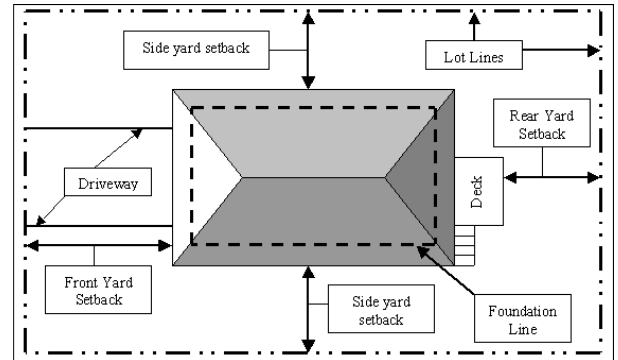


PROPERTY LINES



**COMMUNITY
PLANNING
DEPARTMENT**
507-537-6773
www.ci.marshall.mn.us



Why it's important to locate property lines.

Before performing any construction on your property, including building a fence, deck, gazebo, shed, garage or an addition to your house, it is necessary to establish where your lot lines are located and if there are any easements on your property. This provides evidence the building inspector needs to verify that a project is within the setbacks required by both zoning laws and building codes. Building outside setbacks, over wrongly assumed property lines or within easements may result in necessity to move or dismantle your project. This can be costly and time consuming.

If you don't know the location of the property line, you can investigate by using one or more of the methods described below. The City of Marshall does not provide this service. Property lines often are casually delineated by where you and your neighbors mow lawns, plant flower beds or maintain fences. These borders may not be the property lines. Even if your neighbor agrees that this is the property line, problems can arise when either property is sold, and property lines are found not to be where they had been assumed to be located. Do not assume that utility poles or boxes mark property line locations or that the sidewalk edge is the property line. Also, street curbs are almost never located at the property line.

How to locate property lines.

The first step in finding your property lines is to determine the dimensions of your lot. You can get this information from your deed; if not, you can acquire a plat map from the City Engineering Department. If you have a certificate of survey with the as-built location of the house, you can measure from the house to find the property line. Use caution when using a certificate of survey because some show a proposed location of the house before it was built rather than the actual location.

The next step is to locate the survey pins. Often these are located at the corners of your lot and at the beginning of a curve if the lot line curves. However, not all lots are marked with survey pins. Ask your neighbors if they have recently located survey pins for their properties. This could save you the trouble of having to find them yourself. If no one knows where they are, you may wish to use a shovel to probe the area of ground where they are assumed to be located. They can be a foot or more below grade. If that proves fruitless, you may need to use a metal detector or magnetic locator to help find them.

Many lots in Marshall were surveyed many years ago and survey pins may have been removed. If this is the case, lot lines may be located by measuring from the opposite pins on neighboring properties if you are allowed to locate them or other pins on the block where the locations are known. Once you find a survey pin do not disturb its location and mark it with easy to see sign.

When professional surveys are necessary.

If property pins and lines cannot be determined by using these methods, you may have to hire a professional to survey your lot and put in new pins. You will be responsible for the cost of a new survey.

Is the city or county responsible for providing survey markers at the corners of my lot? No. When property is platted, state law requires that survey markers, or monuments, be placed at all lot corners. The law only requires this to be done once. The cost is normally paid by the land developer. These markers are often

knocked out when the land is re-graded or utilities are installed. Having them replaced is the individual property owner's responsibility.

If you are buying a lot in a new subdivision, the cost for having any missing survey markers replaced is moderate since the land has recently been surveyed. It is possible to ask the seller to have any missing monuments replaced. The seller may or may not be willing to do so.

My property has just been surveyed. The neighbors' fence is partly on my property. What should I do?

When an improvement owned by one person is located on land owned by another person, the situation is known as an encroachment. The laws and court decisions on this subject are complex. To understand your legal rights in such a situation, it is best to consult an attorney, preferably one with experience in real-estate matters.

If you are otherwise on good terms with your neighbor, and if the fence is not in your way, it is probably unwise to start a quarrel over the matter. In most cases, the actual value of the land involved is very small. You can ask your attorney about the possibility of creating an easement or license, which can protect your title to the land involved while allowing the fence to remain in place, either temporarily or permanently. With your attorney's advice, you will also need to decide whether it is necessary and appropriate to do this.

How do I find out the legal description of my property?

If you have a copy of the deed by which you acquired the property, a Certificate of Title, or a title policy, the legal description will be included. If not, a brief version of the legal description, sometimes known as a "tax legal", is usually given on your property-tax bill. If the tax bill does not contain a legal description, it may be obtained through the Lyon County website.

In many cases, the "tax legal" will have been shortened or simplified by the Assessor in order to save space, and may not include enough information to enable a surveyor to locate the property lines. The complete legal description of the property will be given on the deed or Certificate of Title.

Deeds and Certificates of Title are on file at the office of the County Recorder or Registrar of Titles. Not all properties have a Certificate of Title. To look up one of these documents, you do need a tax legal to get started. The procedure varies, but the County staff will assist you. If you do not have the time to visit the County offices, any surveyor can look up your legal description in connection with preparing a survey.

What is an easement, and how is it used?

An easement allows one party to use another party's land for a particular purpose. For example, a person might have an easement that allows him to use a driveway across his neighbor's property. In many areas, utility easements are in place to allow government agencies or utility companies to place poles, wires, pipes, or cables across privately-owned land. An easement can be created for nearly any purpose if the parties agree to do so.

Some easements are created in the process of platting land. Others are created by separate legal documents. If there is an easement on your property, there are likely to be some restrictions on how you can use the land in the easement area. A surveyor can locate an existing easement in connection with a survey. An attorney can provide more information on how the easement area may be used. The City of Marshall may have some information on file as well.

On many residential lots, there are drainage and utility easements along the sides of the lots. City of Marshall does not allow buildings, including their overhangs or other projections, and decks to extend into these easements, but there may be other regulations as well. Information on these regulations can usually be obtained from local Building Inspectors or by calling Community Planning Department at 507-537-6773.

If a new easement needs to be created, it is generally necessary to have a surveyor locate the correct area and prepare a legal description of it. An attorney can then prepare a document which the parties can sign to create the easement.