

PLAN OF CORRECTIVE ACTION CITY OF MANKATO VIOLATION

LOCATION OF PROPERTY: 1908 4th Avenue

OWNER(S) OF PROPERTY: Thomas Haack

THE FOLLOWING IS A PLAN OF CORRECTIVE ACTION (PCA) FOR CORRECTING MAJOR PROBLEMS OR DEFICIENCIES IDENTIFIED AT THE ABOVE ADDRESS. THE PLAN IS DESIGNED TO GUARANTEE THE LONG TERM AND CONTINUOUS COMPLIANCE OF THE PROPERTY WITH THE MANKATO CITY CODE. THE CONTENTS OF THE PCA MUST ALSO REFLECT THE PURPOSE AND INTENT OF THE MANKATO CITY CODE. FAILURE TO COMPLETE THE CONTENTS OF THE PCA BY THE DATE OR MANNER DESCRIBED BELOW SHALL RESULT IN A CITATION.

THE FOLLOWING ARE THE PROBLEMS OR DEFICIENCIES IDENTIFIED ON THE SUBJECT PROPERTY (OR SEE ATTACHED REPORT):

Work has occurred without a permit, and without the appropriate approvals.

Structures have been constructed and a fence has been constructed without appropriate approvals, and
that are not in conformance with the applicable codes.

THE FOLLOWING IS A PLAN OF CORRECTIVE ACTION FOR THE SUBJECT PROPERTY:

The property owner shall complete one of the following to ensure conformance of the structures on the site.

Either:

1. Have prepared a surveyed site plan that shows compliant structures and setbacks AND an engineered structural report that demonstrates building code compliance for all the structures identified in the attached photo no later than May 1, 2023. A building permit submission with this detail shall be applied for; OR
2. Remove all structures no later than August 31, 2023.

The owner shall complete the following in regard to the fence:

1. A surveyor shall locate the property corners and the property pins shall be visible by May 1, 2023.

Then, based on the findings of the survey, subsequent work will be determined and may include grading, fence removal including foundation or moving, among other corrections depending on the outcome of the survey.

Rental license shall either be ~~granted~~ issued or will be withdrawn no later than August 31, 2023.

I am aware that failure to comply w/ this PCA may result in the issuance of an administrative penalty.

I am aware that it is my responsibility to achieve the terms of this Plan of Corrective Action.

I am aware that this is my notice. I will not receive additional notice before action is taking against me to remedy the violation(s). This may include, but is not limited to, an administrative penalty, a criminal penalty.

the work may be complete and assessed to my property, or any other remedy to achieve conformance.

I am further aware that failure to comply will result in action to remedy the situation.

THE PLAN OF CORRECTIVE ACTION MUST BE COMPLETED BY:

August 31, 2023

APPROVED BY:

Glenn Mottuatt

DATE:

2/10/2023

ACKNOWLEDGEMENT AND SIGNATURE: The undersigned hereby agrees to comply with the terms of the Plan of Corrective Action. The undersigned acknowledges that failure to complete the contents of the Plan of Corrective Action by the date or manner described above shall result in a citation.

PROPERTY OWNER:

[Signature]

DATE:

2-10-23

as long as we work together
and come to a middle ground
to help or come close or or agreement;

1908 4th Avenue

Apperiaux H



Date: February 2023

Author:

Compliance meeting

February 10, 2023

Intergovernmental Center, Lincoln Park Room (of note, the letter issued stated that the meeting was to be held onsite, however the location was switched as Mr. Haack came to the Intergovernmental Center)

Attendees:

Mr. Tom Haack, property owner, 1908 4th Avenue
Devan Mortwedt – Community Resource Coordinator
Dave Knudson – Building and Development Services Coordinator
Molly Westman – Planning Coordinator

Notes from the meeting

Surveyor – ID pins before we can do anything. Last on site, not one in back right corner. You may know where they are, we need to see them visibly. Need legally set survey stake.

Front Right – bob brown tree busting wall apart – trees encroaching.

Structures: biggest challenge because there is more cost associated; the fence is the second issue to be resolved.

Dave – no documentation of these things happening. Start from scratch. Survey drawing needs to have pins set / marked. Need all buildings on site plans. Must be survey not a drawing.

Survey done – depending on what is found either need to show that can be brought up to code or they need to be removed.

- Tom stated that the structures Will not meet setbacks, and noted, “I couldn’t get a permit.”
 - o That means it needs to be removed.
 - o Then Brown’s needs to be removed.
 - Not why we’re here.
 - o Working part time, not much money. There’s paperwork.
 - No permits. Only found fire separations and handicapped ramp, siding, and roof. No structure permits. From 2009 from 2022 no permits no documentation
 - o Moving forward, move them or remove them.
 - Variance? Staff informed Mr. Haack that the statutory criteria for issuance of a variance is practical difficulty. It was noted that willful construction of a structure that he knew would not achieve setbacks would not likely achieve the practical difficulty threshold.
 - Nothing on record.
 - o Easement is legal between neighbors, issues with that would be a legal issue with attorney. Not a variance.
 - These were built w/o permit and approval, have to meet practical difficulty thresholds – this doesn’t meet that and those are addressed during the permit process.

- Get survey and move back to setbacks or remove.
 - Mr. Haack inquired about getting his Tax money back for the structure.
 - He was informed that property taxes are through county, and so he would need to inquire with them.
- Set backs?
 - R 3
 - Front yard of 25 feet
 - Side (south side) is 6 won't meet as sits according to Mr. Haack.
 - Rear is 25 for the primary structure. 6' for a detached accessory structure.
 - Allowed 35% coverage – appears to be ok based on a quick calculation staff conducted during the meeting using publicly available data from Blue Earth County.
- Some way around – hardship?
 - Mr. Haack stated that he will need help with all of this. He stated that he is handicapped / disabled.
 - ADA – someone from the city?
 - Help doing with proper thing, reviewing ordinances.
 - Currently what we are doing. Can print the ordinances for him.
 - Need surveyor – don't have money - hardship?
 - Take it down until can get survey
 - Then we go to penalty step
 - Then he will go around to neighborhoods and find other properties that do not conform.
- Determine if removing or survey on structures.
 - Survey to determine whether the structures fit on the lot is the first piece. Then, if they fit and achieve the setbacks, a structural engineer to review structures.
 - The structures will need to meet current building code. That is why it is necessary that Mr. Haack hires someone. To be clear, an Engineer will only be required if the buildings do not meet minimum code requirements. Any plans submitted for review must show existing conditions.

Fence needs to be on property and the legally set property pin will need to be visible in order to verify the location of said fence.

The process moving forward will be a Survey to document the location of the structures. Then variance, if Mr. Haack chooses to pursue a variance, which staff has advised does not likely achieve the practical difficulty standards, can be sought.

May 1, but if editing timeline can – need path forward

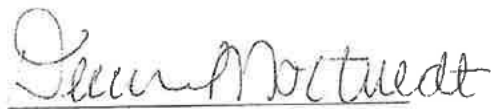
Staff reviewed a plan of corrective action with Mr. Haack and agreed upon a path forward that includes:

1. By May 1 Mr. Haack shall have prepared a survey that shows the structures that he built conform to the setback requirements and structural engineering information prepared to show conforming structures, and a building permit should be applied for by or before May 1; or;

2. The structures, labels on an image as 1, 2, 3, 4, and 5 shall be removed no later than August 31, 2023.
3. Rental license that has been pending on the property since 2018 shall either be issued or will be withdrawn no later than August 31, 2023. This will require all standards as per the inspections of the property to be achieved.

Mr. Haack signed the plan of corrective action while noting that he desires staff to continue to assist him. It was noted that that staff will continue to assist, however, Mr. Haack has to do his part to move these projects towards compliance. For example, that will not include calling a surveyor on April 29 in an attempt to achieve the May compliance date.

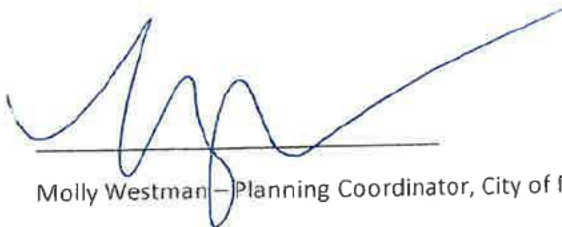
By way of signature below, I attest to the above notes as a true and correct representation of the conversation that occurred between the undersigned parties and Mr. Tom Haack on February 10, 2023.



Devan Mortwedt – Community Resource Coordinator, City of Mankato



Dave Knudson - Building and Development Services Coordinator, City of Mankato



Molly Westman – Planning Coordinator, City of Mankato

710 S. Front St.
Mankato, MN 56001
Phone: (507) 387-8735

www.mankatomn.gov



Tom Haack
1908 4th Avenue
Mankato, MN 56001

Re: Follow Up to Requests Made via Telephone to Devan Mortwedt dated February 10, 2023
and Mark Konz dated February 14, 2023

February 16, 2023

Dear Mr. Haack,

As you and I spoke on February 15, 2023 I have received your requests as noted above and interpreted those requests as follows:

You are seeking:

- Information pertaining to documentation in the City's possession regarding the five (5) structures;
- A variance application and applicable information;
- Information as to the City's availability to provide assistance in creating building plans;
- A copy of your past property survey;
- And transcripts or notes from the compliance meeting that occurred on February 10, 2023.

As for the **information the City has pertaining to your structures** (1,2,3,4, and 5) the city has no documentation or issued permits for the construction of any of the five (5) structures. These structures are labeled and depicted in the overhead photo attached to this letter entitled **Appendix A.**

As for the information pertaining to a variance, please find the following information:

The Board of Adjustments has the authority to grant variances in instances where their strict enforcement of the provisions of the Code would cause undue hardship because of circumstances unique to the individual property that are not self-created.

"Practical difficulties" is a legal standard that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors - reasonableness, uniqueness, and essential character- of the test must be satisfied. The applicant has the burden of proof to show that all of the criteria has been satisfied.

A complete variance application for the City of Mankato shall include the application, a complete supplemental variance application question form, fee (\$95 at the time of application,

and there will be an additional billing for the mailed notices), and a surveyed site plan outlining the requested variance(s).

Attached and entitled **Appendix B**, is the **variance application and supplemental questions**; **Appendix C** is the **copy of the past property survey**; **Appendix D** is the **notes** from the compliance meeting which occurred on February 10, 2023.

As for the City's availability to assist in creating building plans, City staff does not hold the credentials or qualifications to design or aide in the design of structures therefore leaving City staff unable to assist in such planning.

Should you have any questions, please don't hesitate to contact me at the number listed below.



Devan Mortwedt
Community Resource Coordinator - #3175
City of Mankato – Department of Public Safety
710 S. Front Street, Mankato, MN 56001
507-508-3835

CC: Dave Knudson, Molly Westman

Enclosures

1908 4th Avenue

Appendix A



Date: February 2023

Author:



City of Mankato Zoning request application

10 Civic Center Plaza ~ PO Box 3368, Mankato, MN 56002-3368
Phone 311 or 507-387-8600 FAX (507) 387-6845

Primary contact (Check one)	Site address and legal description:			
☐	Applicant	Address	Email	Phone
☐	Owner	Address	Email	Phone
☐	Contractor	Address	Email	Phone
☐	Architect/Designer	Address	Email	Phone
☐	Engineer	Address	Email	Phone
☐	Developer	Address	Email	Phone

☐	Conditional Use Permit (CUP) (3104)	Include the items listed below.	\$335 plus \$2 per notice
☐	Planned Unit Development (PUD) (3154)	Include the items listed below.	\$335 plus \$2 per notice
☐	Variance residential (3132)	Indicate variance requested and practical difficulty making variance necessary. Also furnish a site plan on 8 1/2" X 11" paper showing size of lot, size of structure, and distance from lot lines. Site plan shall be drawn to a tenth scale (1:10, 1:20, etc.)	\$95 plus \$2 per notice
☐	Variance – non-residential (3133)	Indicate variance requested and practical difficulty making variance necessary. Also furnish a site plan on 8 1/2" X 11" paper showing size of lot, size of structure, and distance from lot lines. Site plan shall be drawn to tenth scale (1:10, 1:20, etc.)	\$325 plus \$2 per notice
☐	Rezoning (3108)	Please contact zoning administrator for submittal requirements.	\$335 plus \$2 per notice
☐	Ordinance Amendment	Please contact zoning administrator for submittal requirements.	
☐	Certificate of Design Compliance (CDC) (3152)	Include items listed below.	\$335 plus \$2 per notice
☐	Combined CUP and CDC (3156)	Include items listed below.	\$670 plus \$2 per notice

Zoning request fee: Payable with application (make check payable to City of Mankato):

Hearing notice fee: Payable prior to Planning Commission/Administrative Hearing: _____ notices X \$2/notice = \$ _____.

Public hearing notices are billed to applicant and **must** be paid prior to the Planning Commission/Administrative Hearing.

Summary of request - Attach additional sheets if necessary.

Signature of contractor or authorized agent

Date

Signature of owner (if not same as above)

Date

EXHIBIT D

- ☐ a. The location, dimensions, floor area, type of construction and
- ☐ b. Floor plan showing specific uses within the building.
- ☐ c. The number, the size and type of dwelling units in each building, and the overall dwelling unit density.
- ☐ d. The proposed treatment of open spaces and the exterior surfaces of all structures, with sketches of proposed landscaping and structures, including typical elevations.
- ☐ e. Architectural graphics, including typical floor plans and elevations, profiles, and cross-sections.
- ☐ f. The number, location, and dimensions of parking spaces and loading docks, with means of ingress and egress.
- ☐ g. The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements.
- ☐ h. The location of all fire hydrants on the property and the location of all fire hydrants within one-hundred fifty (150) feet of the property.

- ☐ i. The location and proposed treatment of structures for fire and emergency vehicles.
- ☐ j. Statement of whether or not the building will be sprinkled and fire flow availability for the sprinkler system and fire hydrants.
- ☐ k. The location, intensity and design of exterior lighting.
- ☐ l. The location and purpose of any existing or proposed dedication or easement.
- ☐ m. The general drainage plan for the development tract.
- ☐ n. The location and dimensions of adjacent properties, abutting public right-of-ways and easements on the property.
- ☐ o. Significant topographical or physical features of the site including existing trees.
- ☐ p. Wetland delineations for all wetlands on the site.
- ☐ q. The location and proposed treatment of any historical structure or other historical design element or feature.
- ☐ r. Utility service plans (water, sewer, storm).
- ☐ s. Landscaping plans.

Note: All plans shall be drawn to a tenth scale (1:10, 1:20, etc.)

Note: All plans shall be drawn to a tenth scale (1:10, 1:20, etc.)

For staff use

Date received:

Application number: CY ____ - ____

Variance questions

Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?

Yes () No () Why or why not?

2. In your opinion, is the variance consistent with the comprehensive plan?

Yes () No () Why or why not?

3. In your opinion, does the proposal put property to use in a reasonable manner?

Yes () No () Why or why not?

4. In your opinion, are there circumstances unique to the property?

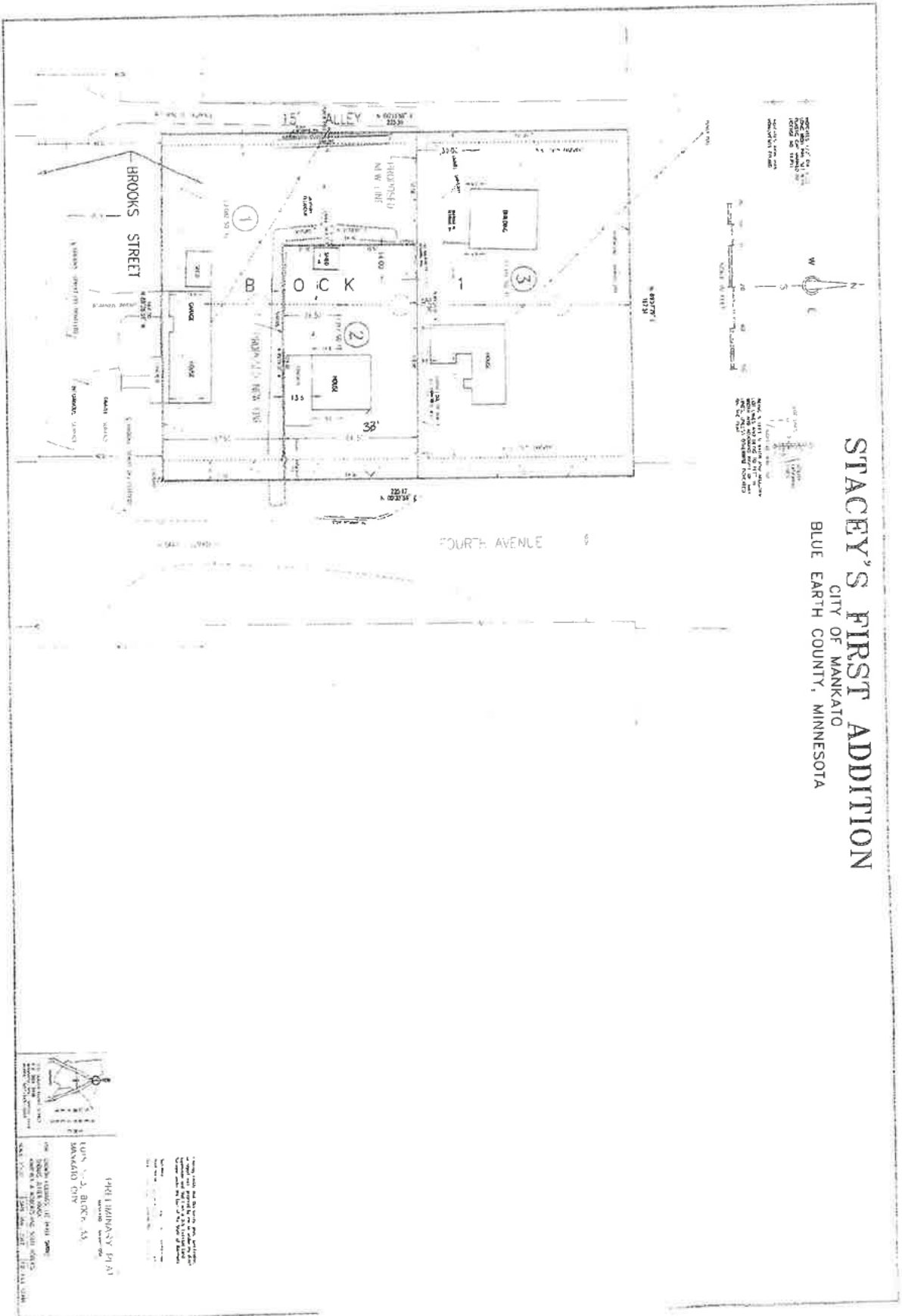
Yes () No () Why or why not?

5. In your opinion, will the variance maintain the essential character of the locality?

Yes () No () Why or why not?

The Planning Commission/City Council must make an affirmative finding on all of the five criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

Appendix C



710 S. Front St.
Mankato, MN 56001
Phone: (507) 387-8735

www.mankatomn.gov



I, Thomas Haack, property owner of 1908 4th Avenue, Mankato, MN 56001, affirm by my signature as placed below, personally picked up the following:

Letter with Appendices A – D

from The Mankato Department of Public Safety, 710 S. Front Street, Mankato, MN 56001 on February 17, 2023.

A courtesy copy was placed in standard first class mail.



Thomas Haack

2-21-23

Date