

**Dan and Lynn McGinty
1920 Minnesota Avenue
Duluth, MN 55802**



October 19, 2012

Duluth City Council
c/o City Clerk
City of Duluth
411 West 1st Street
Duluth, MN 55802

RE: Appeal of Planning Commission Denial of Zoning Variance Request

Dear Members of the Duluth City Council,

We write today requesting that you support our request for variance to build a single car garage at our home on Park Point. While we initially accepted the recommendation of staff and the decision of the Planning Commission and made every effort to comply, further study with designers and contractors of the tremendous effort required to construct a driveway to gain access to our backyard renders that option impractical (please see the attached letter from Hiner Home Designs). Additionally, snow removal from this driveway would be a significant challenge, effectively defeating the purpose of building a garage in the first place.

We appeal to your sense of reasonableness in this matter and are committed to a building project that blends harmoniously with the neighborhood.

Thank you for your time and consideration.

Sincerely,

Dan and Lynn McGinty



personalized
home design

Heather Hiner
residential designer

5532 fish lake dam rd
duluth, mn 55803

218.721.4396

October 19, 2012

Duluth City Council
Variance Appeal Request

To Whom It May Concern,

The intent of this letter is for a variance appeal at the Dan & Lynn McGinty residence located at 1920 Minnesota Avenue, Duluth MN. A variance to build a garage on the front (SW corner) of the property was denied. The basis of the Planning Commission's decision was that "a driveway could be placed between the house and the side (south) property line, allowing the applicant to build a garage, so the applicant does not meet the criteria of exceptional and peculiar practical difficulty."

In order to comply with the Commission's request to place a driveway between the house and south property line to access a rear yard garage, the following site construction would need to occur (see Option 2 Site Plan):

- Removal of retaining walls, existing trees providing privacy to the southern neighbor, and the fence along the south property line in order to grade for a driveway surface to be below the existing house foundation. Currently this grade change is being held back by a retaining wall system (see images 5-8). After the new drive is graded, a new retaining wall will be required along the south property line and the privacy fence re-built.
- The new garage has to be back far enough on the site to allow for a turn around area because of the danger of backing a vehicle down the narrow drive. This parking surface will also need to be graded to be below the foundation of the existing house and the retaining wall moved to hold the grade back.
- Because of the distance required for a turn around, the new garage would be built into an existing sand dune at the rear of the lot.

In addition to the extreme site construction and cost, the following "peculiar & practical difficulties" would also be experienced:

- In order to remove snow from the 44'-0" length of driveway along the the house, hand shoveling and relocating of snow would be required since plowing would damage the house and/or fence and the length is too great to blow the snow in either direction.
- Because of the need to construct a new retaining wall along the south property line, the width of the driving surface would be reduced, making it difficult to maneuver a larger vehicle through.
- The removal of trees and the proposed garage being 3'-0" from the southern property line would impact the southern neighbor's privacy, views, and enjoyment of their backyard.

It is my opinion that Option 1 Site Plan provides a practical design solution without negatively impacting the site. As designed, the garage has a width of 16', but could be reduced to 15' as a compromise that would allow for a 4'-1 1/2" southern sideyard dimension.

Thank you for your time in considering this variance appeal.

Regards,
Heather Hiner
Hiner Home Designs



Image 1

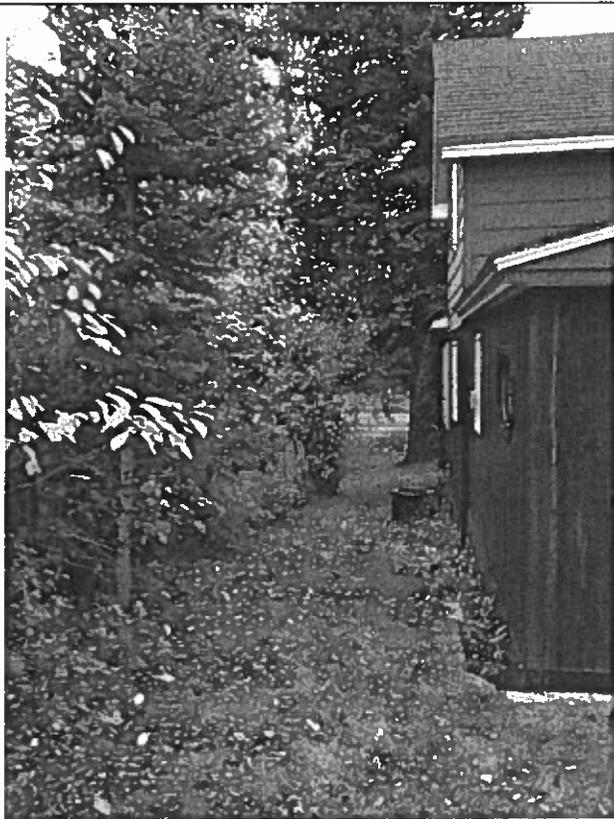
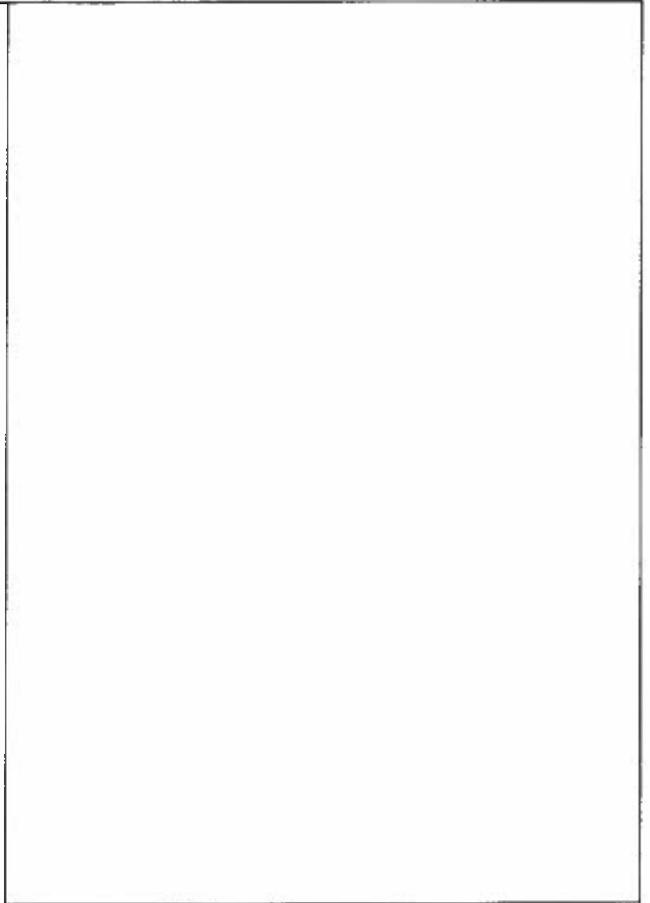


Image 3



Image 4

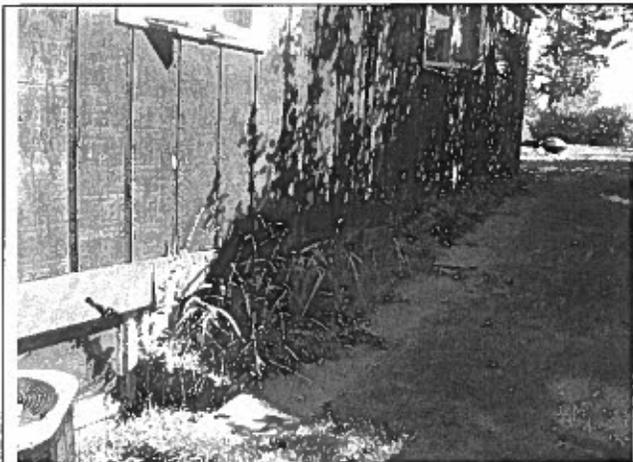


Image 5



Image 6

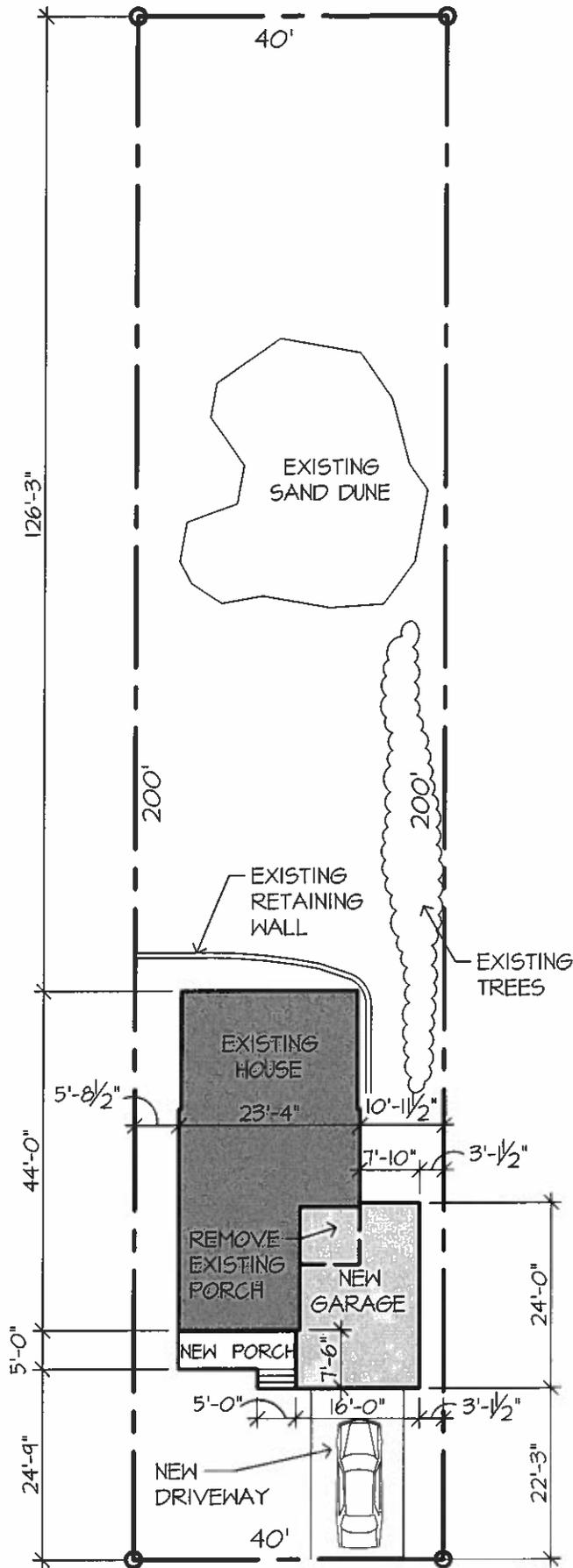


Image 7



Image 8

LAKE AVENUE



5532 Fish Lake Dam Road
 Duluth, MN 55803
 (218) 721-4396
 hhiner@msn.com

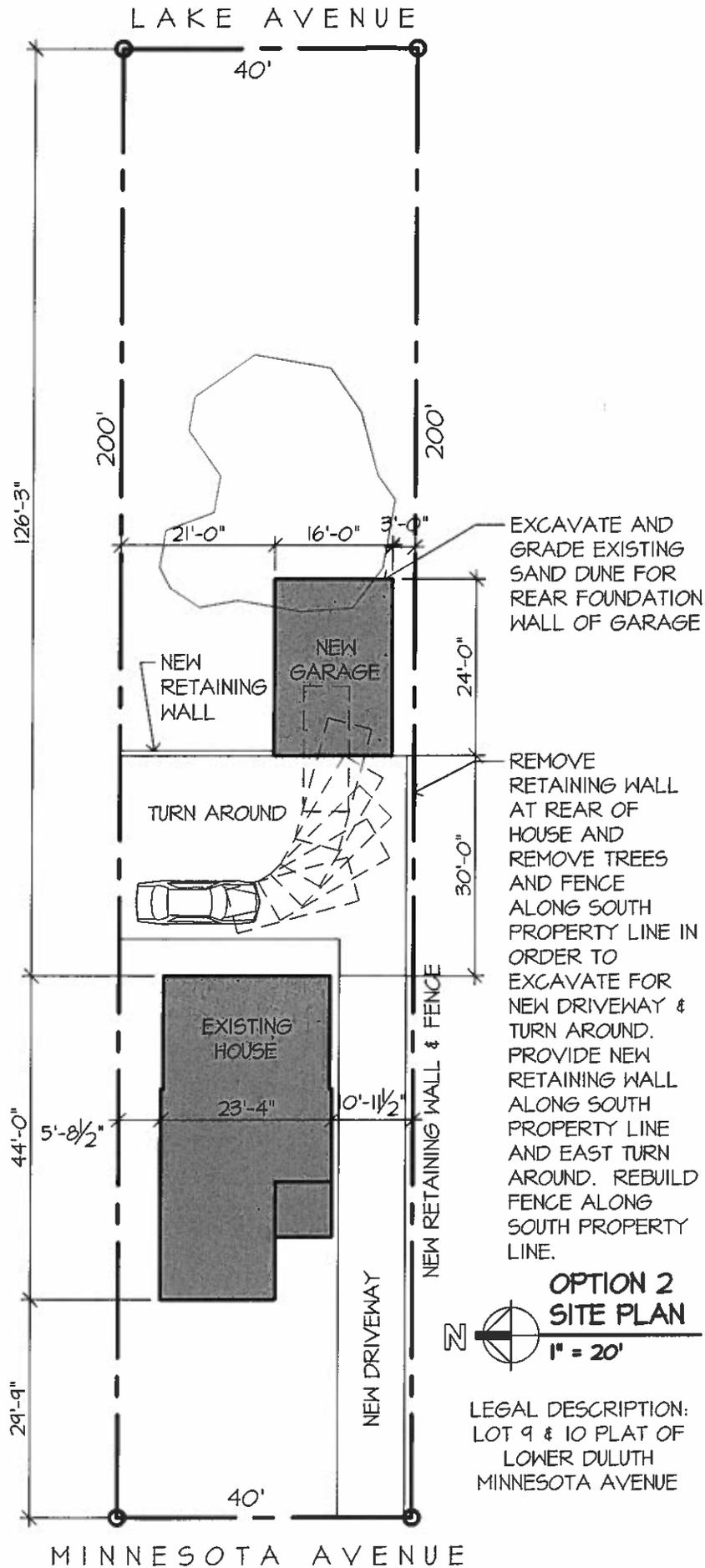
**OPTION 1
 SITE PLAN**

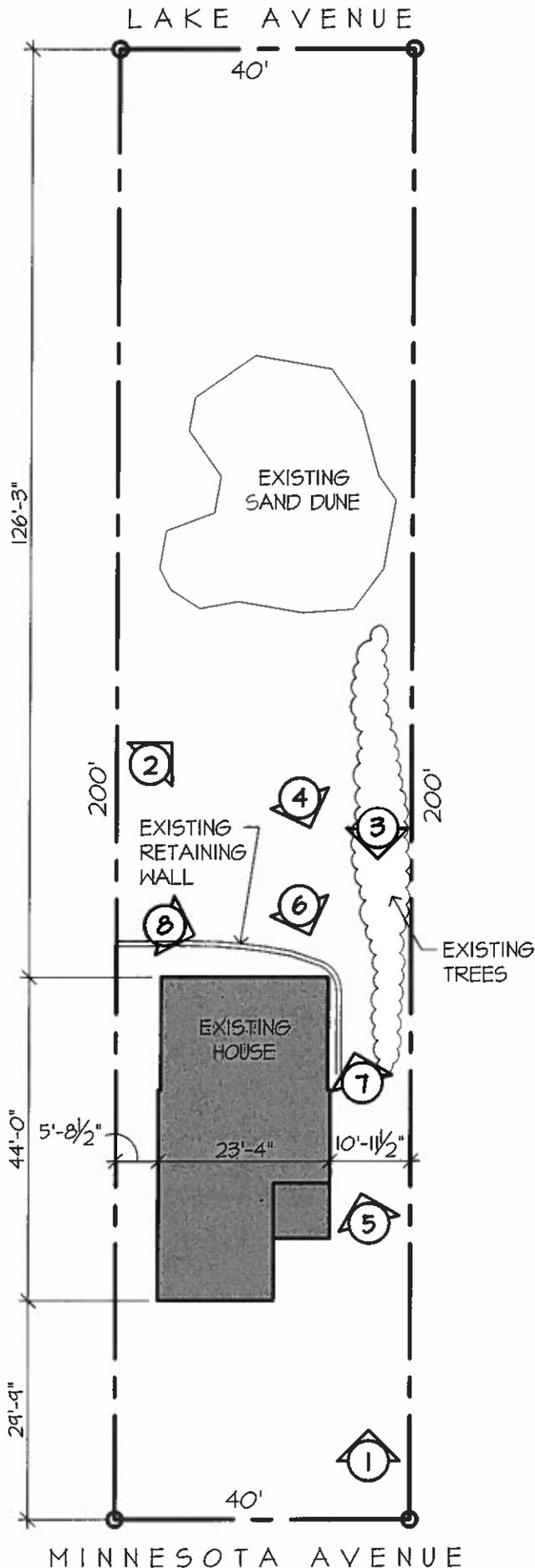


1" = 20'

LEGAL DESCRIPTION:
 LOT 9 & 10 PLAT OF
 LOWER DULUTH
 MINNESOTA AVENUE

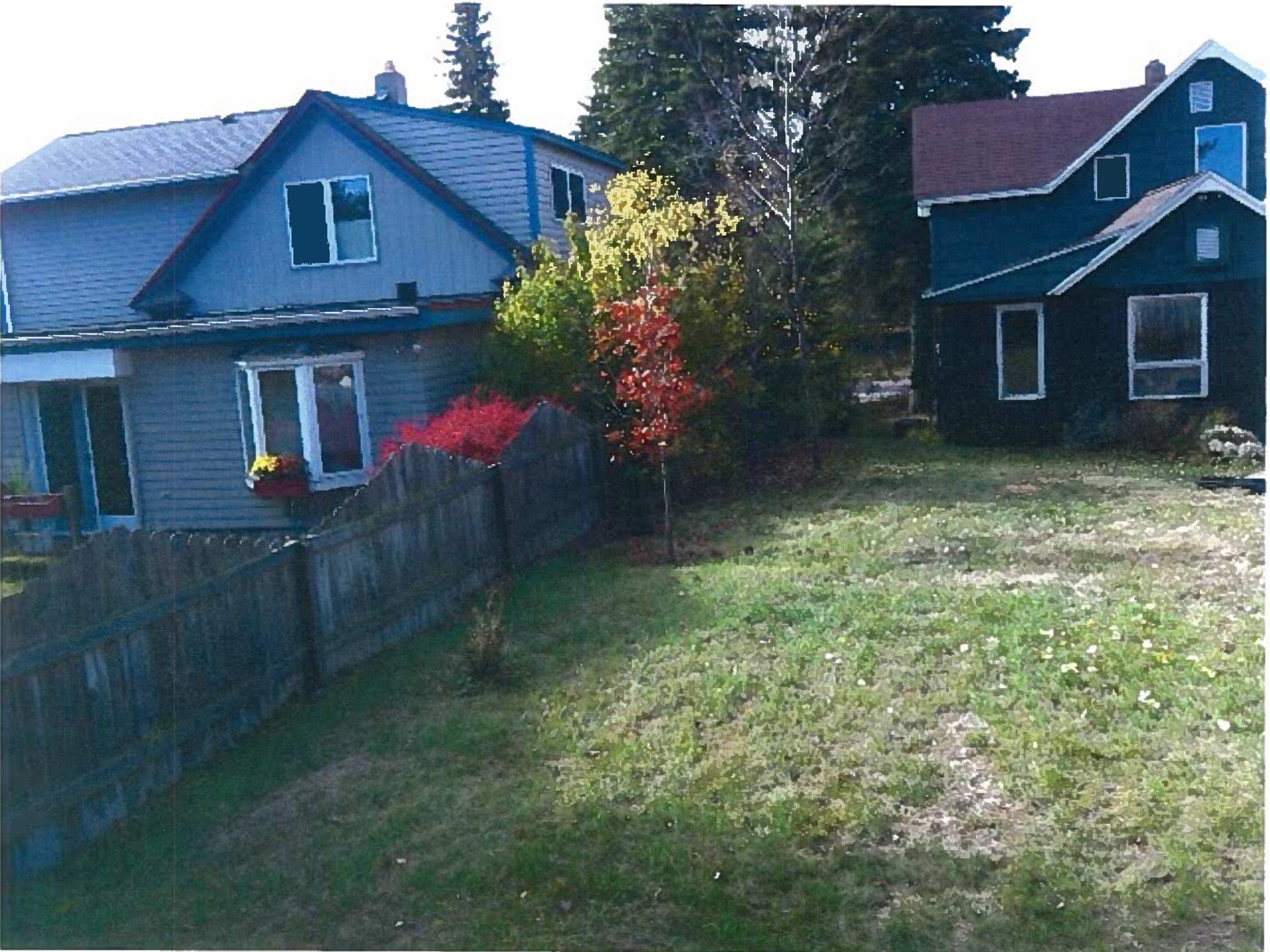
MINNESOTA AVENUE





LEGAL DESCRIPTION:
 LOT 9 & 10 PLAT OF
 LOWER DULUTH
 MINNESOTA AVENUE







CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 12-140	Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Variance	Planning Commission Date	October 9, 2012	
Deadline for Action	Application Date	September 4, 2012	60 Days	November 3, 2012
	Date Extension Letter Mailed	September 17, 2012	120 Days	January 2, 2013
Location of Subject	1920 Minnesota Avenue			
Applicant	Lynn and Dan McGinty	Contact	lynnmcginty@comcast.net	
Agent		Contact		
Legal Description	Parcel #010-3110-02110			
Site Visit Date	September 21, 2012	Sign Notice Date	September 24, 2012	
Neighbor Letter Date	September 17, 2012	Number of Letters Sent	44	

Proposal

Applicant seeks variances from front yard setback and side yard setback to build a garage on their property.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single-family	Traditional Neighborhood
North	MU-N	Multi-family	Traditional Neighborhood
South	R-1	Single-family	Traditional Neighborhood
East	R-1	Park/beach	Preservation
West	R-2	Multi-family	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Sec. 50-14.5 - Residential-Traditional District. Minimum depth of front yard: 25 feet. Minimum width of side yard: 6 feet.

Sec. 50-37.9. B - Variances. Procedures. "The Planning Commission shall . . . make a decision on the application based on the criteria in subsections 50-37.9.C through M

Sec. 50-37.9.C. - General Variance Criteria. See UDC pages 5-29 through 5-33 (paraphrased here):
Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

J.1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1) Property contains an existing house built in 1906. House is 22' 8" wide on a 40' wide lot.
- 2) Existing gravel parking area is only partially on applicants' property. Applicants would like to build a one-car garage on the property.
- 3) Use of the property as a single-family home with one-car garage is a reasonable use and would not alter the essential character of the area.
- 3) Proposed garage on the south side of the house would be 3' 1.5" from side lot line and 22' 3" from front lot line. The UDC requires a 6' side yard setback and a 25' front yard setback.
- 4) Side yard width of 10' 11.5" allows for a driveway so that a garage could be constructed on the rear of the property. This width is similar to the width of driving lanes on roadways and is wider than UDC parking space regulations. Because of this, the need for a garage in the proposed location does not meet the criteria of "exceptional and peculiar practical difficulty."
- 5) No city, agency, or public comments have been received.
- 6) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year of the permit date.

Staff Recommendation (Include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends Planning Commission deny the application for a variance for the following reasons:

- 1) A driveway could be placed between the house and the side property line, allowing applicant to build a garage without a variance.
- 2) Application does not meet the criteria of exceptional and peculiar practical difficulty.

J.2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

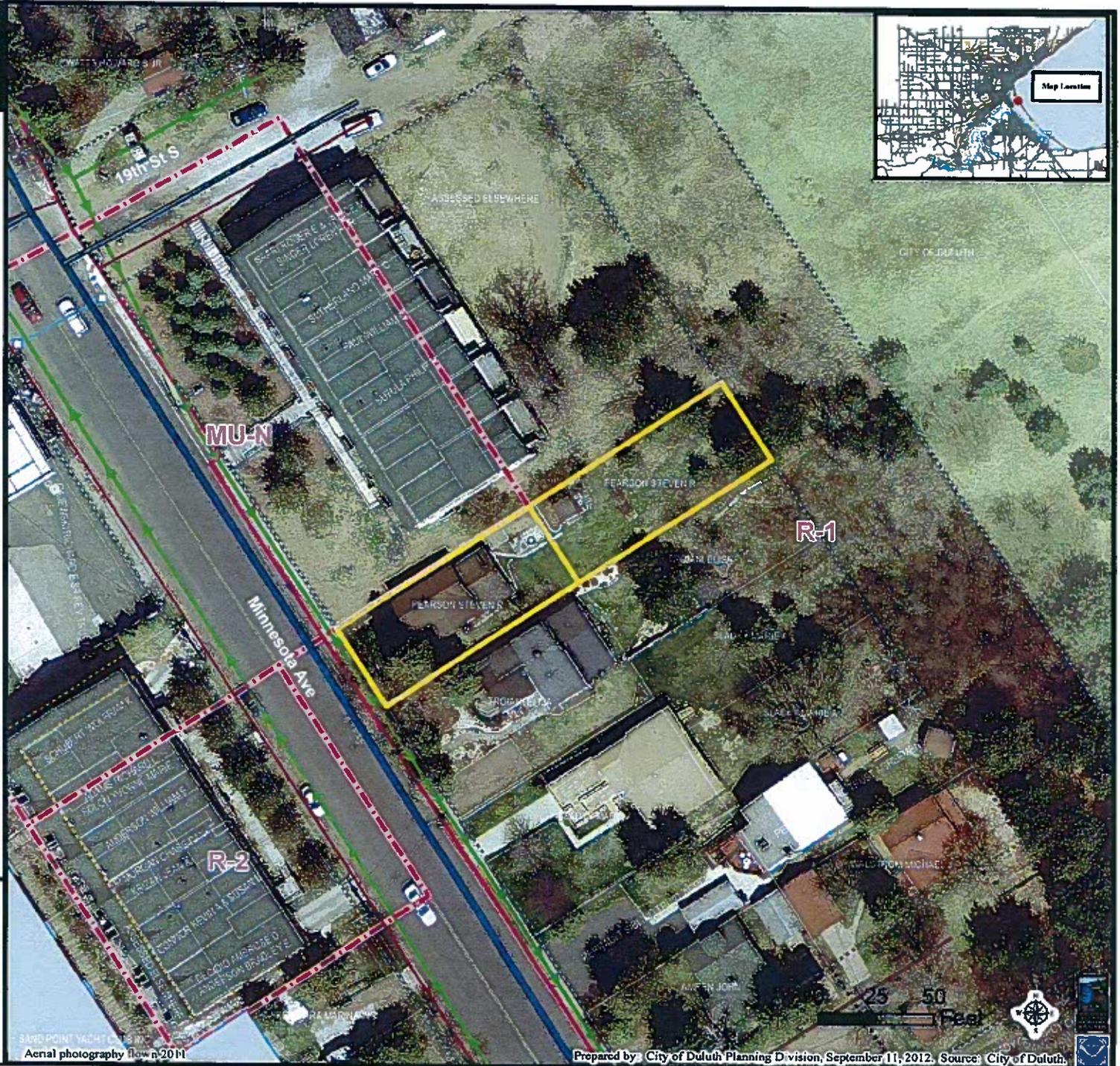
Lynn and Dan McGinty
1920 Minnesota Avenue
Utility Map

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Water Distribution System**
- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes
- Storm Sewer Collection System**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge_Points
- Right-of-Way Type**
- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning (Final)

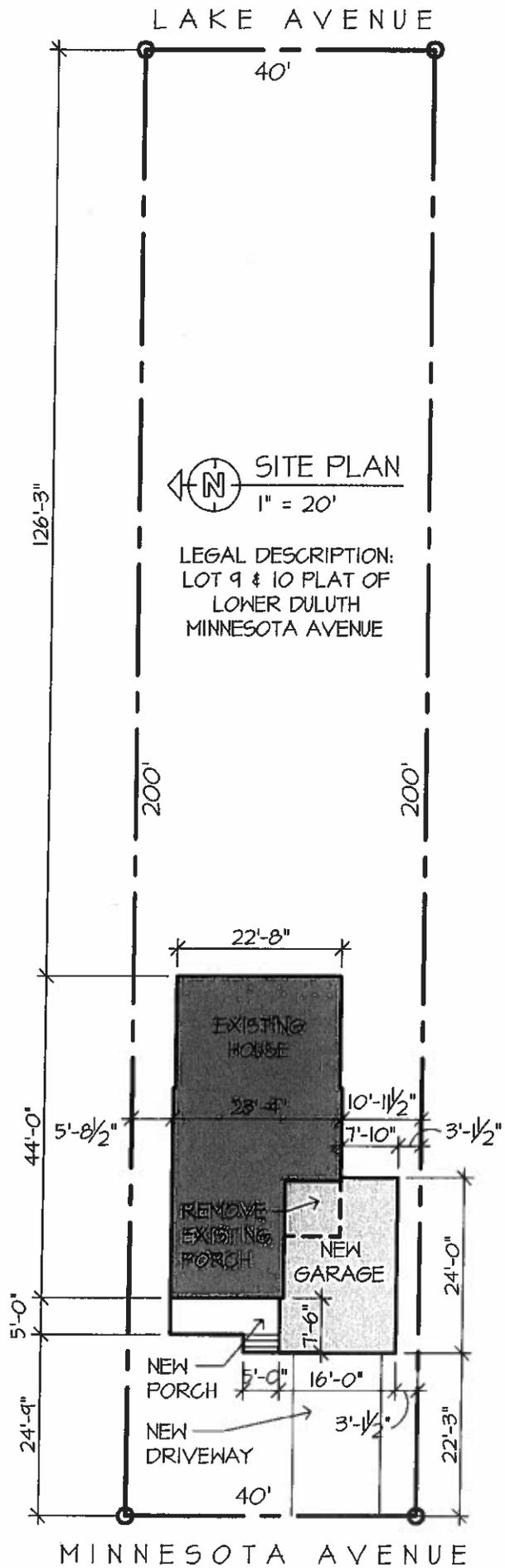
5.3

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Aerial photography from 2011

Prepared by: City of Duluth Planning Division, September 11, 2012. Source: City of Duluth.



← N SITE PLAN
1" = 20'

LEGAL DESCRIPTION:
LOT 9 & 10 PLAT OF
LOWER DULUTH
MINNESOTA AVENUE

<p>McGinty residence 1920 Minnesota Avenue Duluth, MN</p>	<p>PRELIMINARY DRAWINGS August 23, 2012</p>
<p>INNER HOME DESIGNS 5532 Fish Lake Dam Road Duluth, MN 55803 (218) 721-4396 hhome@msn.com</p>	

J.4

1920 Minnesota Avenue

Site Photos

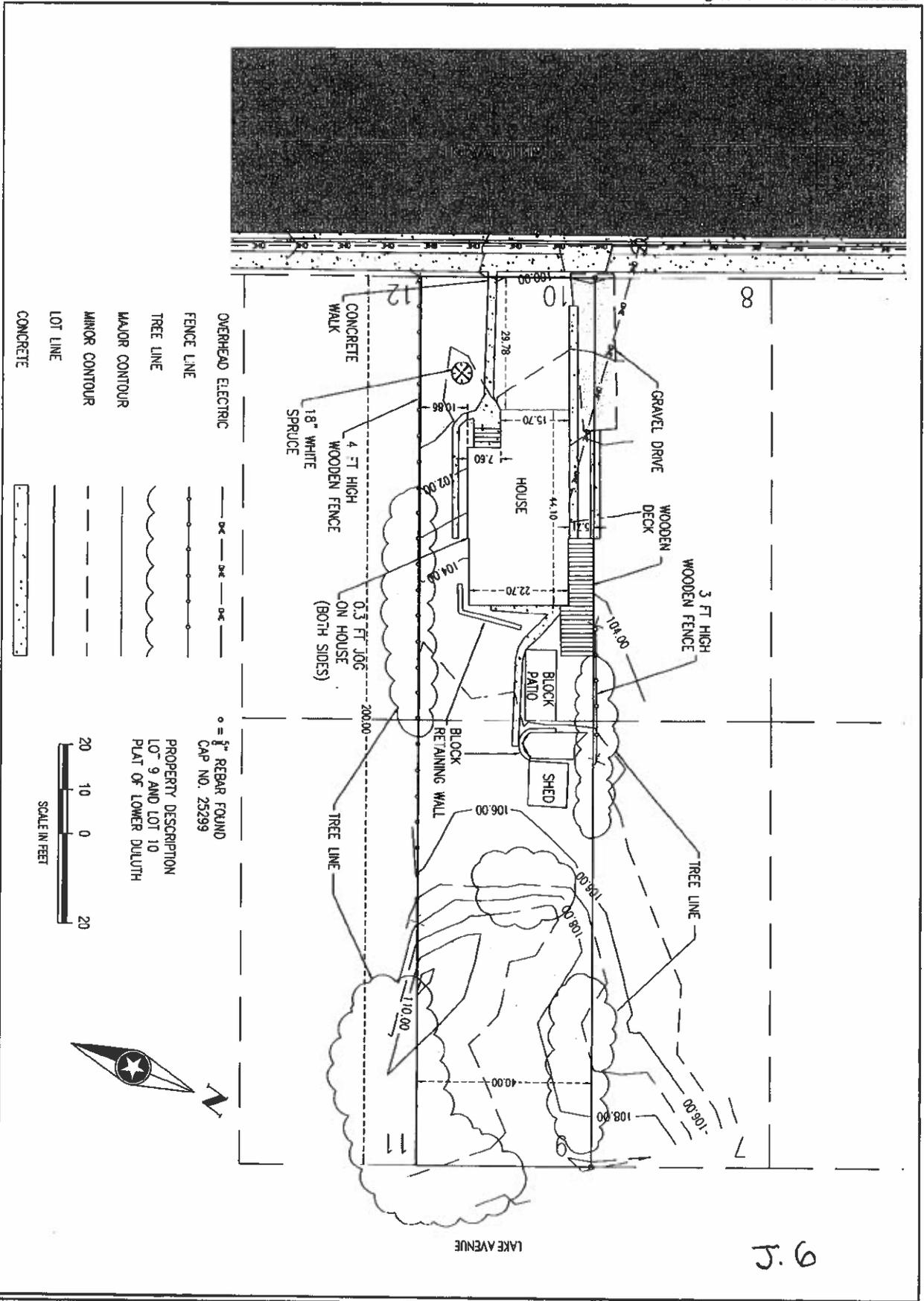


Front of house



Side yard

J.5



RECEIVED SEP 7 2012

C1.0

LYNN MCGINTY
 LYNN MCGINTY RESIDENCE SURVEY
 1920 MINNESOTA AVENUE
 DULUTH, MN
 SITE SURVEY

DATE	REV	DESCRIPTION	BY
08/09/12	0	ISSUED TO CLIENT	

AMI
 CONSULTING ENGINEERS P.A.
 91 Main Street
 Superior, WI 54880
 Ph. 715.210.9100 Fax. 715.210.9101



personalized
home design

Heather Hiner
residential designer

5532 fish lake dam rd
duluth, mn 55803

218.721.4396

August 23, 2012

Duluth Planning & Zoning
Variance Committee

To Whom It May Concern,

The intent of this letter is to inform you of the existing conditions at the Dan & Lynn McGinty residence located at 1920 Minnesota Avenue, Duluth MN. The existing property is 40' wide x 200' deep with access off Minnesota Avenue. The home was built in the early 1900's and does not have a garage or adequate area to park a vehicle. At my request the homeowner had the lot surveyed and discovered that the area along the north property line which has a curb cut and gravel surface is only 5.71' on their property which creates a problem in continuing to use this space for parking. I checked with the St. Louis County Records Office and was unable to locate a recorded easement that would grant access to continue parking in this location.

The survey indicated that there is 10.85' between the existing house and the southern property line, but a proposed driveway there to the backyard would create problems because the width is tight for larger vehicles and snow removal would create damage to the house and/or the southern property line fence.

Therefore, because of the hardship of the narrow lot and difficult access to the backyard for garage and/or parking, it is my opinion that an attached garage on the front of the property is the best option. I have provided a plan that removes and relocates the existing front porch along with construction of a new attached garage. The proposed setbacks that would require variance approval would be the (west) frontyard setback at 22'-3" and the (south) sideyard setback at 3'-1 1/2". The southern wall and roof edge of the garage would be constructed with 1-hour fire rating with no openings per code.

Thank you for your time in considering this variance application.

Regards,
Heather Hiner
Hiner Home Designs

3.7

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City of Duluth
Planning Division

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EXCERPT OF DRAFT MINUTES
Planning Commission
October 9, 2012 Meeting Minutes

PL 12-140 Variance from Front Yard and Side Yard Setback in a Residential-Traditional (R-1) at 1920 Minnesota Avenue by Lynn and Dan McGinty

Staff: Planner Moses reviewed the variance proposal and stated that the applicant is seeking variances from the required front yard setback and side yard setback to build a garage on their property. Based on Staff findings, staff is recommending denial of the variance request.

Applicant: Dan McGinty stated that his intent for the garage location is to keep the existing character of the Park Point neighborhood.

Public: Elisa Troians – 1924 Minnesota Avenue. Ms. Troinas stated that she is the neighbor to the applicant and has two windows on the side of her home that would face the proposed garage. She is concerned with car lights and proximity to her house (blocking light coming into the house). Ms. Troinas is also concerned with the proposal diminishing her property value.

MOTION/Second: Rand/Guggenbuehl to recommend denial of the variance request because a driveway could be placed between the house and side property line, allowing the applicant to build a garage, so the application does not meet the criteria of exceptional and peculiar difficulty.

VOTE: (8-1, Beeman Against)