



**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 13-124	<b>Contact</b>	Steven Robertson, (218) 730 5295	
<b>Application Type</b>	Variance from Front & Side Yard Setback	<b>Planning Commission Date</b>	October 8, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	September 13, 2013	<b>60 Days</b>	September 10, 2013
	<b>Date Extension Letter Mailed</b>	September 16, 2013	<b>120 Days</b>	January 11, 2014
<b>Location of Subject</b>	817 North 40th Avenue West			
<b>Applicant</b>	Desiree Menuey	<b>Contact</b>	desireemenuey@yahoo.com	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	010-3240-00620			
<b>Site Visit Date</b>	September 15, 2013	<b>Sign Notice Date</b>	September 23, 2013	
<b>Neighbor Letter Date</b>	September 19, 2013	<b>Number of Letters Sent</b>	39	

**Proposal**

The applicant wishes to replace the existing dirt crawl space with a full basement. The applicant will need to raise the height of the home by about three feet. The home is in the front and side yard setbacks, and expanding a non-conforming building vertically or horizontally is not allowed without a zoning variance.

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

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

Sec. 50-14.5 - Residential-Traditional District. Front Yard: The smaller of 25 ft or average of adjacent developed lots facing the same street. Side Yard: Combined width of side yards must be at least 12 ft (for homes with less than 50 feet of frontage).

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 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.

G-1

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

Traditional Neighborhood Future Land Use. 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. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

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

- 1) The applicant has a dirt crawl space beneath their home. The proposal is to raise the structure three feet higher, and change the crawl space into a full basement. This will allow the applicant to resolve on ongoing home repair/maintenance issue, and provide additional storage space. The structure is non-conforming because it is in the front and side yard setbacks.
- 2) The home was built in 1920. The lot is 30 feet wide and a 125 feet deep. The property fronts North 40th Avenue West, and has alley access to the south (West 9th Street Alley) and west (N 40th 1/2 Avenue West). The exceptional narrowness of the lot presents a practical difficulty to the homeowner.
- 3) The need for relief is not due to circumstances created by the homeowner, as this house, was built prior to the zoning setbacks.
- 4) A 528 square foot single story home is not out of character for the neighborhood, and the proposed creation of a full basement is not unreasonable. The increase in height is likely to be unnoticeable to surrounding property owners. The requested relief is necessary for the preservation of a substantial property right and is not merely for the convenience of the property owner.
- 5) The proposed increase in height to the primary structure will not impair supply of light or air to adjacent properties, or increase congestion on public streets, or diminish property values. It will not alter the essential character of the surrounding area. It will not increase the existing density of housing units in the neighborhood.
- 6) No City, public, or agency comments were received.
- 7) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun.

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

Based on the above findings, Staff finds that the standard for the variance has been met and, therefore, recommends the Planning Commission approve the requested variance to allow the property owner to increase the height of the structure by 3 feet.

- 1) Applicant construct the project in accordance with project area identified on the certificate of survey submitted and dated September 12, 2013.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

B-2

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



# City Planning

PL 13-124

Variance

817 N 40th Ave W

## Legend

### DuluthStream\_c/1

TROUT\_FLAG

- 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

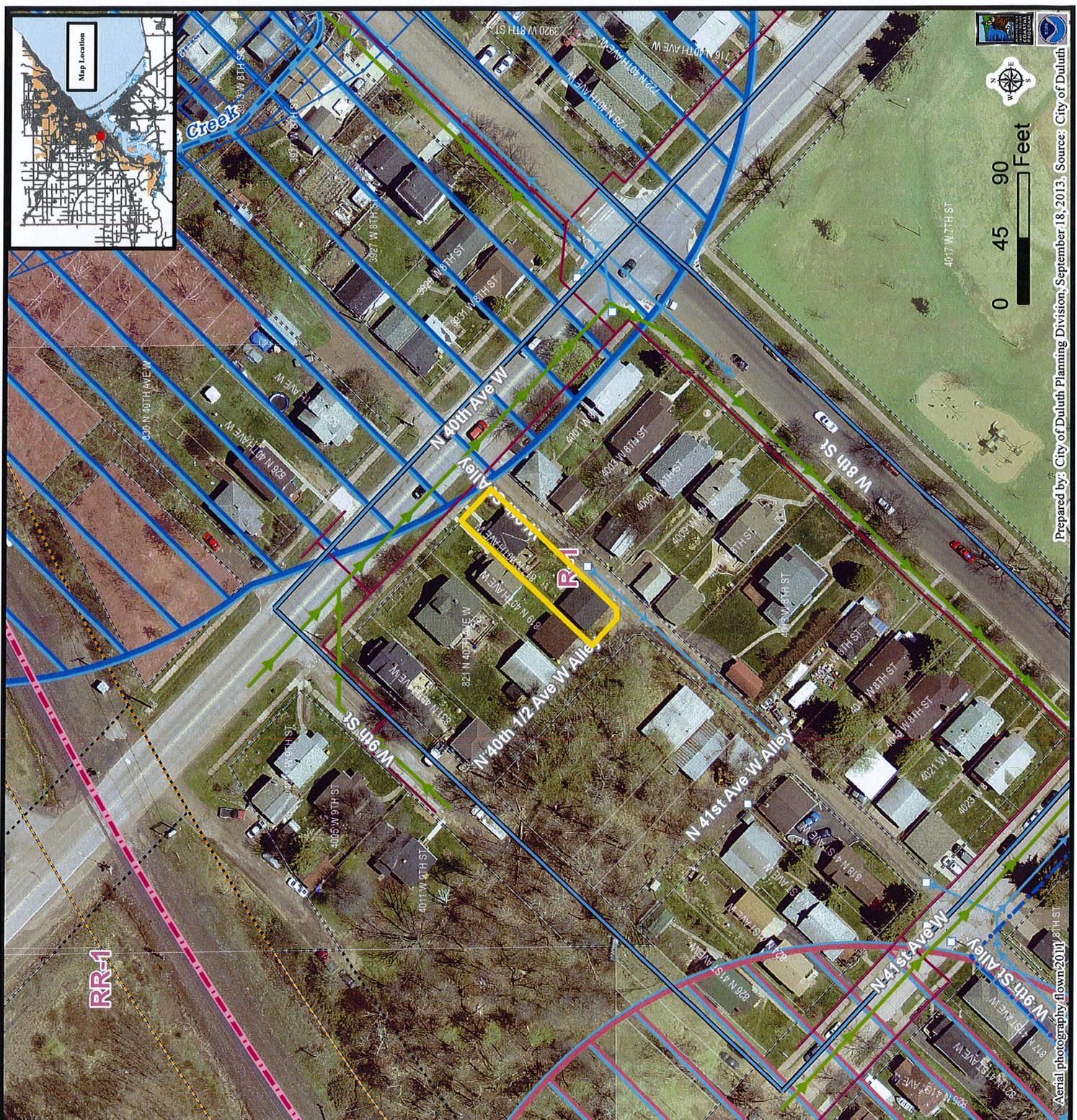
General Flood Plain

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.

G-3



Prepared by: City of Duluth Planning Division, September 18, 2013. Source: City of Duluth

Aerial photography from 2011

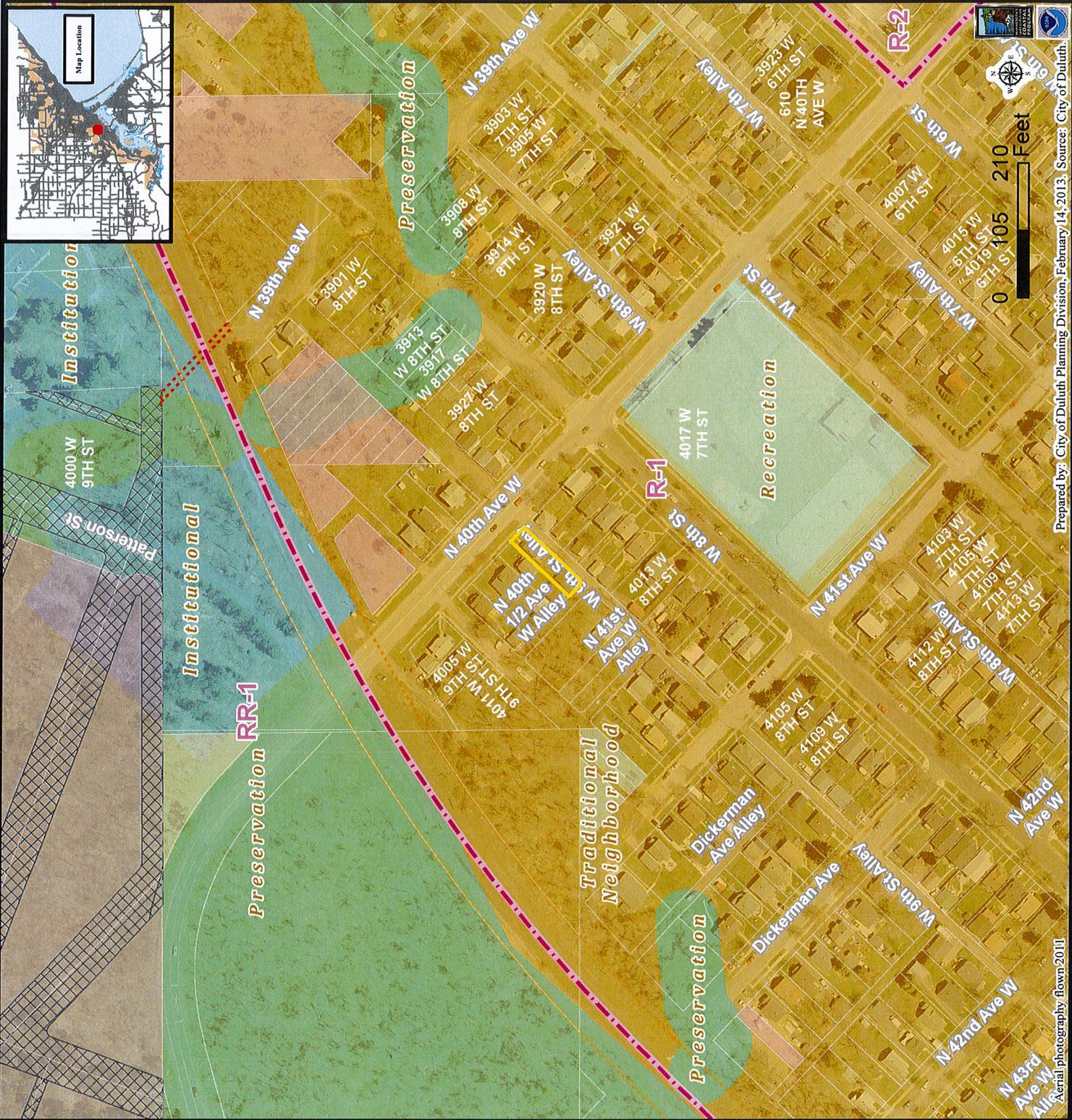


# City Planning

## Legend

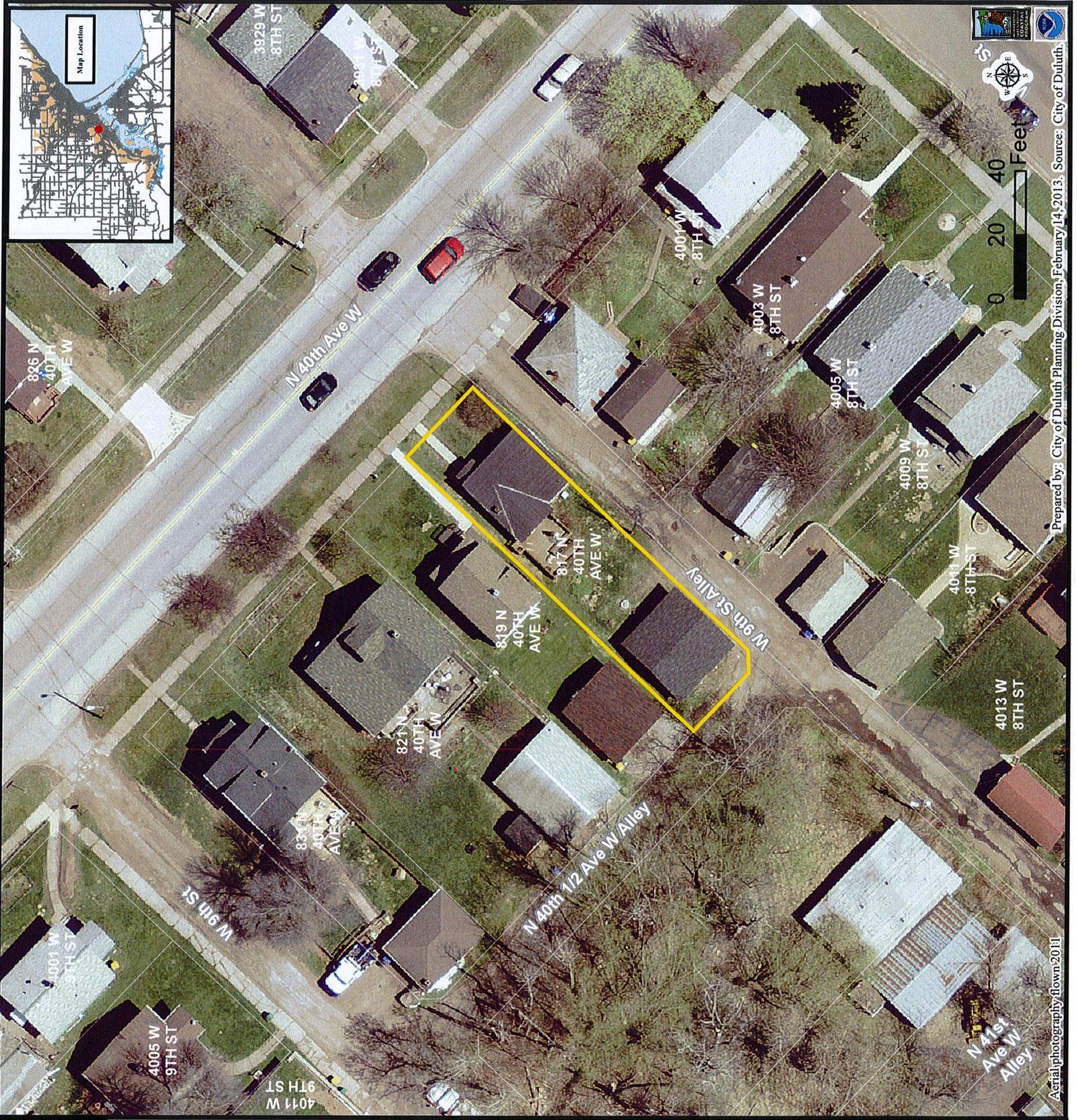
	Vacated ROW
	Easement Type
	Utility Easement
	Other Easement
	Zoning (Final)
	Future Land Use
	Preservation
	Recreation
	Rural Residential
	Low-density Neighborhood
	Traditional Neighborhood
	Urban Residential
	Neighborhood Commercial
	Neighborhood Mixed Use
	General Mixed Use
	Central Business Secondary
	Central Business Primary
	Auto Oriented Commercial
	Large-scale Commercial
	Business Park
	Tourism/Entertainment District
	Medical District
	Institutional
	Commercial Waterfront
	Industrial Waterfront
	Light Industrial
	General Industrial
	Transportation and Utilities
	2013_DLH_Aerial_ImageService
	Red: NONE
	Green: NONE
	Blue: NONE

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City Planning



**Legend**

 Vacated ROW

**Easement Type**

 Utility Easement

 Other Easement

**2013\_DLH\_Aerial\_ImageService**

**RGB**

 Red: NONE

 Green: NONE

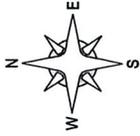
 Blue: NONE

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6-5

Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, February 14, 2013. Source: City of Duluth.



1 inch = 20 feet  
 Bearings, Distances, and Coordinates are based on the SICT1986 Coordinate System



**LEGEND**

- PROPERTY LINE
- PLAT LINE
- CONCRETE
- CURB AND GUTTER
- BITUMINOUS
- GRAVEL
- POWER POLE
- SET TEE W/ CAP NO. 47046

RECEIVED SEP 13 2013

Boundary Survey of Lot 24, Block 5, Merritt Park Addition to Duluth  
 Sec. 6, T49N, R14W, Duluth, St. Louis County, Minnesota  
 for : Desiree Menuey

JOB NO. L4708

REVISION

MINNESOTA LICENSE NUMBER 47046 | NO. | DATE

DAVID SZYSZKOSKI

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE 9/12/2013

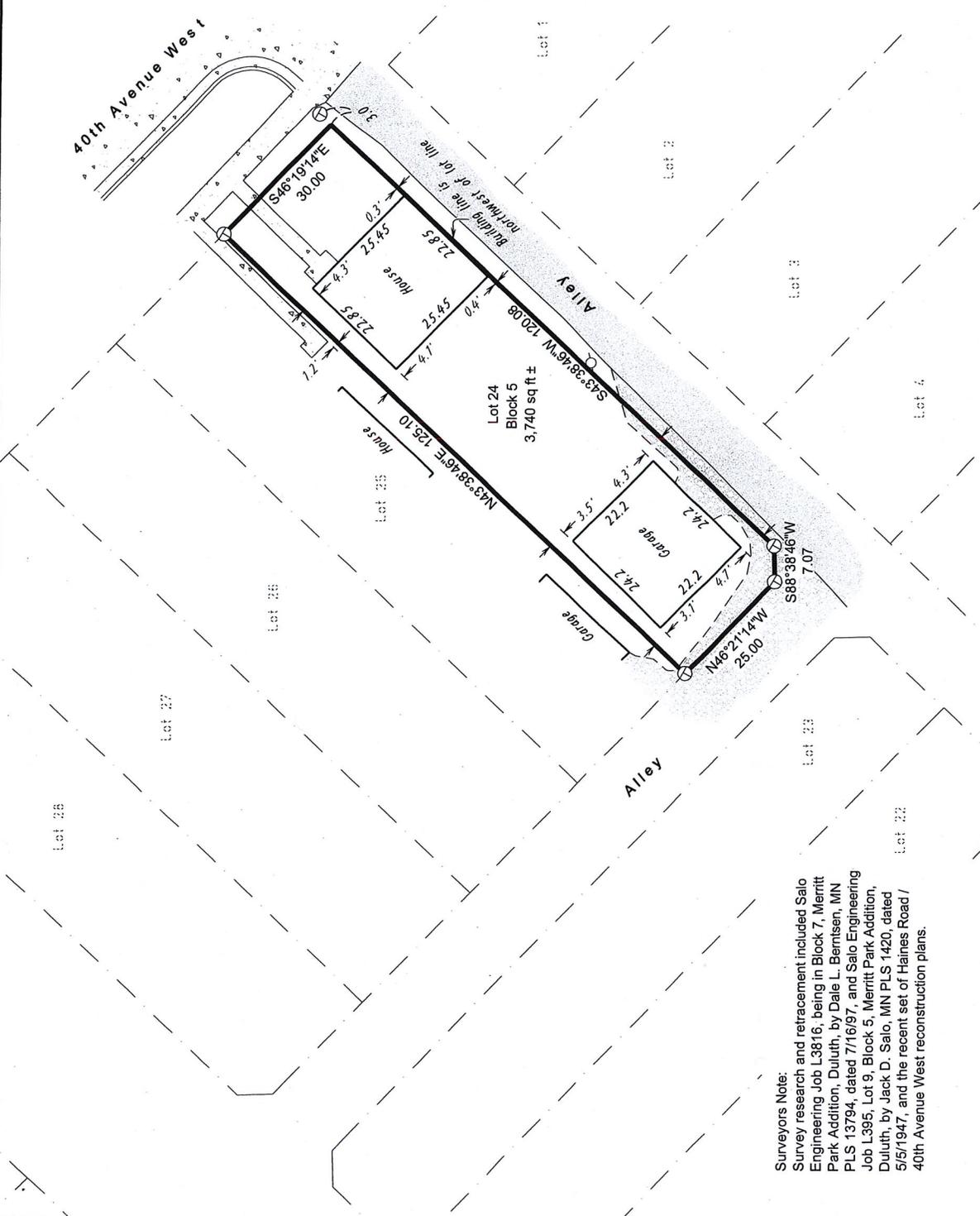
ENGINEERS • SURVEYORS • PLANNERS

**SALO ENGINEERING, INC.**

4550 Norway Pines Place • Duluth, Minnesota 55811 • 218/727-8786



G-6



Surveyors Note:  
 Survey research and retracement included Salo Engineering Job L3816, being in Block 7, Merritt Park Addition, Duluth, by Dale L. Bernisen, MN PLS 13794, dated 7/16/97, and Salo Engineering Job L395, Lot 9, Block 5, Merritt Park Addition, Duluth, by Jack D. Salo, MN PLS 1420, dated 5/5/1947, and the recent set of Haines Road / 40th Avenue West reconstruction plans.

### **Statement of Need**

When I purchased my house, it had a dirt crawl space underneath. In June 2012 my house sustained significant flood damage which caused my inner crawl space walls to cave in and pushed in the support walls. This created a serious safety issue. I registered my flood damage with the city and with FEMA. I worked with One Roof Housing and Lutheran Social Service to get a QuickStart loan to replace my dirt crawl space with a full concrete basement. My house had been built in 1920 and it does not meet current standards regarding house setback measurements. Specifically, the measurements from my house to my side property lines are 2 ½ feet as opposed to the current standard of 6 feet. I am requesting that I be granted a variance to raise my house 3 feet in order to put in a standard basement. To meet current city code for a basement, the new construction must be above grade and in order to comply, my house will need to be raised by 3 feet. My house has 528 square feet. Adding a concrete basement will provide stability and safety to my house and will raise it by only 3 feet.

### **Evidence that variance will not have a negative impact**

My house does not meet current city standards in that my setbacks on both sides of my property are only 2 ½ feet when they should be 6 feet. In order to replace my dirt crawl space with a concrete basement, I will need to raise my house by 3 feet to comply with current city code to make the basement above grade. Because my house was built in 1920, it is not possible to change the setbacks to meet current city code. Since I am not expanding my house outward, there will be no negative impact on the city or my neighbors. My house is the only house in the immediate neighborhood without a full basement.

6-7



G-8