



**CITY OF DULUTH**

Planning Division

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

**STAFF REPORT**

<b>File Number</b>	PL 13-137	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Shoreland Variance	<b>Planning Commission Date</b>	November 12, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	October 7, 2013	<b>60 Days</b>	December 6, 2013
	<b>Date Extension Letter Mailed</b>	October 18, 2013	<b>120 Days</b>	February 4, 2014
<b>Location of Subject</b>	401 Halsey Street			
<b>Applicant</b>	Andrew and Shannon Sharpe	<b>Contact</b>	sharpeat@gmail.com	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	010-3570-01020			
<b>Site Visit Date</b>		<b>Sign Notice Date</b>		
<b>Neighbor Letter Date</b>	October 23, 2013	<b>Number of Letters Sent</b>	36	

**Proposal**

Variance from shoreland setback for construction of storage shed and deck remodel. As part of the project, applicant would move existing nonconforming shed out of adjacent right of way.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Preservation
<b>North</b>	R-1	Residential	Preservation/Traditional Neighborhood
<b>South</b>	R-1	Vacant	Preservation
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Vacant	Preservation

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

50-18.1 Natural Resources Overlay: maintain 150 ft. setback for structures.

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 (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.

Sec. 50-37.9.L Standards for Variances in Shorelands. No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

H-1

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

Governing Principle #10 - Take sustainable actions

Future Land Use - Preservation: Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls.

House was built in 1962.

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

Staff finds that:

1. Almost the entire property is within the 150' shoreland setback. Any shed on the property would be subject to the shoreland setback, front and side yard setbacks, and the stipulation that no accessory structure be placed between the building and street. Once all zoning requirements are taken into account, the property is left with approximately 40 square feet of buildable area, shown in green on the attached map. This results in practical difficulty in placing a shed on the property.
2. Proposed shed would be 132' from the stream, on the opposite side of the house from the stream and as far away as possible, given the front and side yard setback requirements. Note that applicant started work on the shed, but has stopped work once he realized permits are needed. Shed is 8'x25' (200 sq ft). An existing shed in the adjacent right of way, which would be removed as part of this project, is 80 sq ft. A shed is a reasonable use on a residential property.
3. The house was built in 1962, prior to shoreland regulations; the need for relief is not caused by the property owner. The variance will not alter the essential character of the area. The shed will be placed in a treed area, tucked behind the existing house.
4. Applicant is also asking for a 110 sq ft expansion of the existing deck on the stream side of the house. Deck would be 70' from stream. The area between the deck and stream is vegetated with mature, natural vegetation. A deck is a reasonable use and would not alter the essential character of the area.
5. Variances in shoreland areas require mitigation. Applicant will be constructing a green roof over the entirety of the new shed. New rain barrels placed on the house will reduce runoff not just from the deck expansion, but also from the existing house.
6. No City staff, agency, or public comments were received.
7. UDC 50-37.1.N states that an approved Special Use Permit will expire if the project or activity authorized by the permit is not begun within 1 year.

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

Based on the above findings, staff recommends that Planning Commission approve the variance to build a shed 132' from the Ordinary High Water Level (OHWL) and a deck expansion 70' from the OHWL, subject to the following conditions:

1. Project be limited to, constructed, and maintained according to the site plan received October 7, 2013.
2. Stream, front, and side yard setbacks be surveyed and marked prior to construction to ensure shed and deck are placed correctly.
3. Existing nonconforming shed be removed from the alley right of way.
4. Project shall include a green roof on the shed and rain barrels attached to both down spouts on the house.

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

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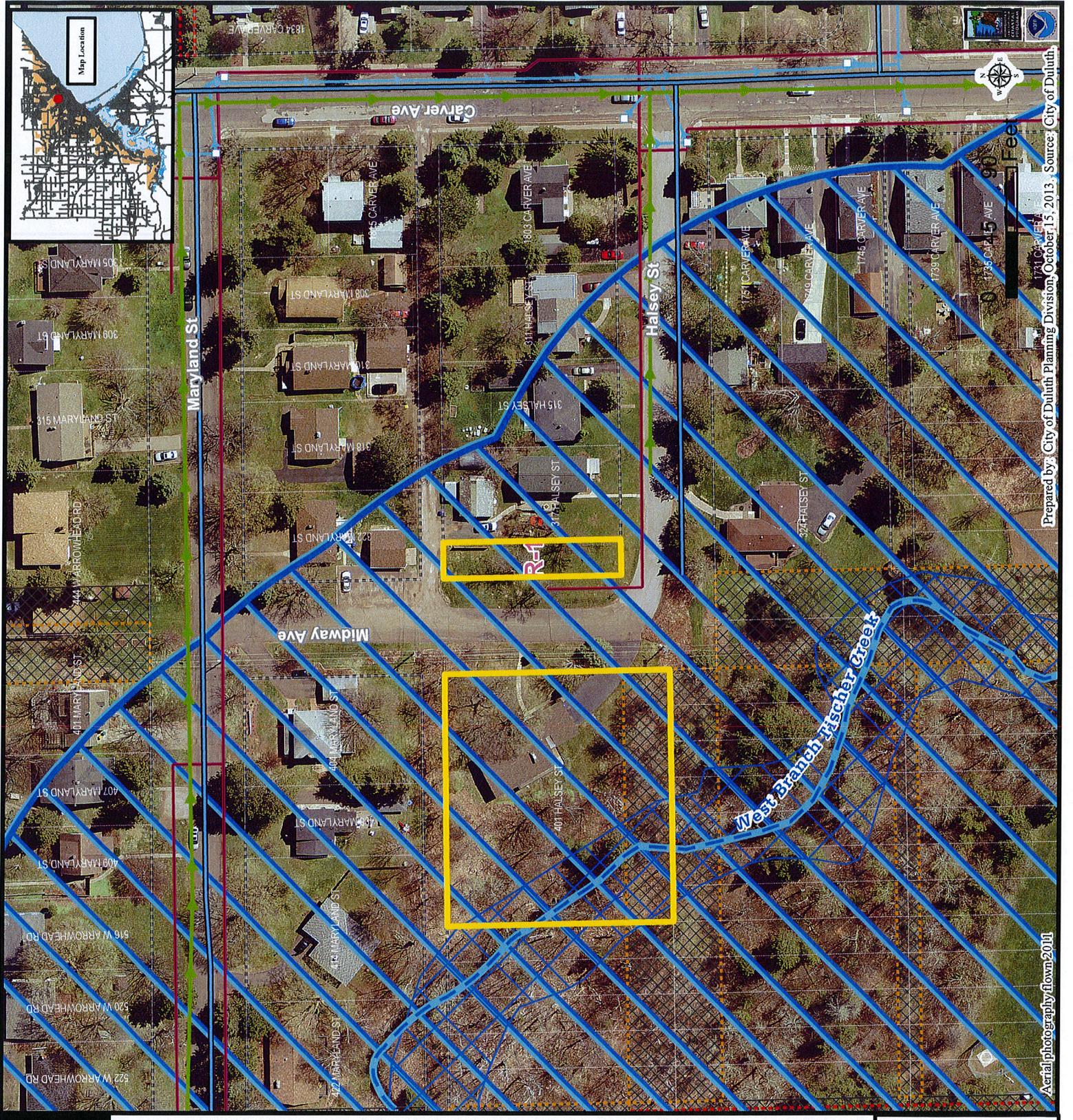
**City Planning**  
 PL 13-137  
 Shoreland Variance  
 401 Halsey Street

**Legend**

- DuluthStream\_cl**  
 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  
 Vacated ROW
- Easement Type**  
 Utility Easement  
 Other Easement
- Zoning (Final)**
- Shoreland Overlay Zone**  
 Cold Water  
 Natural Environment  
 General Development
- Floodplain Type**  
 General Flood Plain  
 Flood Way  
 Flood Fringe

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.

A-3



Aerial photography from 2011

Prepared by: City of Duluth Planning Division, October 15, 2013. Source: City of Duluth.

# 401 Halsey Street

## Site Photos

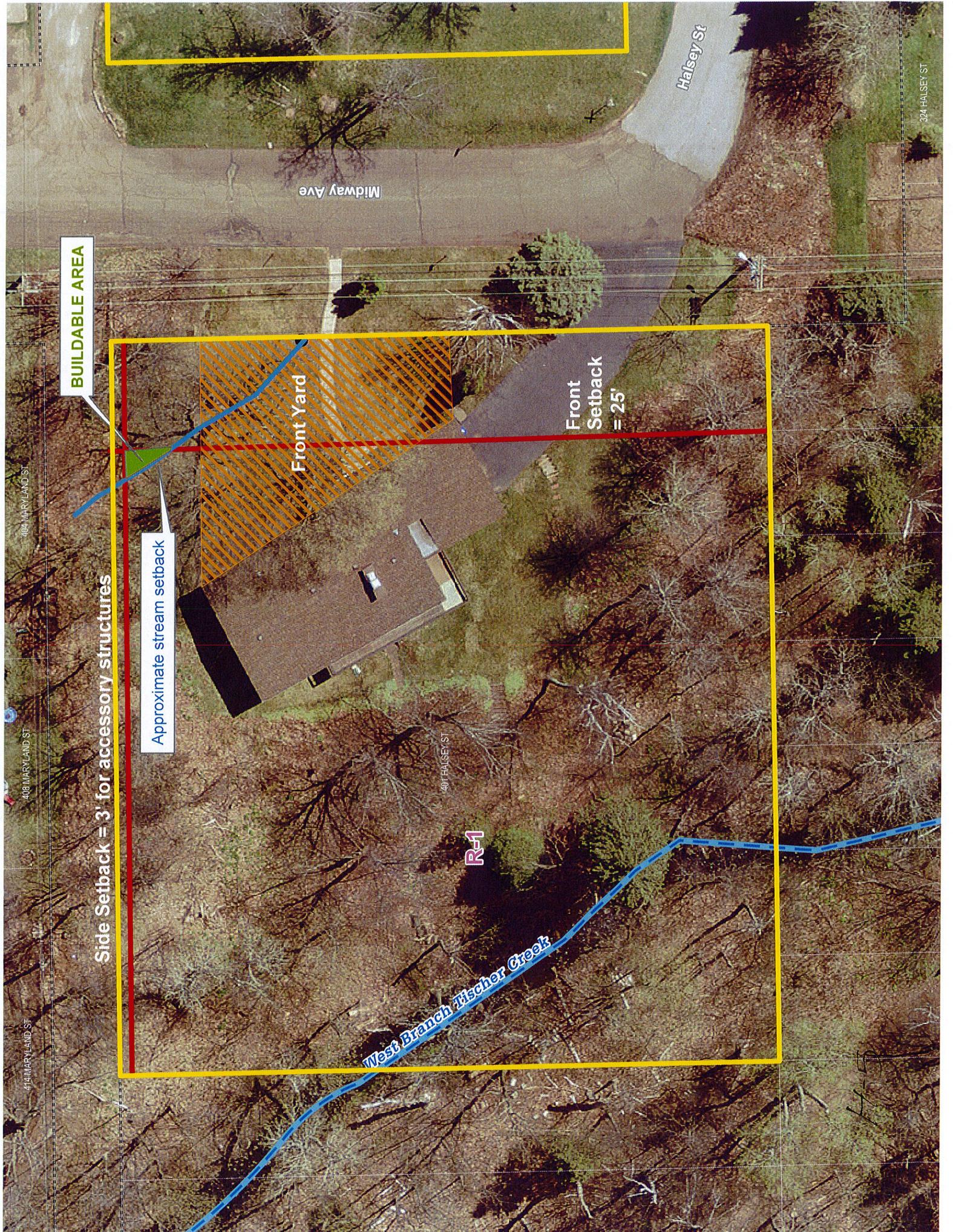


Driveway and garage. Stream is beyond the garage to the left. Corner of deck is shown on the left side of garage.



Front of house. Shed location is on the right.

H-4



**BUILDABLE AREA**

Side Setback = 3' for accessory structures

Approximate stream setback

Front Yard

Front Setback = 25'

West Branch Fischer Creek

R-1

Midway Ave

Halsey St

404 MARYLAND ST

408 MARYLAND ST

914 MARYLAND ST

401 HALSEY ST

324 HALSEY ST



Side Setback = 3' for accessory structures

New shed location

Front Yard

Front Setback = 25'

Existing deck  
Deck Expansion (110 ft²)

R-1

West Branch Fischer Creek

Sharpe Property  
401 Halsey St.

404 HALSEY ST

17-6

Andrew and Shannon Sharpe  
401 Halsey Street  
Duluth, MN 55803

October 7, 2013

City of Duluth  
Planning and Construction Services  
411 West First Street  
Duluth, MN 55802

Dear Planning and Construction Services Department:

We are submitting a request for variance to shoreland setback regulations for our home at 401 Halsey Street, Parcel ID: 010-3570-01020. The variance would allow us to perform two projects to improve the usability and safety of our property.

The first project is to bring into compliance and expand an existing storage shed. Unknown to us at the time of our purchase of the property in June, 2012, the current storage shed is located within the right-of-way of a platted city alley, and also within the shoreland setback for the West Branch of Tischer Creek. We propose to move the shed out of the R.O.W., and expand it from 80 ft<sup>2</sup> to 200 ft<sup>2</sup>.

The second project is the remodel of the existing deck on the house. The joists of the deck are an extension of the house floor joists, and they have a significant amount of rot that is expanding into the bearing wall of the house. The repair is necessary to maintain the safety and integrity of the structure. We also intend to expand the foot print of the deck by 110 ft<sup>2</sup>. The railings and additional supports of the deck are also not built to current building safety codes, and we need to make the structure safe for our family's use.

Attached to this letter you'll find:

- Variance Application Cover Sheet
- Check for the application fee of \$600 # 2709
- Information addressing project impacts and establishing practical difficulty
- Site plan drawing including storage shed location and deck remodel design

Thank you for your consideration.

Sincerely,



Andrew Sharpe and Shannon Sharpe

H-7

Details Re: Sharpe variance application for 401 Halsey Street

***Legal Description of Property:***

Block 10, Lots 1 through 7 including a portion of vacated street adjacent, Oakland Park Addition to Duluth

***Need for variance due to practical difficulty:***

The house was constructed before the establishment of the shoreland setback requirements, and nearly 100% of the property falls inside the current shoreland and street setbacks. The shed's current location is out of compliance with two setback requirements. The state of the deck is unsafe and threatens the integrity of the house.

***Projects will have no negative impact:***

The storage shed is to be situated as far from the creek as possible without falling into the front street setback. The design of the shed incorporates a green (living) roof that has a shallow pitch away from the creek, mitigating any roof drainage into the creek. The shed will also be moved out of the platted alley R.O.W.

The deck remodel and addition will not project into the current 70 – 100 foot vegetated buffer between the house and the creek, and the surface will have sufficient gapping to allow drainage.

H-8

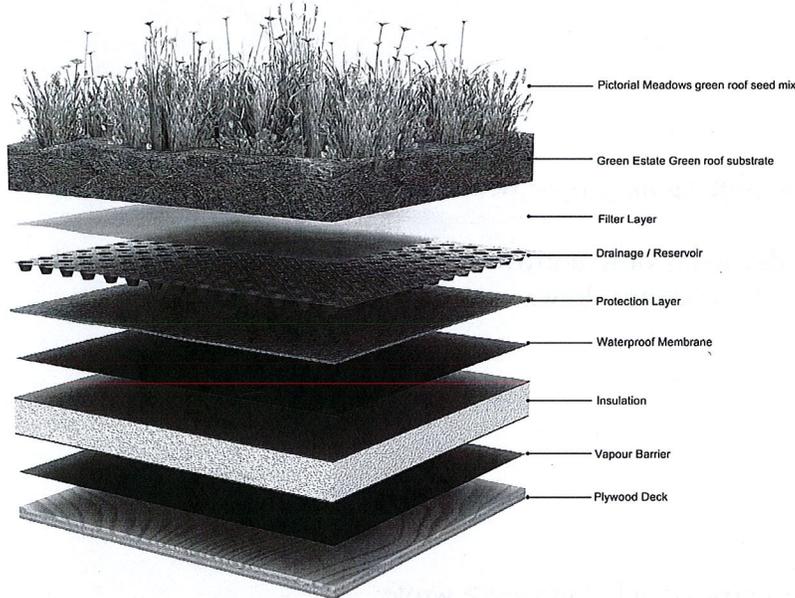
## Jennifer Moses

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**From:** Andy Sharpe <sharpeat@gmail.com>  
**Sent:** Sunday, October 27, 2013 7:35 PM  
**To:** Jennifer Moses  
**Cc:** Shannon Sharpe  
**Subject:** Re: Variance for Shoreland Setback - Sharpe

Thanks for the follow-up, Jenn.

I have done a substantial amount of internet research regarding the construction of the green roof on the shed and recently consulted with a friend who is a landscape architect with experience installing green roofs in Minneapolis to confirm that my design is suitable. Below is a standard cross-section of my planned roof, the only difference is that I will not have the vapor barrier or insulation layers. The waterproof membrane will be directly adhered to the plywood roof deck:



This is an "extensive" green roof - meaning the growing medium will be between 2 and 6 inches thick. I've planned for about 4 inches, and will plant drought tolerant sedum and other low-maintenance ground cover plants. If you would like additional details, I'd be happy to elaborate.

Regarding your question about mitigating potential storm-water runoff from the deck expansion; I plan to install rain barrels on both of the existing down-spouts from the house's rain gutters. This should significantly reduce runoff not just from the deck, but also from the existing house.

On Thu, Oct 10, 2013 at 9:14 AM, Jennifer Moses <[jmoses@duluthmn.gov](mailto:jmoses@duluthmn.gov)> wrote:

Thanks, Andy. I know it was entered as an application and forwarded to Steven, our senior planner. We will let you know if we need anything more.

H-9

Jenn

**From:** Andy Sharpe [mailto:sharpeat@gmail.com]  
**Sent:** Thursday, October 10, 2013 8:35 AM  
**To:** Jennifer Moses  
**Subject:** Re: Variance for Shoreland Setback - Sharpe

Jenn, I dropped off my application materials yesterday afternoon in room 210. I assume they will be forwarded to you and/or Kyle. Please let me know if there are any concerns. I added information about the deck remodel.

Andy

On Wed, Oct 9, 2013 at 2:18 PM, Andy Sharpe <sharpeat@gmail.com> wrote:

Jenn, yes, I hope to drop it off before the end of the day today or tomorrow morning. By adding the deck to the mix, it's taken me longer to agree on a design and get the site plan drawn.

Andy

On Wed, Oct 9, 2013 at 12:10 PM, Jennifer Moses <jmoses@duluthmn.gov> wrote:

Hi Andy,

When are you planning to submit the application? Our deadline for November's meeting was yesterday, and I just wanted to see if you would be submitting something in the next day or so.

Jenn

**From:** Andy Sharpe [mailto:sharpeat@gmail.com]  
**Sent:** Monday, October 07, 2013 3:05 PM  
**To:** Jennifer Moses; Kyle Deming  
**Subject:** Variance for Shoreland Setback - Sharpe

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