



**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 14-138	<b>Contact</b>	Steven Robertson, 218-730-5295	
<b>Application Type</b>	Shoreland Variance	<b>Planning Commission Date</b>	October 14, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	September 9, 2014	<b>60 Days</b>	November 8, 2014
	<b>Date Extension Letter Mailed</b>	October 6, 2014	<b>120 Days</b>	January 7, 2015
<b>Location of Subject</b>	3717 9th Avenue West			
<b>Applicant</b>	Casey Lombardi	<b>Contact</b>	casey3884@yahoo.com	
<b>Agent</b>	N/A	<b>Contact</b>	N/A	
<b>Legal Description</b>	PID 010-4060-00720			
<b>Site Visit Date</b>	October 6, 2014	<b>Sign Notice Date</b>	September 30, 2014	
<b>Neighbor Letter Date</b>	September 30, 2014	<b>Number of Letters Sent</b>	21	

**Proposal**

A variance to build a 1,200 sq ft detached accessory structure (garage). The garage would be approximately 125 feet from Stewart Creek, a coldwater stream, which has a 150' structure setback.

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

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

50-18.D - Structure setback for a coldwater river is 150 feet.

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 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.

50-37.9.J - 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.

III. F-1

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

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.

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. 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.

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

- 1) Applicant is proposing to build a 30 feet by 40 feet detached structure. The proposed structure will be within the 150 feet shoreland setback from Stewart Creek.
- 2) The property is currently developed with a 1,370 sq ft house that was built in 1963. Existing home is approximately 50 feet from Stewart.
- 3) The lot is almost entirely within the shoreland setback. It would not be possible for any development on this lot without a variance. The applicant is proposing to put the garage at the furthest extent that is reasonable to minimize the impact. Given the restrictions placed on this property by the setbacks from the creek, Staff believes that the strict application of the requirements of this Chapter would result in peculiar and practical difficulties to the property owner.
- 4) The area includes other single-family residential properties, and continued use of this property as a single-family home is consistent with the Comprehensive Land Use Plan. Nearby houses are similar in size, and most have accessory structures (but typically smaller than what the applicant is proposing). If the variance was granted, it will not alter the essential character of the surrounding area, nor will it likely compromise the general purposes or intent of Section 50-18.1.D or result in adverse consequences to the environment.
- 5) Variances to shoreland setbacks require mitigation. Applicant is proposing two rain gardens to promote infiltration and direct stormwater flow.
- 6) One citizen contact was received concerning the variance, with questions related to the size of the garage and impact mitigation on Stewart creek. No additional public, agency, or City 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 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 336 sq ft addition on the south side of the existing structure , subject to the following conditions:

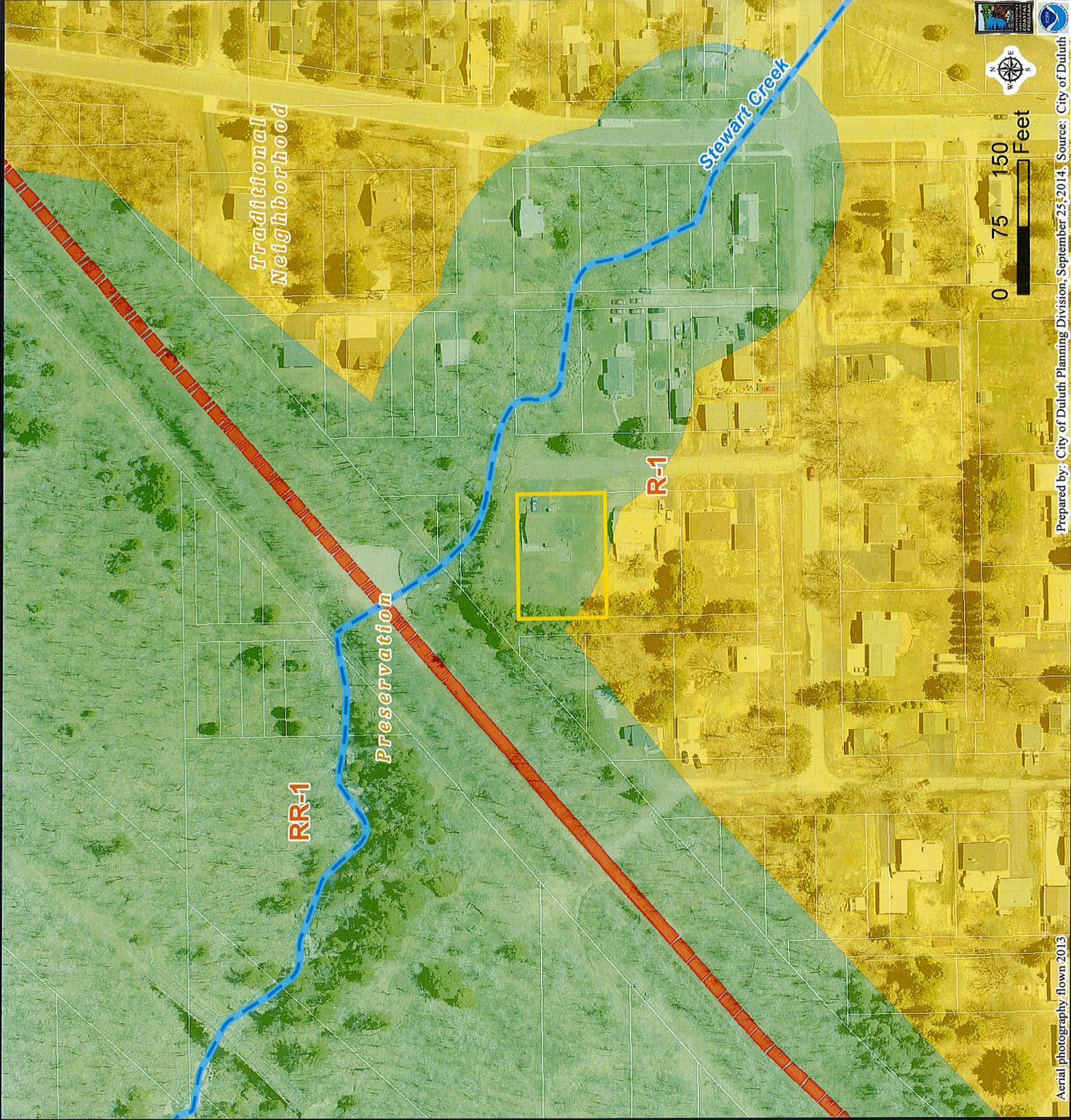
- 1) The project be limited to, constructed, and maintained according to the site plan and mitigation plan dated September 8, 2014, with the exception that the garage limited to no more than 576 square feet in size.
- 2) Any alterations to the approved plans that do not alter major elements of the plan 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.

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

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**Legend**

-  Trout Stream (GPS)
-  Other Stream (GPS)
- Zoning Boundaries**
-  Zoning Boundaries
- 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



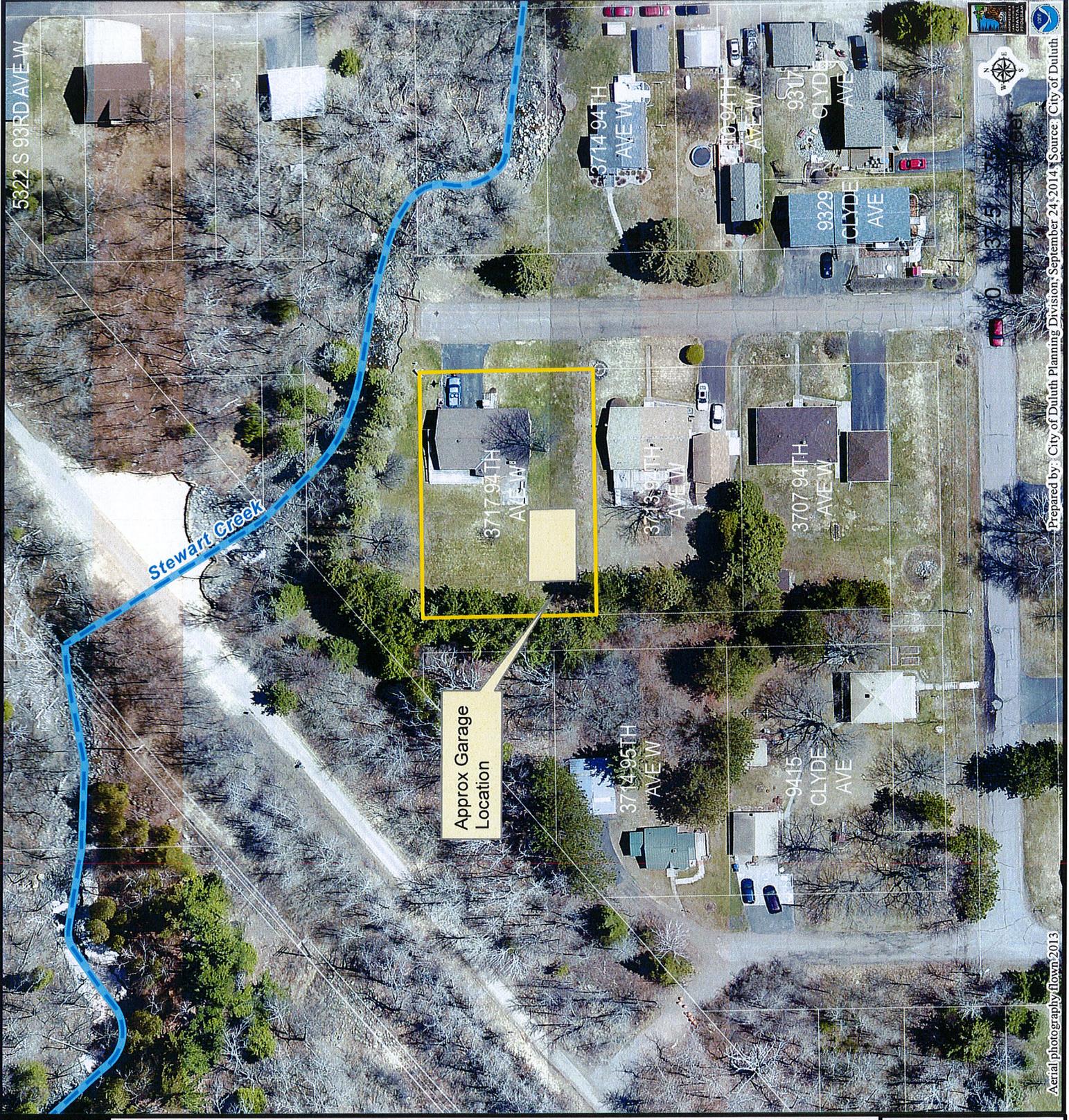
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# City Planning

PL 14-138

3717 94th Ave W



Approx Garage Location

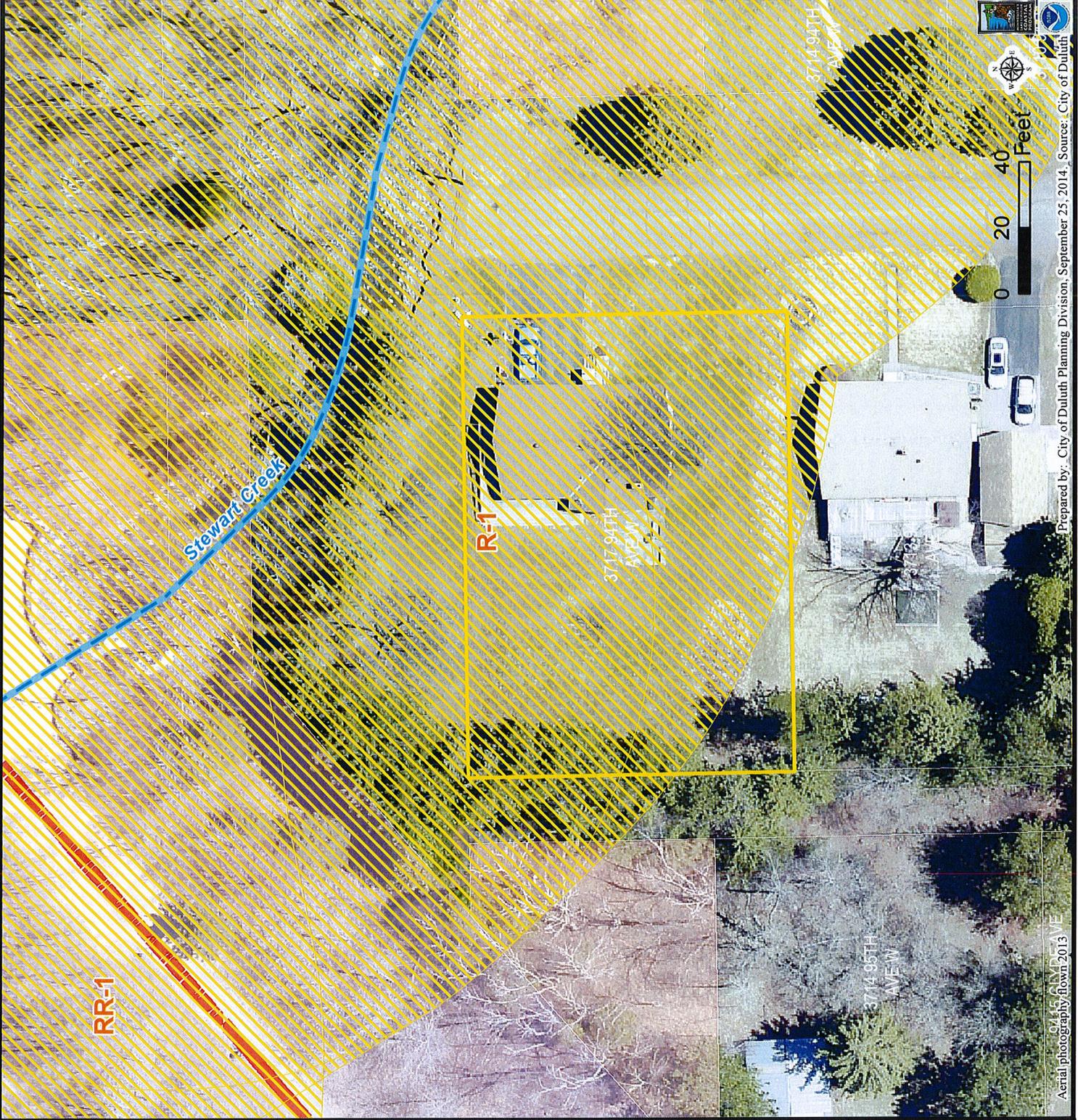
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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, September 24, 2014. Source: City of Duluth



City Planning



Aerial photography, flown 2013

Prepared by: City of Duluth Planning Division, September 25, 2014. Source: City of Duluth

**Legend**

-  Trout Stream (GPS)
-  Other Stream (GPS)
-  150 Ft Buffer

**Zoning Boundaries**

-  RR-1
-  R-1

**Zoning Boundaries**

-  Zoning Boundaries

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City of Duluth  
Planning and Construction Services

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### Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and that is necessary for Planning Commission review.

List the UDC Section you are seeking relief from (example: "50-14.5 – front yard setback in an R-1"):

Table 50-18.1D-1

Is the applicant proposing to use the property in a reasonable manner?  Yes  No

Please explain the applicant's use of the property, and how the relief requested is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant: With Lawnmowers + fishing boats, kids bikes & toys, not

to mention all the storage one needs...I believe it is my right to build a dry storage garage to preserve my property and my family's items. Without it we will have to move

Is the need for relief due to circumstances unique to this property?  Yes  No

Please explain how these circumstances are due to exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property:

The home has a small tuck-under garage with 6' garage doors under the house. With all the stuff a large family has I would have to rent a storage garage to fit my wife's van inside it in the middle of January this is almost necessary with a small baby.

Will granting this variance alter the essential character of the area? Yes  No

Explain how this property fits the character of the neighboring area, and how the special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity:

This garage will fit in the neighborhood perfectly. The property next to mine has two garages and the other property has a nice detached garage. I will also be able to keep my vehicles off of the street, so the neighborhood will look better.

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Is this request consistent with the intent of the UDC and Comprehensive Plan? Yes No **NA**

Explain how the UDC and Comprehensive Plan support this request: NA

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\_\_\_\_\_  
\_\_\_\_\_

Explain how the special circumstances or conditions that create the need for relief were NOT directly or indirectly created by the action or inaction of the property owner or applicant:

7

~~NA~~ Fe

\_\_\_\_\_  
\_\_\_\_\_

Will the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city? Yes

No

Please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Does the relief allow any type of sign that is not allowed in the zone district where the property is located? Yes No

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M? Yes No

Discuss what subsections are applicable and how this request meets those: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Photo: William Wright

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Next

Dig a trench for a pipe that will carry water from one or more gutter downspouts to the rain garden. (Note: If you can corral helpers, this can be done at the same time you excavate the rain garden.) Install the piping. Rigid piping with smooth walls is the most durable, but corrugated tubing is easier to work with; get the kind

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BY JEANNE HUBER, THIS OLD HOUSE MAGAZINE



Photo: David Hymel, Rain Dog Designs

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Introduction

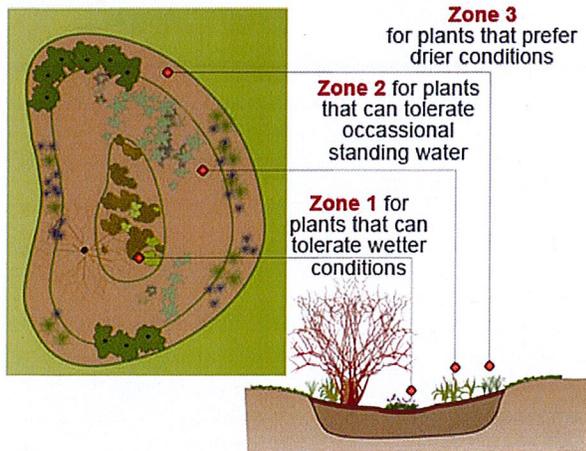
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## How to Build a Rain Garden

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