

Several old stakes were located in the original Fairleigh Survey and the distance from Delaware Avenue southerly to the stake marking the south-eastern angle of Lot 11 was found to measure correctly. In the resubdivision an old stake was located marking the south-eastern angle of Lot 28 and an iron bar was found at the north-western angle of the same lot.

These points were all the evidence obtainable regarding the position of the lot lines, no fences having been built on the east side of Fairleigh Crescent up to this time. The distance between these two points of the survey checks correctly and were made the governing points of the survey. The distance from the true line of Cumberland Avenue to the old stake between Lots 28 and 29 measures 44 feet 9 inches, not 43 feet 3 inches, as shown on the plan. That is, there is a surplus of 1 foot 6 inches in the rear measurement of Lot 29.

No Attempt to Establish Boundary

Measuring northerly from this stake, each lot was given its proper measurement according to the plan, stakes being planted to mark the corners of Lots 23 to 27. After doing this, Lot 20 was laid out 46 feet 7 inches in width, as shown on the registered plan. This point was found to be 4 feet 4 inches southerly from the stake marking the south-eastern angle of Lot 11 in the old survey. That is, Lot 20 should have had a width of 50 feet 11 inches at the rear. This makes a total surplus of 5 feet 10 inches from Cumberland Avenue to the south-eastern angle of Lot 11. As the measurements along Fairleigh Avenue all check up correctly, there is no reason to suppose that the surveyor's tape was incorrect. Consequently, it appears as if he made no attempt to establish the southern boundary of Lot 11 before making his survey. This gives us a somewhat similar case to the one first stated, with no means of correcting the error and eliminating the possibility of conflicting surveys.

Fig. No. 4 is a copy of the registered plan of J. J. Scott's Survey. This survey was laid out and the plan registered in 1889, the lots numbering from 1 to 39, as shown. In 1898 this plan was amended by another surveyor, the new plan showing Lots 1 to 44 and Lots 29, 30 and 39 being affected by the change. The lots fronting on St. Matthew's Avenue were not affected and are shown the same on both plans. There is no measurement shown on Lot 31 and it appears to be smaller than the others. Lots 32 to 37 are all shown to have a frontage of 49 feet. In the survey here illustrated it was required to ascertain whether or not house No. 54 St. Matthew's Avenue was situated on the southerly 21 feet of Lot 36.

Differences in Fence Lines

Measuring southerly along the eastern limit of St. Matthew's from the line of Birge Street, established by lining from Cheever Street to the west side of Birge, and giving the lots their proper frontage of 49 feet, as shown on the plan, the southern boundary of Lot 36 was found to be 10 feet north of the fence at the southerly side of house No. 54. A similar condition exists at each of the other boundary fences farther on.

It appears as if in building the fences the old fence at the south side of Lot 31 had been taken as the starting point and the lots measured off northerly from it, allowing 49 feet for each lot until the north boundary of Lot 35 was reached. Lots 36 and 37 have been divided into smaller parcels, as shown, the northern parcel being described as the northerly 20 feet 6 inches of Lot 37. Since the fences south of Lot 36 are all very nearly 49 feet apart, the fence to the south of house No. 54 was accepted

as the best evidence of the division line between Lots 35 and 36 and house No. 54, said to be on the southerly 21 feet 0 inches of Lot 36.

This leaves a surplus of 10 feet between this boundary and the southern limit of Birge Street, 5 feet 0 inches of this surplus being between the street line and the line of occupation and the remaining 5 feet between the line of occupation at the street and the fence at the southern boundary Lot 35.

Just what should be done with this surplus is a question that might lead to many disputes were it not for the fact that the fences have been in their present positions for considerable number of years. It does, however,

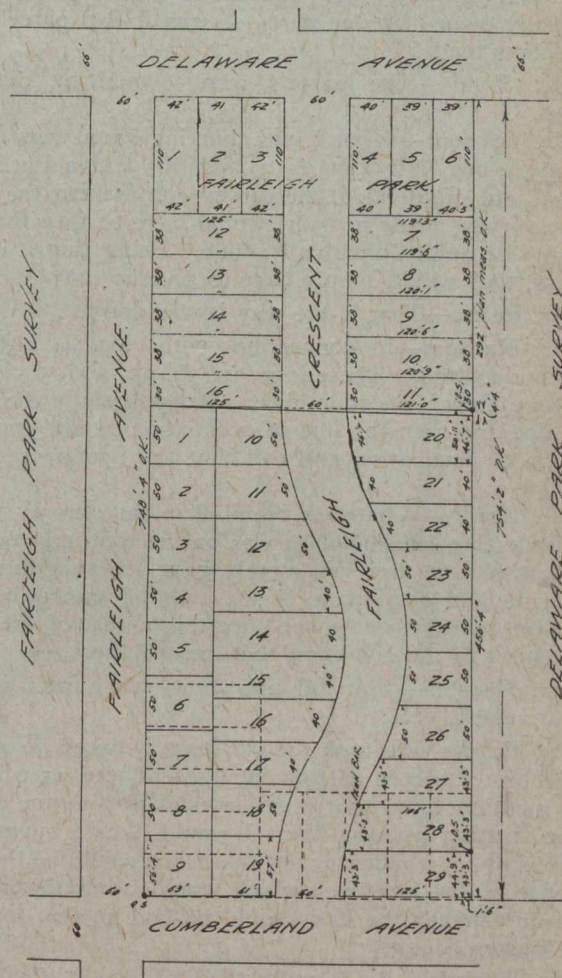


Fig. No. 3—Resubdivision of Fairleigh Park Survey

cause great trouble in the adjusting of the paper title to the property at the time of a transfer.

The above problems represent the class of work that the city surveyor is constantly encountering in his practice. It is impossible to establish any definite method of procedure that will apply to all cases, and the surveyor has to be guided entirely by the evidence afforded by occupation in most cases.

There are also in most cities a considerable number of old surveys, the plans of which have never been registered, the only evidence as to the size of lots, width of streets, etc., being either in the deeds of the property or possibly a sketch deposited in the Registry Office or in the possession of a private individual. In a great many of these surveys it is absolutely impossible for a surveyor to establish street lines, and he certainly cannot write proper descriptions of property so located. It seems to me that it would be to the advantage of all concerned if legislation