



Planning Commission Memorandum

To: Planning Commissioners

From: Justin Fortney, City Planner

Date: November 8, 2021

Item: Variance #2021-38 – Shoreland lot size and width – 502 6th Street East – Matt Heiman

Planning Commission Action Requested

Review and make a recommendation to the City Council on the following request:

- 1) A variance to the ten-foot minimum street side yard setback in the R-2 Zoning District for an accessory structure as stipulated in Hastings City Code 155.05, Subd. D(11)

Background Information

Detached accessory buildings may be up to 5-feet from rear and interior side property lines and 10-feet from property lines along a side street. The additional setback along side streets is to reduce the visibility of accessory structures and provide a uniform streetscape.

The side of the subject property is adjacent to the Bailly Street right-of-way, which includes a narrow one-way road, paved path, and railroad track, which is under 5-feet from the property. Due to these unique attributes of the right-of-way, the actual property line is currently further from the actual street than normal. However, the future could see any number of changes to the current transportation configurations.

When the railroad was installed in the 1870's, there was about 33-feet of right-of-way between the railroad and the current property. That right-of-way buffer was later vacated and presumably acquired by the property owner and railroad as they are described today.

Subject Proposal

The applicant proposes to build a new detached garage on the west side of the property at the end of the current driveway. Placing the garage near the west property line would allow the garage door to align fairly well with the existing driveway.

The proposed garage setback would be 3-feet and 10-inches from the property line. This would place the garage within 6-feet, 2-inches from the east rail of the track. The proposed setback from the track centerline is 11-feet. There is a State Statutory minimum clearance from the centerline of

a rail road track of 8 1/2 -feet. The examples of structures provided that must meet this minimum are train-oriented buildings and equipment.

Public Notification

Notification of the variance request was sent to property owners within 350-feet of the property, including Canadian Pacific Railway. Staff has not received any comments.

VARIANCE REVIEW

Variance Definition

Variances are deviations from strict compliance of City Code provisions. The Board of Adjustment and Appeals may issue a variance upon determination of findings of fact and conclusions supporting the variance as established in Chapter 30.02, Subd. F of the City Code.

Board of Zoning Adjustment and Appeals

Hastings City Code Chapter 30.02 establishes the Board of Zoning Adjustment and Appeals and appoints the City Council and Planning Commission to facilitate the Board's roles and duties. Applications for Variances require Board of Zoning Adjustment and Appeals review.

Variance Review

City Code Chapter 30.02(F) establishes the requirement for granting variances. The Planning Commission (acting in part as the Board of Adjustment and Appeals) may consider variances to the Zoning Code that are not contrary to the public interest where owing to special conditions, and where a literal enforcement of the provision of the City Code would result in practical difficulties. Variances may be granted providing the following has been satisfied (staff review appears in ***bold italics***):

(1) Because of the particular physical surroundings, shape or topographic conditions of the land involved, a practical difficulty to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out; ***There are no existing physical conditions precluding the proposal from being constructed to the strict letter of the regulations. Locating the proposed garage to meet the regulations could easily be accomplished, but may result in a mere inconvenience of a garage and driveway at differing degrees, or realignment of the existing driveway. Both of these inconveniences are routinely bore by other homeowners.***

(2) The conditions upon which the petition for a variance is based are unique to the tract of land for which the variance is sought and not applicable, generally, to other property with the same zoning classification; ***The conditions upon which the petition for a variance is based is commonly encountered by owners of similar properties. It is a fairly common for property owners to replace an existing garage built with a nonconforming setback. The new garages in those situations must meet the current setback regulations, which often require realignment of the driveway or approach angle.***

(3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land; ***The owner doesn't seek to obtain the variance exclusively to increase the value or income potential of the lot, as the variance would likely not affect the property value because the improvement could be made regardless.***

(4) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the tract of land is located; ***Granting of the variance would allow for the construction of a garage very close to the street side property line and an active, but currently low volume railroad track. This may not cause any detriment to the public or area improvements presently. However, the future transportation requirements in the adjacent right-of-way could change in the future, which could lead to detrimental impacts.***

(5) The proposed variance will not impair an adequate supply of light and air to property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the vicinity; ***There certainly would be a decrease to the separation of trains and structures with this proposed variance. This could elevate the potential for property damage and fire hazard.***

(6) The variance is in harmony with the purposes and intent of ordinance; ***The purpose and intent of the ordinance is to preserve the streetscape, setback, and aesthetics of structures along the right-of-way. While the variance would not negatively affect that to a large degree at present, any future right-of-way layouts could be adversely impacted.***

(7) The variance is consistent with the comprehensive plan; ***The property is guided for low density residential development, which would not be altered by the proposal.***

(8) The proposal puts the property to use in a reasonable manner; ***The construction of a detached garage is certainly a reasonable improvement and the setback doesn't change the use of the property.***

(9) There are practical difficulties in complying with the official control. "Practical difficulties", as used in connection with the granting of the variance means that:

(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control; ***The construction of the garage is a reasonable use of the property.***

(b) The practical difficulty is caused by the provisions of this chapter and has not been created by any persons presently or formerly having an interest in the parcel of land; ***All of the practical difficulties were cause by previous homeowners or plans of the current applicant. The existing driveway location was placed in close proximity to the property line and the transfer of the southwest corner of the property to the railroad were done by previous owners. The current owner intends to demolish and rebuild an attached garage***

onto the house thereby having an opportunity to design the improvements in such a way that would allow greater flexibility to realign the driveway or proposed detached garage. The current owner also intends to remove a mature tree to locate the garage as proposed instead of directly south of the house, to save a different mature tree.

1. A practical difficulty is not present if the proposal could be reasonably accomplished under the current Ordinance requirements. ***The applicant could accomplish the proposal under the current ordinance requirements.***

(c) The variance, if granted, will not alter the essential character of the locality. ***Major changes to the existing improvements in the right-of-way could highlight this proposed improvement as out of character with the locality.***

(d) Economic considerations alone do not constitute practical difficulties. ***The applicant has not stated any financial reasoning for the variance.***

(e) Practical difficulties include inadequate access to direct sunlight for solar energy systems. ***Not applicable.***

RECOMMENDATION

Denial of the variance is recommended based on the above findings of fact in the Variance Review. Granting a variance based on the present conditions and practical difficulties could easily confer similar justification to other properties.

If the variance were approved with supporting findings of fact, the approval should be conditioned on the following:

1. Conformance with the Planning Commission Staff Report and plans dated November 8, 2021.
2. Approval is subject to a one-year Sunset Clause; if progress on the proposal is not made within one year of City Council approval, the approval is null and void.
3. All unvaried regulations of Hastings code chapter 155.05, Subd. D must be met.
4. A Hastings building permit must be obtained, followed, and successfully closed out.

ATTACHMENTS

- Location Map and Site Photo
- Plans



CERTIFICATE OF SURVEY

LAKE AND LAND SURVEYING, INC.

1200 Centre Pointe Curve, Suite 375

Mendota Heights, Minnesota 55120

Phone: 651-776-6211

Made For:

Mr. Matt Heiman
502 6th Street East
Hastings, MN 55033

Legal Description: (Warranty Deed)

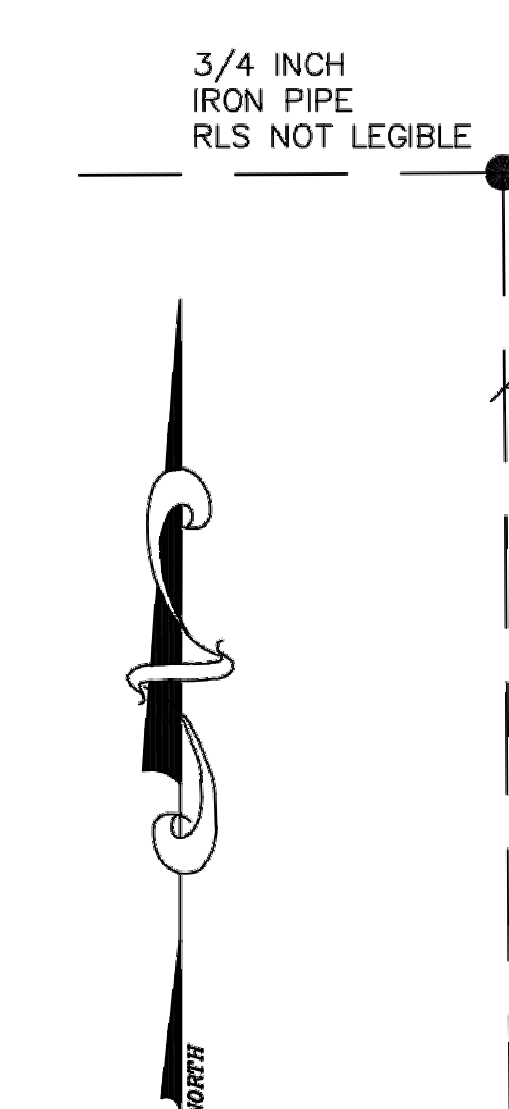
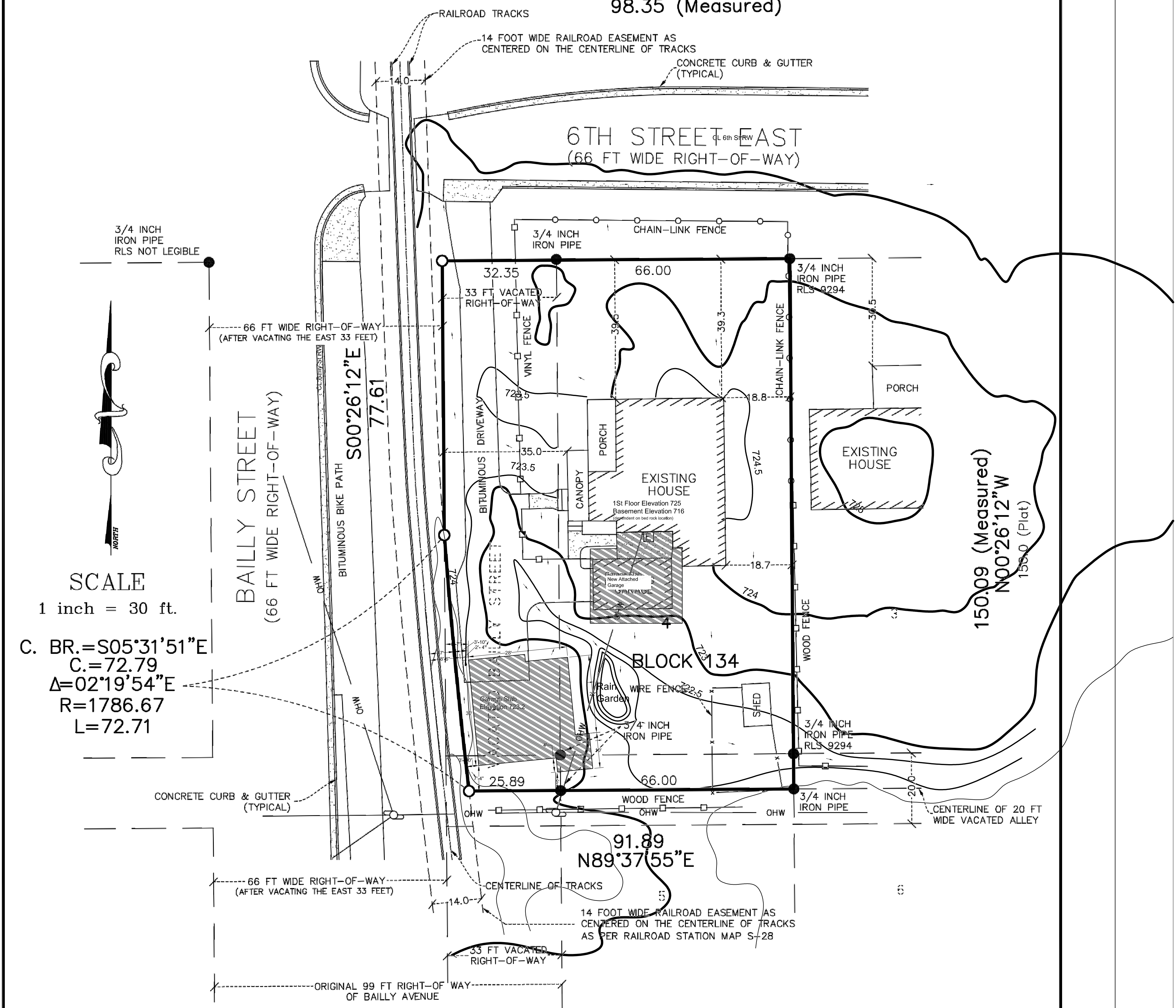
Lot 4, Block 134, TOWN OF HASTINGS, according to the recorded plat thereof, Dakota County, Minnesota.

Together with that part of the East 33 feet of vacated Bailly street adjacent as per page 443 Miscellaneous Record No. 53, Dakota County, Minn.

Together with the vacation of alley accruing as per Hastings City Council Resolution No. 06-09-20.

99.0 (Plat)

S89°37'55"W
98.35 (Measured)



SCALE

1 inch = 30 ft.

C. BR. = S05°31'51"E
C. = 72.79
Δ = 02°19'54"E
R = 1786.67
L = 72.71

NOTES

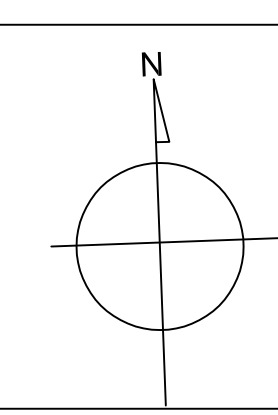
- Denotes 12 Inch Common Spike set with washer stamped RLS 16464 or as noted.
- Denotes Iron Monument found size, type, & R.L.S. as noted.
- Denotes Utility Pole
- ⊞ Denotes Electric Meter
- OHW— Denotes Overhead Utility wires
- ▨ Denotes Concrete Surface

SITE ADDRESS: 502 6th Street, Hastings, MN
AREA: 14,545 SQ. FT. OR 0.33 ACRES
BASIS OF BEARINGS: DAKOTA COUNTY
LAKE & LAND SURVEYING. JOB NO. 2021.438 JK

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

Jonathan L. Faraci
October 8, 2021
Jonathan L. Faraci
Registered Land Surveyor & Registered Engineer
Minnesota Registration No. 16464

REVISIONS		
Date	Description	Approved



Matt and Sandra Heiman
Practice Description
502 6th st e Hastings, MN

Designed MJH	08/20/2021
Drawn MJH	08/20/2021
Checked SMH	

Approved _____ Date _____
Title _____ Job Class _____



City of Hastings Community Development Department

Land Use Application

Address or PID of Property: 502 6th st e

Applicant Name: Matt Heiman
 Address: 502 6
Hastings, MN 55033
 Phone: 651-329-1340
 Fax: _____
 Email: matthew.heiman@gsa.gov

Property Owner: Matt & Sandra Heiman
 Address: 502 6th st e
Hastings, MN 55033
 Phone: 651-329-1340
 Fax: _____
 Email: matthew.heiman@gsa.gov

Description of Request: Request for variance of Corner lot street side set back of 10ft to no less than 5ft. Currently working with surveyor to determin exact location of property line in relation to Rail Road Right of way. Due to the angle that the RR intersects the Western side of the lot, and the layout of the existing driveway. The proposed garage works best at aproximatly 5deg off square, and parallell to the RR. Improving access, asthetics, and reducing unusable space between the RR and the proposed garge. The RR Set back 8.5' from CL of tracks per MN219.46 8.5' will be strickley adhered to. And the 14ft RR Easment will not be encroched upon.
 If requesting site plan review of multi-family units (three or more attached), are the units intended to be for sale or rental units? _____

Check Applicable Line(s)	Please Note: All Fees and Escrows are due at time of application.	
<input type="checkbox"/> Rezone	\$500	<input type="checkbox"/> Minor Subdivision \$500
<input type="checkbox"/> Final Plat	\$600	<input type="checkbox"/> Special Use Permit \$500
<input checked="" type="checkbox"/> Variance	\$250	<input type="checkbox"/> Comp Plan Amend. \$500
<input type="checkbox"/> Vacation	\$400	<input type="checkbox"/> Lot Split/Lot Line Adj. \$50
<input type="checkbox"/> House Move	\$500	<input type="checkbox"/> Annexation \$500 plus legal expenses
<input type="checkbox"/> Prelim Plat	\$500 + escrow	<input type="checkbox"/> EAW \$500 + \$1,000 escrow
<input type="checkbox"/> Site Plan	\$500 + escrow	<input type="checkbox"/> Interim Use Permit \$500

Total Amount Due: \$ 250.00

Make checks payable to City of Hastings.
Credit cards also accepted.

Please ensure that all copies of required documents are attached.

Matthew J Heiman
Digitally signed by Matthew J Heiman
 Date: 2021.09.16 09:53:54 -05'00' 09/16/2021
 Applicant Signature Date

Matthew J Heiman
Digitally signed by Matthew J Heiman
 Date: 2021.09.16 09:54:09 -05'00' 09/16/2021
 Owner Signature Date

Matt Heiman
 Applicant Name and Title – Please Print

Matt Heiman
 Owner Name – Please Print

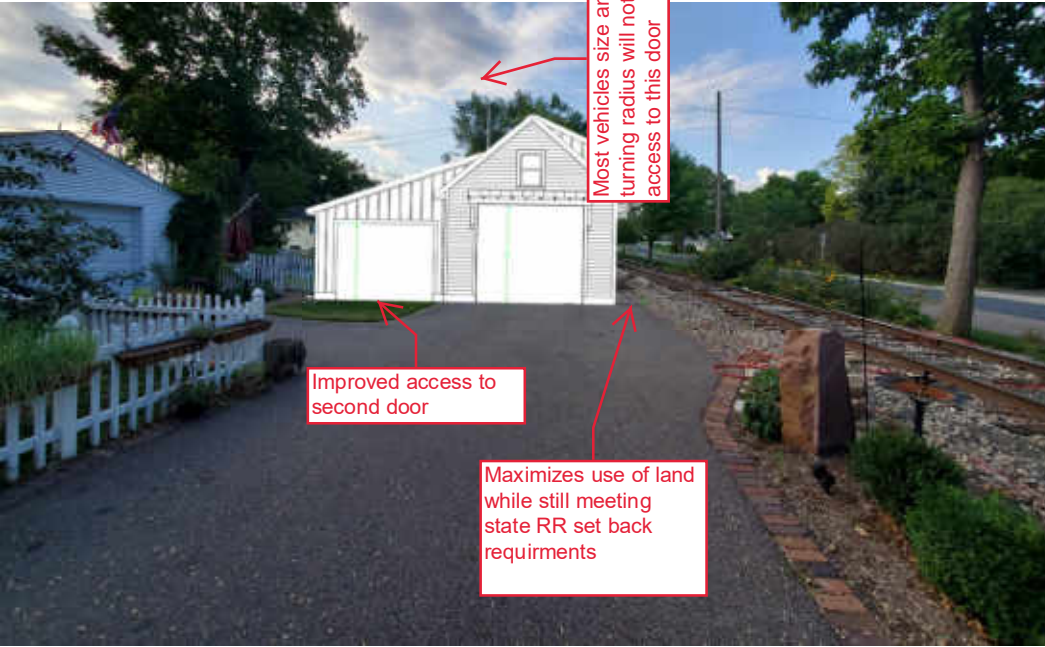
OFFICIAL USE ONLY

File # 2021-38
 Fee Paid: 300

Rec'd By: JJF
 Receipt # 439453

Date Rec'd: 10/15/2021
 App. Complete x

Variance of 10ft Corner lot street side setback



10ft Corner lot street side setback

