 7th Ave S, Michael Eisert

As requested by the City of Fargo I hereby acknowledge that I did install the monuments as depicted on the Certificate of Survey provided to the homeowner dated 3-30-17.

The monuments installed are #5 Rebar with blue plastic caps stamped LS-7513. During a visual inspection of the east line of the subject property I noted a 14" plus or minus dimension from the subject property line to the east, an existing garage wall.

Sincerely,

Neset Land Surveys Inc.

Cole Neset
President

Invoice

Neset Land Surveys, Inc.
PO Box 9765
Fargo, ND 58106
Phone # 701-371-6991
cneset@nesetsurveys.com

Date	Invoice #
3/30/2017	1762

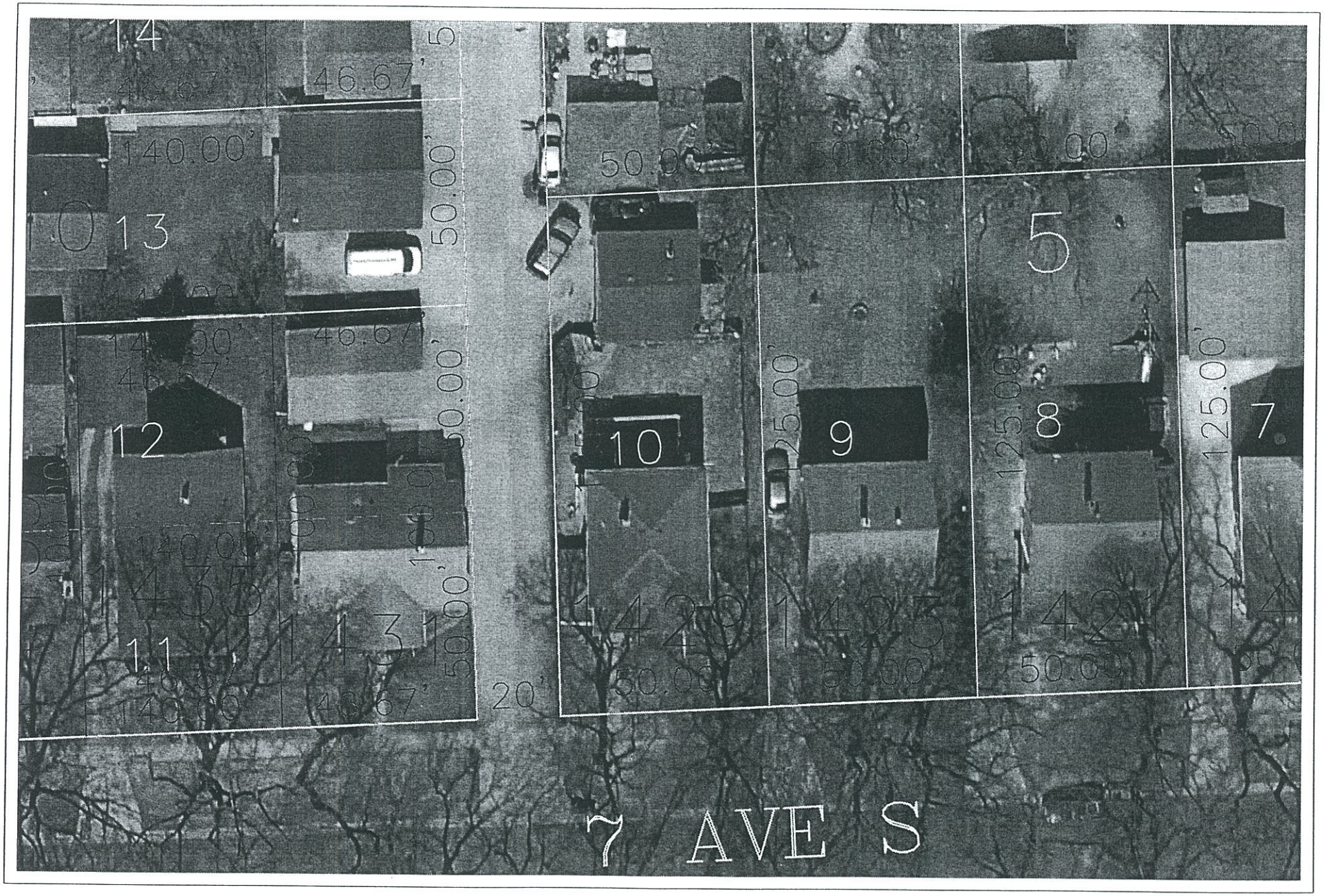
Bill To
Michael Eisert 3725 Burritt St S Fargo, ND 58104

Terms
Net 30

Description	Amount
Residential Property Survey Lot 10 Block 5 of Brownes Subdivision to the City of Fargo -Site visit 3-27-17...$550 -Completed Survey Record...$100 Total Lump Sum Fee $650.00	650.00

Thank you for your business. Please remit to address above.

Total $650.00



N
W E
S

Scale: 1"= 30'

1429 7th Ave S

Photo Date: 2015

THIS AERIAL MAP IS NOT A SUBSTITUTE FOR ACCURATE FIELD SURVEYS

Fargo

Engineering Dept.

Mike

7:59 PM

Your old garage was on the line the new garage has to be 4 feet or more on your lot.your footings are off. Look for the lot pins then show me them thanks

Type a message...

Chad

thanks

Ok thank u. Sorry about the dirt if there is any damage we will fix it.

8:03 PM

10/11/16 10:42 AM

Did we have a 11 meet today

10:42 AM

If so would 11:30 work?

10:42 AM

10/11/16 10:29 AM

Hey Mike it Chad.

Type a message...

51% 12:32 PM

Aa 1429 7 Chad Scott
Mobile

Hey Mike it Chad.
Can you ask your
tenant to move
his truck when we
pour concrete this
weekend.
I would really
appreciate it makes it
much easier

10:29 AM

10/10/16 11:26 AM

Hey Chad. Where you
interested in buying
the house at 1429 7th
ave s fargo

11:26 AM

I'm still considering it

11:28 AM

Type a message...

51% 12:32 PM

Aa 1429 7 Chad Scott
Mobile

ave s fargo

I'm still considering it

11:28 AM

Thought you said
you would know by
Monday

11:30 AM

I have 2 other
properties I'm
comparing it to I
haven't decided

11:32 AM

When might you know

11:33 AM

I'm confused. Does
my decision of buying
your home affect the
truck being moved?

11:37 AM

Type a message...

51% 12:32 PM

Aa 1429 7 Chad Scott
Mobile

MESSAGES PHOTOS & VIDEOS eGIFT CONTA

truck being moved?

10/10/16 12:07 PM

No , I belive that we might have a issue with the property line yet.I talked to Deb Schmidt from the city of fargo her phone number is 701 241 1547 , .She told me that the middle of alley it would be 10 feet to our property line. Then it is 50 feet to your property. Your new driveway is on our property about 1

12:07 PM

Type a message...

51% 12:33 PM

Aa 1429 7 Chad Scott
Mobile

new driveway is on our property about 1 foot or more I could meet you there so I could show you . That's why I wanted to know if you wanted to buy the house so the problem would be resolved

10/10/16 12:21 PM

It's not on your property I have already checked and have been reassured

12:21 PM

With who so I can be assured. Please give

12:25 PM

Type a message...

51% 12:33 PM

Aa 1429 7 Chad Scott
Mobile

With who so I can be assured. Please give me there name and number 12:25 PM

10/10/16 1:12 PM

If you want to be-reassured call someone to locate it for you if your that concerned obviously you won't be satisfied until the property is surveyed 1:12 PM

Your fence is on the property line 1:16 PM

No you said you

Type a message...

51% 12:33 PM

Aa 1429 7 Chad Scott
Mobile

No you said you had someone you reassured you so who is it ,so we can get this resolved or did you just say that. Chad I just want to be fair to both sides 1:16 PM

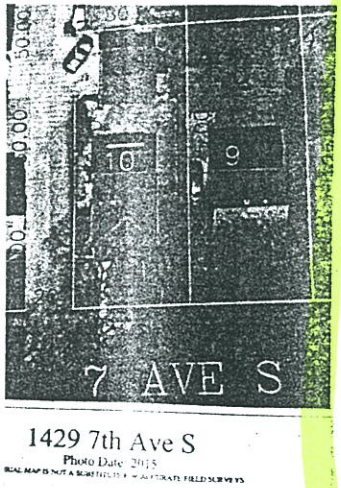
No the fence is way on our property 1:17 PM

I have people that have measured and people's opinions. It won't be 100% until the whole block is surveyed 1:17 PM

[redacted]

Type a message...

block is surveyed



Look at the picture 1:18 PM

Yes your fence is on the property line 1:20 PM

The fence is far left of 1:22 PM

Type a message...

The fence is far left of the white line

Let's get together so I can show you did you get the picture? 1:28 PM

picture is not accurate depiction of what the real property lines are 1:28 PM

The city said from the middle of the alley to your property is 60 feet 10 for alley 50 for my lot use any tape measure you want it works out the same let's get together what 1:29 PM

Type a message...

12:33 PM

Aa 1429 7 Chad Scott
Mobile

works out the same
let's get together what
time works for you?

Maybe Wednesday
should work 1:31 PM

I have already
measured from that
spot. However until
the whole block is
measured that is not
accurate 1:32 PM

10/10/16 1:47 PM

The city told me the
before they pave the
alley they measure
Call Deb Schmidt I sent 1:47 PM

Type a message...

12:33 PM

Aa 1429 7 Chad Scott
Mobile

MESSAGES PHOTOS & VIDEOS eGIFT CONTA

alley they measure
Call Deb Schmidt I sent
you her phone number
ask her she would be
nonbiased

Wenday what time? 1:47 PM

10/10/16 2:08 PM

Not sure right now
get back to you on
Wednesday 2:08 PM

Ok thanks 2:08 PM

10/22/16 10:39 AM

Chad...we stopped
by 1429 7th ave in

Type a message...

12:33 PM

Aa 1429 7 Chad Scott
Mobile

Chad...we stopped by 1429 7th ave in Fargo today. There is still an issue with the property line that you are well aware of. You continue to move forward with your project even though it's in the wrong. Please call me so we can resolve this fairly before concrete is poured. Mike Eisert

10:39 AM

10/22/16 10:49 AM

Everything is correct. I had it checked.

10:49 AM

Type a message...

12:34 P

Aa 1429 7 Chad Scott
Mobile

Everything is correct. I had it checked.

You might want to check your fence. It is on my property I believe .

10:51 AM

With who? The city engineers say I am correct not just one but three I have their names if you want I met with Scott he has the picture with names and numbers let's get this resolved

10:55 AM

I already did. It's

10:56 AM

Type a message...

51% 12:34 PM

Aa 1429 7 Chad Scott
Mobile

I already did. It's correct

10:56 AM

With who? I don't know why is there names a secret

10:58 AM

No. i had the city over as well on Monday to verify.
I'm 100% on where the property line is.
You should get it surveyed so you know as well.
Your fence is on the property line and a little on my property.
But that's ok, it

11:01 AM

Type a message...

51% 12:34 PM

Aa 1429 7 Chad Scott
Mobile

little on my property.
But that's ok, it doesn't bother me.

No its not. Who stopped over? What is his name

11:03 AM

Do your own foot work. I've already discussed this with you. I don't see a reason to keep going over this.
My life is very busy
I don't have time for this.

11:06 AM

10/22/16 11:31 AM

Type a message...

12:34 PM

Aa 1429 7 Chad Scott
Mobile

MESSAGES PHOTOS & VIDEOS eGIFT CONTAI

10/22/16 11:31 AM

I have done my foot work I have have names and numbers and have given them to you

11:31 AM

No. not reliable Mike.

11:33 AM

Do not come over and harass my workers. Stay off my property when they are working.

11:34 AM

10/22/16 12:03 PM

Type a message...

12:34 PM

Aa 1429 7 Chad Scott
Mobile

You stay off our property also the city engineers will be over Monday. It's to bad we are not able to resolve this property line dispute like two business men

12:03 PM

Mike if you acted professional towards my workers I would consider it.
If you walk on my property again you will be going to jail.
Stay away from my workers and keep your rude comments

12:06 PM

Type a message...

12:34 PM

Aa 1429 7 Chad Scott
Mobile

property again you will be going to jail. Stay away from my workers and keep your rude comments to yourself. Start acting like a grown up.

12:05 PM

10/22/16 12:21 PM

How about the concrete and dirt you have on my property that I did not give you permission to do . Plus the damage on the lawn your workers have done. I have documented everything with

12:21 PM

Type a message...

12:34 PM

Aa 1429 7 Chad Scott
Mobile

pictures. And you think I am being unprofessional?

10/22/16 12:50 PM

You watched me pour concrete in my driveway. You never said a word about anything
Now you think it's on your property? No it is not Mike.

Maybe you need to find a hobby and quit harassing people over nothing but what you believe is true.

Type a message...

50% 12:34 PM

Aa 1429 7 Chad Scott
Mobile

MESSAGES PHOTOS & VIDEOS eGIFT CONTA

You have no factual evidence what's so ever that supports any of what your saying.
There is no damage on your lawn.
Make sure you, your wife and your son stay on your side of your property or all of you will be arrested and charged.
You have been warned.

12:50 PM

Your a trouble maker and a liar. I don't do

Type a message...

50% 12:35 PM

Aa 1429 7 Chad Scott
Mobile

Your a trouble maker and a liar. I don't do business with people that lie and try to get something for nothing.

10/22/16 12:58 PM

You poured the concrete behind my back. I have pictures of the damage and no one has harassed your workers. You are being completely

Type a message...

50% 12:35 PM

Aa 1429 7 Chad Scott
Mobile

your workers. You are being completely unreasonable at this point. I have taken the time to show you where the lot line is. I have given you the names of engineers from the city of Fargo and their contact information to inform you of where the lot line is. You refuse to contact them and have resorted to name calling.

12:58 PM

And you continue to lie Mike.
Again I don't do

Type a message...

50% 12:35 PM

Aa 1429 7 Chad Scott
Mobile

And you continue to lie Mike.
Again I don't do business with people like you.
We called the cops on you because you yelled and screamed and threatened my workers.
The police have the incident filed. So there is now record of you acting like a child.

1:02 PM

No we called the police

Type a message...

50% 12:35 PM

Aa 1429 7 Chad Scott
Mobile

No we called the police because of one of the workers threated to punch us. We spoke to the officers at length and again you were not there so how would you even know what's going on. Even the officers stated they would be frustrated about how you are treating us.

1:06 PM

10/22/16 1:14 PM

No he didn't. More lies Mike. What is the matter with you ? You don't walk up to

Type a message...

50% 12:35 PM

Aa 1429 7 Chad Scott
Mobile

You don't walk up to somebody so close that your nose touches the other person. Your lucky my contractor was a nice guy. Most people wouldn't tolerate that.
Are you 2 years old ?
Grow up and start acting like an adult.

1:14 PM

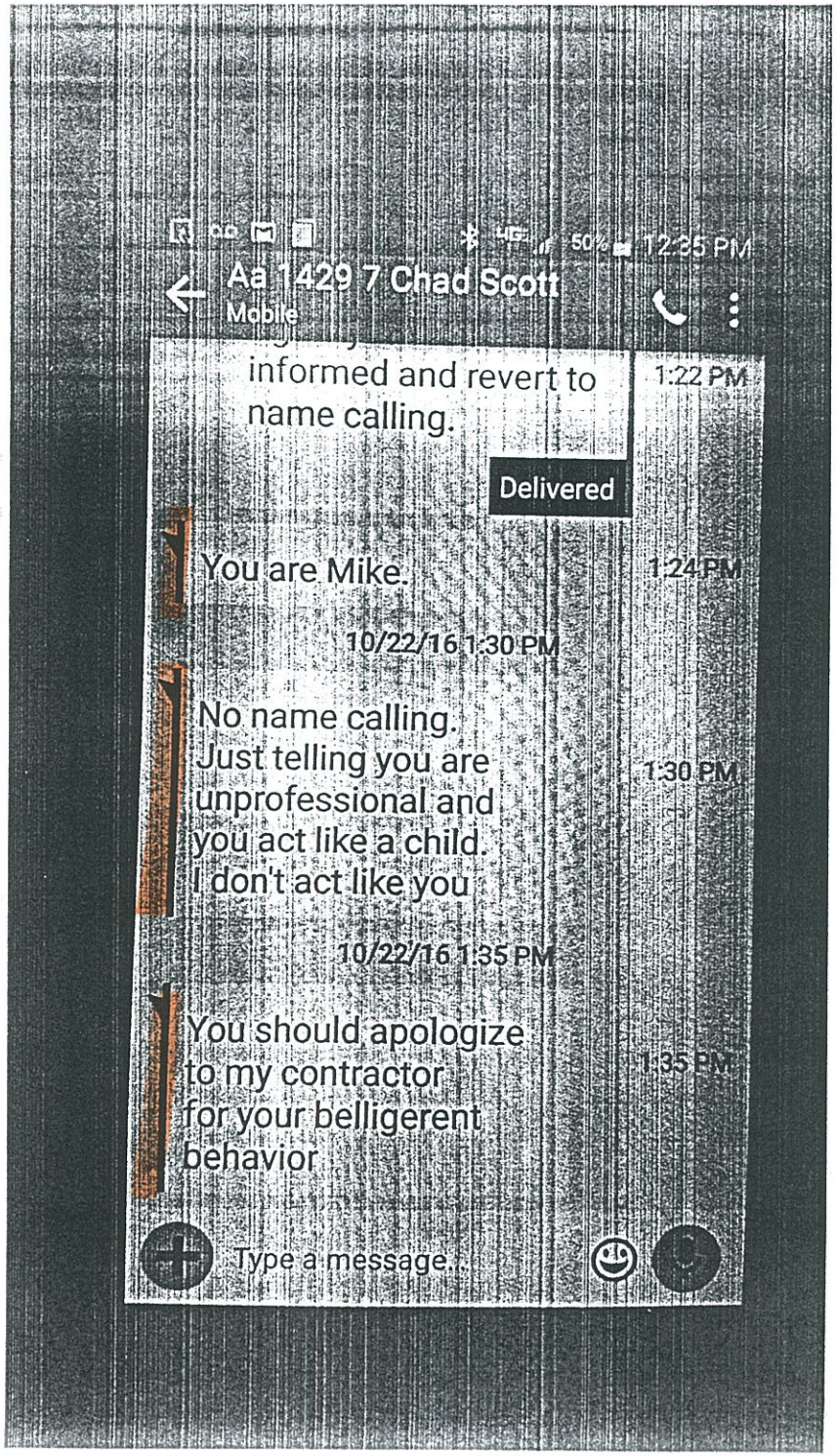
10/22/16 1:22 PM

Again your miss informed and revert to name calling.

1:22 PM

Delivered

Type a message...


50% 12:35 PM
Aa 1429 7 Chad Scott
Mobile
informed and revert to name calling.
1:22 PM
Delivered
You are Mike.
1:24 PM
10/22/16 1:30 PM
No name calling. Just telling you are unprofessional and you act like a child. I don't act like you
1:30 PM
10/22/16 1:35 PM
You should apologize to my contractor for your belligerent behavior
1:35 PM
Type a message...

LS-7513

WHITEMAN

We the undersigned wish to deny the variance for 1423 7th Ave South Fargo

Lanny Conyers
603 14TH ST S. FARGO

Justin Massie
615 14th st S. Fargo

Stephanie Lacher
1415 7 Ave S. Fargo

Nem Schlecht
1435 7th Ave S Fargo

Matt Meine
1444 6th ave

Robert Henderson
523 14th st S

Robert Anderson
1411 6th Av S

Bruce Sanderson
1424-6th ave So

Tim Manke
1431 6th AVE SO

CITY OF FARGO
Board of Adjustment
Appeal of an Administrative Decision Staff Report

Item No: 2.a-2	**Date:** April 20, 2017 **Update:** May 16, 2017
Appellant: Chad Klimek	
Status: Board of Adjustment – May 23, 2017	

Summary of Record

Background:
On September 19, 2106, a building permit was issued to the appellant, Chad Klimek, to remove an existing garage and construct a new detached garage in the rear yard of a single-family home located at 1423 7th Avenue South. The new garage was to be located at least 3 feet away from the interior-side and rear property lines, in order to conform to the required setbacks for rear-yard accessory structures within the SR-3, Single-Dwelling Residential, zoning district.

In the early stages of construction, the location of the subject property's western interior-side lot line (and consequently, the location of the proposed garage) was disputed by the neighboring property owner, Michael Eisert. Klimek and Eisert were both informed by staff that the City does not conduct surveys of private property lines and that private property line disputes are civil matters that the City does not arbitrate. On October 24, 2016, staff discussed the property line dispute with Eisert and the appellant's contractor. The contractor agreed to pour the garage slab with a second thickened edge in relation to where Eisert thought the property line was, in case the garage would need to be moved east from the edge of the concrete slab. Work continued on the garage over the next several months. At the end of March, 2017, Eisert submitted a certificate of survey of his property (which included the property line shared with the appellant's property) to the City. It was indicated in a letter provide by Eisert's surveyor, Cole Neset, that the appellant's garage was being constructed approximately 14 inches from the shared property line (which would be 22 inches within the required three-foot setback). Upon reviewing the information provided by the surveyor, the Building Official issued a stop work order for the appellant's garage on April 3, 2017. Subsequently, on April 7, Klimek appealed staff's decision to issue the stop work order.

Claim of Appellant:
The appellant, Chad Klimek, submitted an appeal of an administrative decision claiming that staff erred in issuing a stop work order on the construction of his detached garage. The appellant disputes the validity of the survey that was submitted to the City by his neighbor.

Exhibits:
The following exhibits are admitted as part of this staff report and are attached:

- Exhibit 1 – The appellant's appeal application
- Exhibit 2 – Building Permit No. BL20161938
- Exhibit 3 – Zoning Map for the area of 1423 7th Avenue South
- Exhibit 4 – Parcel Report for the property at 1423 7th Avenue South
- Exhibit 5 – Survey of neighboring property & letter from Cole Neset
- Exhibit 6 – Letter to Chad Klimek and Michael Eisert from City Attorney, Erik Johnson.

Relevant Facts

Staff believes that the following facts are most relevant to the Board's consideration of this appeal:

1. The property at 1423 7th Avenue South is located within the SR-3 (Single-Dwelling Residential) zoning district. *Exhibits 3 & 4*
2. The appellant signed the building permit, which acknowledges that the permit applicant/holder/owner is responsible for ensuring that construction complies with all City Codes, and that the permit does not prevent the building official from requiring the correction of errors in the construction. *Exhibit 2*
3. A survey of Lot 10 of Brownes Subdivision of Wright & Stones Subdivision of Block 5 of Darling's Addition has been provided to the City by Michael Eisert. The survey has been stamped and signed by Cole A. Neset, a registered land surveyor in the State of North Dakota. *Exhibit 5*
4. A registered land surveyor, Cole A. Neset, submitted a letter to the City indicating that the subject garage is located 14 inches from the shared property line of the appellant, Klimek, and the neighboring property owner, Eisert. *Exhibit 5*

Relevant Code Provisions

LDC Section 20-0403(B.3) – Accessory Development Standards

In zoning districts other than UMU, when located within the rear yard area, accessory structures shall be exempt from rear setback requirements, provided that they shall be set back at least 3 feet from rear and side lot lines. This 3-foot setback shall not apply to fences or walls.

LDC Section 20-1103(C) – Stop Work

With or without revoking permits, the City may stop work on any building or structure, on any land on which there is an uncorrected violation of a provision of the Land Development Code or of a permit or other form of authorization issued hereunder, in accordance with its power to stop work under the building code.

Section 20-0916.G – Review and Action of Appeals by the Board of Adjustment

Appeals of Administrative Decisions shall be taken to the Board of Adjustment. The Board of Adjustment shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. In exercising the appeal power, the Board of Adjustment shall have all the powers of the official from whom the appeal is taken, and the Board of Adjustment may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of Adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence. A concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official.

Staff Analysis

As referenced on the building permit application and within the City Attorney's letter, the City's issuance of a building permit is not a representation made by the City as to the construction being compliant with applicable City Codes. It is the responsibility of the owner and permit holder to ensure that the construction, plans, and specifications comply with all requirements of all City Codes. When the building permit was issued by the City, it was understood by all parties that the garage was required to be set back at least 3 feet from the

interior-side and rear property lines. The City does not locate private property lines as part of the building permitting process—nor is the City required to. In this situation, a survey conducted by a registered land surveyor, Cole Neset, was submitted to the City by the neighboring property owner, Michael Eisert. The information provided by this survey indicated that the subject garage was being constructed within 3 feet of the interior-side property line, which would mean that the appellant had erred in determining the location of his interior-side property line. The decision to issue the stop work order was based on the most accurate and reliable information available to the City. Staff has no other information to suggest that the garage is located at least 3 feet from the interior-side property line. The appellant has submitted a letter from Houston Engineering that outlines the reason why they did not conduct a survey on behalf of the appellant. Although this letter states these reasons for not conducting the survey, it does not negate the survey conducted by Neset. The survey submitted to the City is stamped and signed by a registered land surveyor, licensed in the State of North Dakota, and therefore staff grants the survey with an assumption of validity.

Update 5/16/2017:
This item was originally heard by the Board of Adjustment on April 25, 2017, in conjunction with a related application for a variance at the subject property. At the April 25th Board of Adjustment meeting, it was suggested by the Board that these two items be continued to the next month's meeting, in order to provide the applicant the opportunity to hire a licensed land surveyor to issue a Certificate of Survey for the subject property. The applicant, Mr. Klimek, agreed to this continuation and the Board voted unanimously to continue these items to the May 23, 2017 Board of Adjustment meeting.

Staff reached out to the applicant on May 15 regarding the status of any survey for the subject property. The applicant informed staff that he had not had the property surveyed but that he would like to proceed with having his applications heard by the Board on May 23. Consequently, staff has no additional information regarding these applications and staff's recommendations have not changed.

Staff Recommendation

Staff recommends that the Board of Adjustment affirm staff's decision to issue the stop work order.

CITY OF Fargo

PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

APPEAL OF AN ADMINISTRATIVE DECISION

We, the undersigned, do hereby submit an application to the Board of Adjustment of the City of Fargo, North Dakota, to hear and decide an appeal of a decision made by an administrative official of the City of Fargo.

Property Owner Information

Name (*printed*): Chad Klimek
Address: 2075 Rose Creek Blvd. S.
Fargo ND 58104
Primary Phone: 701 306 1471
Alternative Phone:
Fax:
Email: Fargoatm@yahoo.com

Representation Information *(if applicable)*

Name (*printed*):
Address:
Company
Primary Phone:
Alternative Phone:
Fax:
Email:
☐ Same as property owner

Location of property involved in the appealed decision *(if applicable)*

Address: 1423 7th Ave. S. Fargo, ND
Legal Description (*attach separate sheet if more space is needed*): Lot #10 and #9 of Brown's Subdivision of Block 5 Darlings Addition

Item for Appeal *(attach separate sheet if more space is needed)*

Garage being built on Property at 1423 7th Ave. S. Fargo, ND 58104

Reason for Appeal *(attach separate sheet if more space is needed)*

The Survey that was done by Cole Nesetis not accurate. I hired Houston Engineering in the fall prior to garage being built to survey my lot. They came out and could only find 1 pin on the whole block. Houston Engineering stated that if I wanted an accurate reading they would have to do the whole block and NOT just locate my property which could end up costing thousands of dollars. They refused to only survey my lot due to it not being accurate. After talking to city inspectors surveyors from Houston Engineering and doing my own measurements. I placed the garage at least 4½ feet inside of my property line.

(next page)

(Continued)

I called Cole Neset and asked him about his survey. I described the situation to him and asked him how he came up with his measurements being there was only 1 pin on the entire block etc... I proceeded to tell Cole that Houston Engineering refused to only do the lots in question because of Inaccuracies. Cole responded by saying and I quote "Anyone with enough guts would do the survey.

I reported Cole Neset to the ND State board of registration for Land Surveyors.

Also when I called to see if his license was valid they told me that it was. I asked if Neset had any certified employees working for them. They looked him up and Cole Neset DOES NOT have any registered employees working for him.

My contractors building the garage told me 4 guys got out of a beat up unmarked Suburban and were trying to measure the lot. Bickering back and forth where the line is. When I showed the contractor a picture of Cole Neset the contractor told me he did not recognize him as one of the people that came over to measure the land.

Please take my letter from Houston Engineering into consideration in determining the accurcy of this surveyor.

PLANNING AND DEVELOPMENT

200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

Acknowledgement – We hereby acknowledge that we have familiarized ourselves with the rules and regulations to the preparation of this submittal and that the forgoing information is true and complete to the best of our knowledge.

Owner (*Signature*): _____ Date: 4-7-17

Representative (*Signature*): _____ Date: _____

Office Use Only

Date Filed: _____ Pre-Application Meeting Date: _____

Application Complete: ☐ Yes ☐ No Reviewed By: _____

April 5, 2017

Chad Klimek
2075 Rose Creek Blvd. S.
Fargo, ND 58104

Subject: 1423 7th Avenue South
Lot 5, Browne's Subdivision of Wright and Stone's
Subdivision of Block 5 of Darling's Addition
Fargo, ND

Mr. Klimek,

The purpose of this letter is to document the fact that in September, 2016, you requested that we conduct a limited property boundary survey at the above referenced property. Your request was for us to find the lot corner monuments for the referenced lot, not exceeding a certain pre-agreed upon budget amount for the work without receiving authorization from you.

On September 22, 2016, a survey crew under my direct supervision conducted a search for the lot corner monuments of the referenced lot and found none of them in-place. A search for monuments of the nearby lots, as well for the four block corner monuments, found only the southwest block corner in-place. Our working calculations to determine search positions for lot corners indicated there were going to be several potential encroachment issues in the southwest portion of the block.

At this point I contacted you and informed you that with the low number of monuments found, and with the apparent complexity of our initial calculated lot lines not fitting well with the existing improvements in the block, that it would be a significantly more expensive survey than what was budgeted for with the initial agreed upon limited survey. It was my opinion that a detailed survey of the entire block might be necessary to determine the correct positions of the lot corner of the referenced lot. You requested that we not proceed with any further work at that time.

Thank you.

Sincerely,

HOUSTON ENGINEERING, INC.

Curtis A. Skarphol
Professional Land Surveyor, North Dakota License No. 4723
H:\Fargo\JBN\8900\8974\16_8974_001\Deliverables\Chad Klimek letter 4-5-17.docx

CITY OF FARGO

FARGO, NORTH DAKOTA

DATE 9/19/2016

BUILDING PERMIT

PERMIT NO. **BL20161938**

SPECIAL FLOOD HAZARD ☐ FLOOD PROTECTION ELEVATION

SPECIAL FLOOD HAZARD PERMITS SHALL BE CONSTRUCTED IN ACCORDANCE TO THE FLOOD PROOFING CODE OF THE CITY OF FARGO.

PERMIT ADDRESS **1423 7 AVE S**

ADDITION 0540

LEGAL DESCRIPTION

LOT 9 BLK 5 ADDN# 0540 (Darlings 1st) ADDITIONAL INFO: BROWNS SUBD

TOWNSHIP

		PHONE	VENDOR	LICENSE#
OWNER	KLIMEK, CHAD			
CONTRACTOR	CASH SALE	701-306-1471	C100	CASH
ADDITIONAL CONTRACTORS				
ARCHITECT OR DESIGNER				
WORK CLASS	ING	CONTACT		

DESCRIPTION OF WORK

Remove existing garage. Construct 22'x26' detached garage. Garage to be located completely in the rear yard with a max. height of 15'. Min. separation of 3' clear side yards to interior side property lines and min. set back to prop. lines for street side yards as required by the LDC. All work to comply with all applicable requirements of the City of Fargo including the 2015 Fargo Building Code.

VALUATION $8,000.00 PLAN FEE $0.00 PERMIT FEE $68.60 INVESTIGATION FEE $0.00 TOTAL FEE $68.60

BLDG. SQ. FT. HEIGHT NUMBER OF STORIES OCCUP. GROUP R-3

WIDTH DEPTH NUMBER OF UNITS OCCUP. LOAD

TYPE CONSTRUCTION VB

TREATED PLATES	Required	FOUNDATION	Concrete
SMOKE DETECTORS		ROOF	
WINDOW AREA		HEATING	
EXITS REQUIRED		BASEMENT	
FIRE SPRINKLERS		FIREPLACES	

ZONE SR-3 LOT SIZE 6250.00

FRONT YARD 20 SIDE YARD 10/10 REAR YARD 15 STREET MAX. LOT COVER 35

Lot Width Front 50 Lot Depth1 125

Lot Width Back 50 Lot Depth2 125

NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, AIR CONDITIONING, PARKING LOTS AND SIGNS.

PLEASE BE SURE TO READ THE DISCLAIMER ON THE REVERSE SIDE OF THIS PERMIT.

Signature of Contractor or Authorized Agent

Date 9-19-16

Signature of Owner(If owner builder)

Date 9/19/16

Signature of Issuer

Date

DATE 9/19/2016

PERMIT NO. **BL20161938**

***Note: This permit becomes void if construction is not begun within 180 days or is suspended or abandoned at any time for 180 days after work is commenced.

Building Permit Acknowledgments

1. I understand and certify that issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction, in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction exist.

2. Through application for and acceptance of this building permit the permit applicant/holder/owner understands and agrees that the City will conduct periodic observations of construction, but that such observation or review of plans and/or construction does not constitute either explicit or implied certification that the plans and/or construction comply with City Codes or any other applicable requirements. The permit applicant/holder/owner at all times remains responsible for ensuring that the construction, plans, and specifications comply with all requirements of all City Codes and other applicable requirements. The City will not provide continuous on-site observation of construction, and disclaims any responsibility for defects in materials or workmanship.

3. The City encourages and recommends the permit applicant/holder/owner hire a private, on-site inspector or other professional as the applicant/holder/owner deems necessary in order to ensure that all aspects of the plans and/or construction comply with applicable codes and all other requirements.

AS PERMIT APPLICANT, I ACKNOWLEDGE THAT I HAVE BEEN MADE AWARE OF THE ABOVE STATEMENTS AND CONDITIONS.

APPLICANT INITIALS: CK **DATE:** 9-19-16

AS BUILDING OFFICIAL, I ACKNOWLEDGE THAT I HAVE MADE THE PERMIT APPLICANT AWARE OF THE ABOVE STATEMENTS AND CONDITIONS.

BUILDING OFFICIAL INITIALS: MAS **DATE:** 9/19/16

THE CITY OF Fargo FAR MORE

Legend

AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5

1423 7th Avenue South

0 75 150 Feet

N

Parcel Information Report
Parcel Number: 01-0540-00560-000

General Information

Segment Id:	1
Owner 1:	KLIMEK, CHAD
Owner 2:	
Property Address:	1423 7 AVE S
Mailing Address:	2705 ROSE CREEK BLVD S FARGO, ND 58104
Addition Name:	Darlings 1st
Block:	5
Lot:	9

Additional Description:

BROWNS SUBD

Estimated Flood Stage Levels For River Flooding:
If your property is outside the city limits or your property and structure are not affected by a 25 to 44 foot flood stage data will be not available (N/A).

Property may be affected by an approximate flood stage of 40 or higher.
Structure may be affected by an approximate flood stage of 42 or higher.

Please note that this approximation does not take into account any local issues such as ice and debris jams or localized flooding from intense rainfall events.

District Information

Cass School District:	1
Elem. School District:	Jefferson

Property Valuation

	Land	Improvements	Total
Current Appraised Value:	$22,600.00	$136,600.00	$159,200.00

Building Information

Year Built:	1920	No. of Apartment Units:	
Total Building SqFt:	1484	Residential Story Height:	7 (2 Story)

Lot Size

Front Width:	50.00	Land Use:	R (Residential)
Back Width:	50.00	Property Type:	1 (Single Family)
Depth Side 1:	125.00		
Depth Side 2:	125.00	Square Footage:	6250.00

DISCLAIMER: The City of Fargo provides property information to the public "as is" without warranty of any kind, expressed or implied. Assessed values are subject to change by the City of Fargo. In no event will the City of Fargo be liable to anyone for damages arising from the use of the property data. You assume responsibility for the selection of data to achieve your intended results, and for the installation and use of the results obtained from the property data.

Assessment records are for the sole purpose of identifying the land being taxed. In some cases to attain efficiency, Assessment Department legal descriptions may be shortened yet will retain sufficient information to identify the land. Since tax statements and records are not deeds and may contain abbreviated descriptions, they should not be used as a basis for a survey or a legal document and should not be used by surveyors or others as the primary source of a property description.

Zoning

Zone 1:	SR-3
Zone 2:	
Conditional Use Permit:	
Planned Unit Devel #:	
Planned Unit Devel Date:	
Conditional Overlay Number:	
Conditional Overlay Date:	

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CERTIFICATE OF SURVEY

LOT 10 OF BROWNES SUBDIVISION OF WRIGHT & STONES SUBDIVISION OF BLOCK 5 DARLING'S ADDITION TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA

DESCRIPTION

LOT 10 OF BROWNES SUBDIVISION OF WRIGHT & STONES SUBDIVISION OF BLOCK 5 OF DARLING'S ADDITION TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA. SAID TRACT OF LAND CONTAINS ±6250 SQUARE FEET MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF SIGHT AND RECORD.

REGISTERED LAND SURVEYOR
COLE A. NESET
LS - 7513
DATE 3-30-17
NORTH DAKOTA

SURVEYORS CERTIFICATE

I, COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN, AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

COLE A. NESET
LS-7513

3-30-17
DATE

LEGEND

- ● MONUMENT SET
- ○ MONUMENT FOUND
- EX. EASEMENT
- EX. PROPERTY LINE
- PROPERTY BOUNDARY LINE
- CENTER LINE/SECTION LINE

Neset
LAND SURVEYS

NOTE 1: THE SOUTHEAST CORNER OF THE SUBJECT PARCEL WAS NOT SET BY THE SURVEYOR DUE TO A NEW CONCRETE DRIVEWAY

DRAWN BY: CWD
CHECKED BY: CAN
DATE: 03/29/17

03/30/17 08:56:51AM \\DS1\SERV\Shared Folders\Shared Files\Neset Shared Files\Cole Projects_2017 Projects\17-1435 7 Ave S Eisert\Drawings\300\300_Projects\Survey\1435 7 ave s.dwg

recd 3/31/17 -BT

Neset
LAND SURVEYS

1111 Westrac Drive, Suite 108
Fargo, ND 58103

Phone: (701) 235-0199
Fax: (701) 235-2074

April 3, 2017

City of Fargo Inspections
200 3rd St N
Fargo, ND 58102

RE: Residential Property Survey at 1427 7th Ave S, Michael Eisert

As requested by the City of Fargo I hereby acknowledge that I did install the monuments as depicted on the Certificate of Survey provided to the homeowner dated 3-30-17.

The monuments installed are #5 Rebar with blue plastic caps stamped LS-7513. During a visual inspection of the east line of the subject property I noted a 14" plus or minus dimension from the subject property line to the east, an existing garage wall.

Sincerely,

Neset Land Surveys Inc.

Cole Neset
President

CITY OF Fargo

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

October 28, 2016

Chad Klimek
2705 Rose Creek Blvd. S.
Fargo, ND 58104

By US Mail and email (fargoatm@yahoo.com)

Michael Eisert
3725 Burritt St. S.
Fargo, ND 58104

By US Mail and email (meisert@ideaone.net)

RE: City building permit for garage issued to Mr. Klimek

Dear Mrrs. Klimek and Eisert:

It has come to my attention that there is a boundary line dispute between the two of you, as owners of adjoining properties. Mr. Eisert is the owner of the property located at 1429 7th Ave. S., Fargo. Mr. Klimek is the owner of the property at 1423 7th Ave. South. Mr. Klimek has obtained a building permit from the City for a garage to be constructed in his rear yard. Mr. Eisert claims that the wooden forms for the concrete slab and thickened foundation for the garage structure, yet to be built, encroaches upon Mr. Eisert's property. Mr. Klimek disagrees with Mr. Eisert and claims that the wooden forms and, therefore, the ultimate concrete slab and garage structure itself are located wholly within the boundaries of his property.

This letter is to inform you that the City is not in a position to resolve this boundary line dispute. This is a matter that must be resolved between the property owners. The City has no authority to serve as an arbiter of a boundary line dispute. As has been made clear to you both the City's issuance of a building permit is NOT a representation made by the City as to whether or not the structure that is the subject of the permit is, or will be, located in the appropriate location. It is the responsibility of the property owner requesting the building permit (or the owner's agent, such as a contractor) to construct the structure in the proper location. The role of the City's inspector is NOT to establish or maintain boundary lines or to ensure that structures being inspected are within boundary lines.

A properly qualified surveyor may be able to resolve all doubt regarding the dispute in question. Certainly, if there is an error in the location of a building and a nearby property boundary, there may be significant consequences--legal, financial or otherwise. Therefore, you are hereby urged to act with caution. As with any dispute, I urge you both to work to resolve your differences amicably.

Sincerely,

Erik Johnson

ERJ/lmw
cc: Bruce Taralson, Building Official

CITY OF FARGO - Board of Adjustment
Variance Staff Report

Item No: 3.a	**Date:** May 16, 2017
Address: 1641 5th Street North	
Legal Description: Lots 139 and 140, North Broadway Addition	
Owner(s)/Applicants: Randy Axvig / Eliot Axvig	
Reason For Request: To construct a building addition that would encroach into the required street-side setback area.	
Zoning District: SR-2, Single-Dwelling Residential	
Status: Board of Adjustment Pubic Hearing: May 23, 2017	

SR-2 Dimensional Standards		Current/Proposed Structure	
Setbacks:		**Setbacks:**	
Front (west):	30’	**Front (west):**	< 30’
Street-Side (north):	15’	**Street-Side (north):**	**10’**
Interior-Side (south):	5’ (5’ or 10%)	**Interior-Side (south):**	> 5’
Rear (east):	25’	**Rear (east):**	> 25’

Background:
The applicant would like to construct an addition onto an existing single-family house, which would be partially located within the required street-side setback area. The property is located at 1641 5th Street North and is within the SR-2, Single-Dwelling Residential, zoning district. Section 20-0501of the Land Development Code requires that primary structures be set back at least 15 feet from the street-side property line in the SR-2 zoning district. The applicant, however, would like to construct the house addition as close as 10 feet from the northern street-side lot line. Accordingly, the applicant is requesting a variance in order to allow the proposed addition to encroach 5 feet into the required street-side setback area.

Criteria for Approval & Staff Analysis:

§20-0914.E.1 of the LDC states that, “A variance may be granted by the Board of Adjustment upon an affirmative finding that <u>all</u> of the following conditions exist.”

a. The requested variance arises from conditions that are unique to the subject property not ordinarily found in the same zoning district and are not a result of the owner’s intentional action;

The property is approximately 8,520 square feet in area, which is 520 square feet larger than the minimum lot size of 8,000 square feet for the SR-2 zoning district. In addition, the property has a lot width of 60 feet, which meets the minimum lot width requirements for SR-2 zoning districts. The principal building on the property is legally non-conforming. The home was built in 1927 before the Land Development Code (LDC) was adopted in 1998. The home currently does not meet SR-2 front and street-side setback dimensional standards. Aside from deficient front and street-side setback distances for the SR-2 zoning district, which is not a result of the owner's intentional actions, no other unique conditions were identified.

It should be noted that the lot size and dimensions are standard for the neighborhood. The median lot size and width of the SR-2 properties within 300 feet of the subject property are approximately 7,668 square feet and 54 feet, respectively. Therefore, the subject property has more square footage and a larger lot width than what is typically found in the surrounding area. The 15-foot street-side setback applies to all corner lots in the SR-2 zoning district. Of the 5 other corner lots within 300 feet of the subject property, the median lot size is 7,100 square feet and the median lot with is 50 feet. Consequently, staff finds that

the requested variance does not arise from conditions that are unique to the subject property not ordinarily found in the same zoning district, as the subject property does not greatly differ from properties within the surrounding neighborhood and no unique conditions have been identified by staff. **(Criteria NOT satisfied)**

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

Staff has no data that would identify an adverse impact to adjacent neighbors with this variance. In accordance with the notification requirements of the LDC, neighboring property owners were provided notice of the variance request. As of the writing of the staff report, staff has not received any comments on this application. **(Criteria satisfied)**

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

According to the applicant, the variance is being requested in order for the applicant to enlarge an existing house, which is a typical use permitted by right in the SR-2 zoning district. Specifically, the applicant states that the variance is needed because the lot is long and narrow and the current dimensional standard requirements make it difficult to add living space onto the residential structure.

Staff contends that no hardship exists as the property is capable of accommodating a single-family house, including a proposed addition, while still meeting the requirements of the LDC. As noted above, the subject property has larger dimensions than the minimums required for the SR-2 zoning district. In addition, the building envelop to the rear of the exiting house is approximately 2,200 square feet (55’x 40’).

Ultimately, staff suggests that the strict application of the applicable standards should not constitute an unnecessary physical hardship because the subject property can be used for, and currently is used for, an allowed use without conflict with the LDC. **(Criteria NOT satisfied)**

d. The variance desired will not adversely affect the public health, safety or general welfare;

Staff has no data that would identify an adverse effect on public health, safety, or general welfare. No public health, safety, or general welfare issues have been identified. **(Criteria satisfied)**

e. The variance is the minimum variance that will overcome the hardship;

As mentioned above, staff suggests that there is no hardship to overcome due to the fact that the property can be (and is currently) used for an allowed use without coming into conflict with applicable site development standards. The desire for the variance is self imposed by the applicant and is not a situation caused by features unique to the subject property. However, if a hardship was found to exist, the proposed variance would be the minimum variance needed for the applicant to construct the addition as proposed by the applicant. **(Criteria satisfied)**

Staff Recommendation: “To accept the findings of staff and deny the requested variance to allow the proposed addition to encroach into the required interior-side setback area in the SR-2 zoning district on the basis that the review criteria of Section 20-0914.E.1 (a & c) have not been met.”

THE CITY OF Fargo FAR MORE

Legend

AG	LC	MHP	SR-1
DMU	LI	NCI	SR-2
GC	MR-1	NO	SR-3
GI	MR-2	P/I	SR-4
GO	MR-3	UMU	SR-5

1641 5th Street North

0 75 150 Feet

N

PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

VARIANCES (§20-0914)

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economic) hardship to the property owner.

Variance Application Process

1) The application and a nonrefundable fee of $185 are due at the time of submittal
2) Notice of the Public Hearing is mailed to property owners within 300 feet of the proposed site at least 15 days prior to the Hearing and published once a week for two consecutive weeks in the newspaper.
3) The City Planner reviews your case, develops a staff report and prepares a recommendation to the Board of Adjustment based on the Criteria for Approval, below.
4) Board of Adjustment meetings are scheduled as needed.

Criteria for Approval

A variance may be granted by the Board of Adjustment upon an affirmative finding that all of the following conditions exist.

a. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

c. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

d. The variance desired will not adversely affect the public health, safety or general welfare; and;

e. The variance is the minimum variance that will overcome the hardship.

Acknowledgement – I hereby acknowledge that I have familiarized myself with the rules and regulations to the preparation of this submittal and that the foregoing information is true and complete to the best of my knowledge. I, the undersigned, do hereby petition the Board of Adjustment of the City of Fargo, North Dakota, to take such action as may be required by law of the City of Fargo to grant a variance pursuant to Section 20-0914 of the Land Development Code of the City of Fargo.

Owner (*Signature*): _____ Date: Apr. 28 2017

Note: *A nonrefundable filing fee of $185.00 must be accompanied with the application at time of submittal.*

Office Use Only

Date Filed: _____ Planning Contact: _____ Nonrefundable Fee $185.00: _____

APPLICATION FOR VARIANCE

The Board of Adjustment is authorized to grant variances from the zoning district dimensional standards and off-street parking and loading standards of the Land Development Code (LDC) that will not be contrary to the public interest or the spirit of the LDC, where owing to special conditions, a literal enforcement of the provisions of this LDC would result in **unnecessary physical (not economic) hardship** to the property owner.

Property Owner Information:	
Name (printed):	Randy Axvig
Address:	1641 5th St N Fargo ND
Primary Phone:	701-400-7363
Alternative Phone:	
Fax:	
Email:	treehouse@axvigs.com

Representation Information: *(if applicable)*	
Name (printed):	Eliot Axvig
Address:	1641 5th St N Fargo
Primary Phone:	701-516-2944
Alternative Phone:	
Fax:	
Email:	eliot@axvigs.com

Location of property requesting a variance:	
Address:	1641 5th St. N Fargo, ND 58102
Zoning District:	SR-2
Legal Description:	Lots 139 and 140 North Broadway Addition

Proposed Variance Information:

What Land Development Code Standard are you seeking a variance? (e.g. setback, lot coverage, height)

Setback Variance

Please describe difference between the standard and the proposed (e.g. The standard is 10 ft. and my project would propose a 7' setback).

The Standard is 15 ft, and my project would propose a 10' setbac

Please explain your project, describing why you are requesting a variance and why you believe a variance is justified. Along with your project description, please include a site plan/diagram with dimensions. (Attach additional pages, if needed.)

My project is adding onto an existing home and an attached garage. I am requesting a variance on a 15' Setback from the street on my corner lot. The Current home is only set back 10' and I am requesting a variance so my new construction can continue from the existing house, 26' at the 10' Setback distance.

Criteria for Approval:

Please explain how your requested variance meets the following five criteria for approval, pursuant to Section 20-0914 of the Land Development Code: (Attach additional pages, if needed.)

1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;

My property at 1641 5th st. N has a unique condition providing grounds for a variance in that it is a corner lot that is long and narrow making it difficult to add onto. The proposed variance would not encroach any furter onto the setback distance as the current structure already sits. The addition would simply continue the current structure's north wall another 26' East.

2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

The variance will have no adverse affects on neighbors or any other members of the community. The current structure is setback 10' as would be the proposed new construction and would have no affects on neighboring property owners.

3) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;

The strict application of current applicable standards on my property present a hardship due to my property being a long, narrow lot and with current setbacks make it very difficult to add usable living space onto the current structure. The proposed new construction would continue the current structure's North wall for 26' holding the current structure's 10' setback from the property line adjacent to 17th Ave N.

4) The variance desired will not adversely affect the public health, safety or general welfare; and

The proposed variance does not adversely affect public health, safety, or general welfare. The new construction does not block any traffic sightlines or impede on any walking routes to the public. New construction will continue the current 10' setback of the existing structure compared to the new setback restriction of 15'.

5) The variance is the minimum variance that will overcome the hardship.

The variance purposed is the minimum variance possible to overcome any hardship. It is a 5' variance on a 15' setback restriction. My unique situation presents my current home already encroaching on this restriction and this variance would allow me to add usable living space that would otherwise not be possible.

16TH AVENUE NORTH

5TH STREET NORTH

S 90°00'00" W 142.000'

N 00°00'00" W 60.000'

EXISTING HOUSE

NEW ADDITION

NEW GARAGE

DRIVEWAY

N 00°00'00" W 60.000'

S 90°00'00" W 142.000'

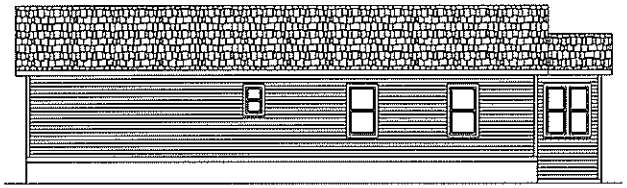
ALLEY

LEGAL:
LOT , BLOCK
ADDITION
CITY OF FARGO
COUNTY OF CASS
STATE OF NORTH DAKOTA

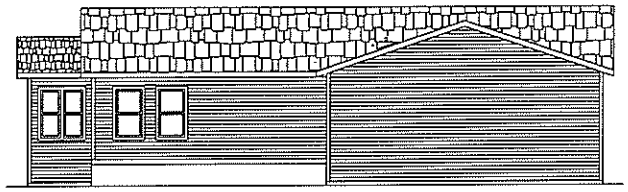
PLOT PLAN FOR 1641 5TH STREET NORTH

SCALE: 1" = 10'-0"

FRONT ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

REAR ELEVATION

PRECISION DRAFTING & DESIGNS LLC
1915 27th STREET SOUTH
MOORHEAD, MN 56560 218-287-0099

DISCLAIMER OF WARRANTIES

RANDY & SUSAN AXVIG

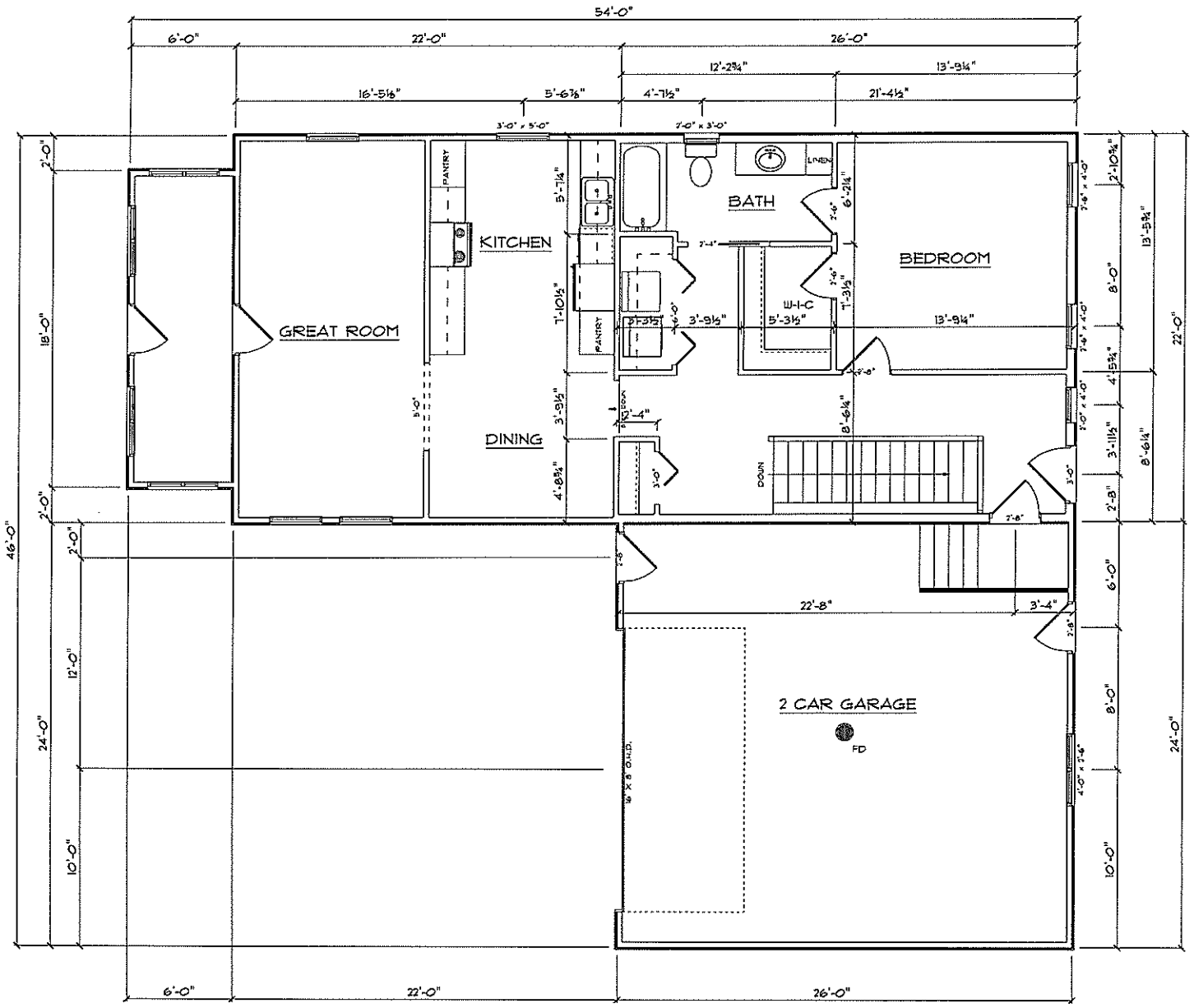
ELIOT AXVIG 701-516-2944

1641
5TH ST. N
FARGO, ND

SCALE: VARIES
DRAWN BY: RDJ
DRAWING# 1016

DATE: NOV. 28, 16
REV 1: DEC. 5, 16
REV 2: FEB. 13, 17
REV 3: MAR. 29, 17

SHEET: 1



MAIN FLOOR PLAN

EXISTING	592	SQ FT
ADDITION	572	SQ FT
GARAGE	624	SQ FT
TOTAL	1788	SQ FT

PRECISION DRAFTING & DESIGNS LLC
1915 27th STREET SOUTH
MOORHEAD, MN 56560 218-287-0099

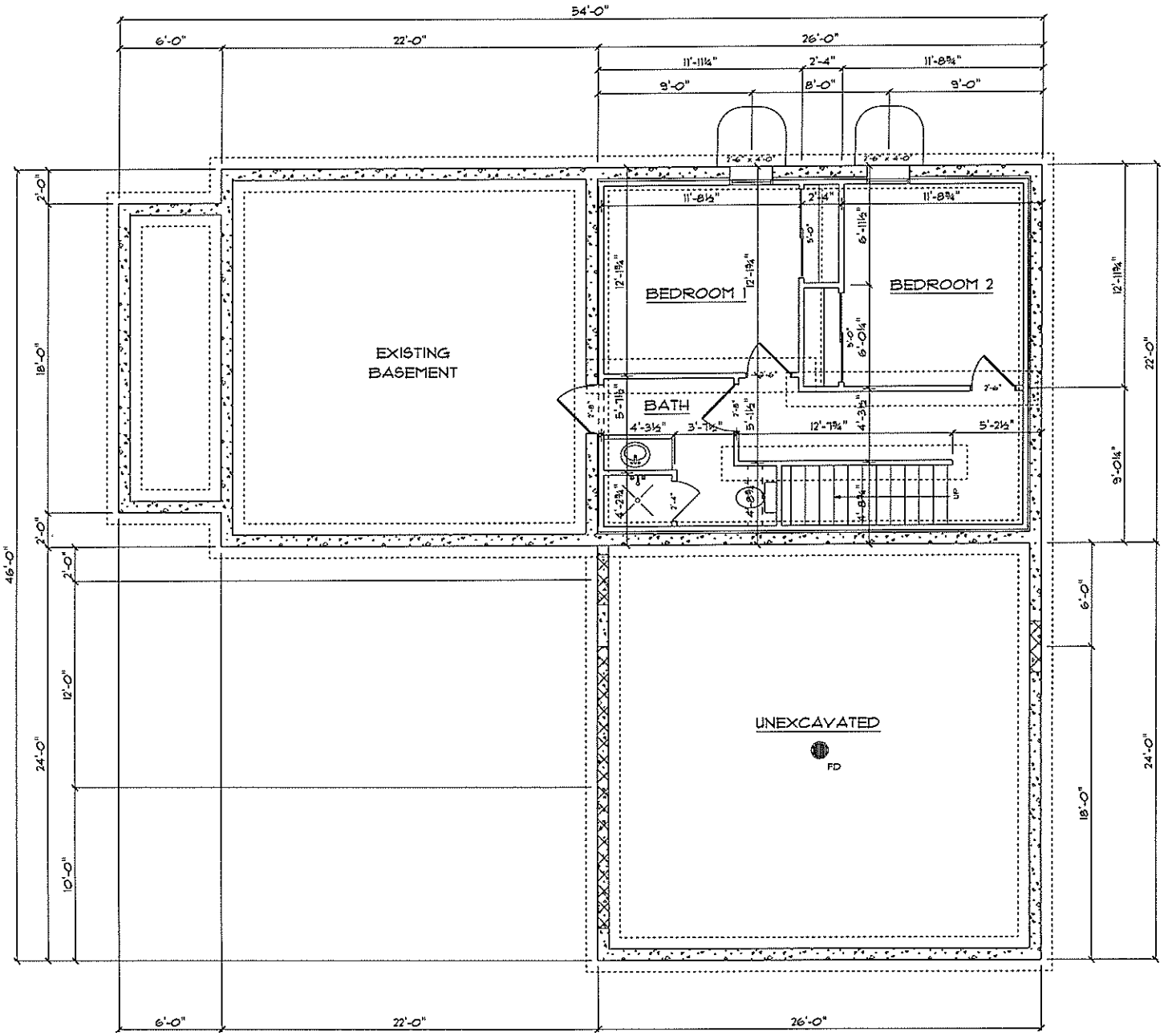
DISCLAIMER OF WARRANTIES

RANDY & SUSAN AXVIG
ELIOT AXVIG 701-516-2944

1641
5TH ST. N
FARGO, ND

SCALE: 1/4" = 1'-0"
DRAWN BY: RDJ
DRAWING # 7816
DATE: NOV. 28, 16
REV 1: DEC. 5, 16
REV 2: FEB. 13, 17
REV 3: MAR. 29, 17

SHEET:
2



FOUNDATION PLAN

PRECISION DRAFTING & DESIGNS LLC
1915 27th STREET SOUTH
MOORHEAD, MN 56560 218-287-0099

DISCLAIMER OF WARRANTIES

RANDY & SUSAN AXVIG
ELIOT AXVIG 701-516-2944

1641
5TH ST. N
FARGO, ND

SCALE: 1/4"=1'-0"
DRAWN BY: RDJ
DRAWING# 12816
DATE: NOV. 28, 16
REV 1: DEC. 3, 16
REV 2: FEB. 10, 17
REV 3: MAR. 29, 17

SHEET: 3