



**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 15-013	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Variance	<b>Planning Commission Date</b>	March 10, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	January 16, 2015	<b>60 Days</b>	March 17, 2015
	<b>Date Extension Letter Mailed</b>	February 18, 2015	<b>120 Days</b>	May 16, 2015
<b>Location of Subject</b>	129 W 7th Street			
<b>Applicant</b>	Deborah Anderson	<b>Contact</b>	218-723-1972, herenow@chartermi.net	
<b>Agent</b>	N/A	<b>Contact</b>	N/A	
<b>Legal Description</b>	PID 010-1350-01970			
<b>Site Visit Date</b>	March 4, 2015	<b>Sign Notice Date</b>	February 23, 2015	
<b>Neighbor Letter Date</b>	February 24, 2015	<b>Number of Letters Sent</b>	33	

**Proposal**

Applicant is requesting a variance from the corner side yard setback to build a 24' x 24' garage that would be 10' from the property line instead of the required 20'.

	<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):**

50-14.5 R-1 district: Corner side yard setback for accessory structures is 20 ft.

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.

III. I - 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. 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):**

Staff finds that:

- 1.) Property is zoned R-1 and currently contains a house. A two-car garage on a residential lot is a reasonable use in the R-1 district.
- 2.) Two houses across N 2nd Avenue W are closer to the property line than the requested garage; both houses are located on much smaller lots. The other properties on the corner of W 7th Street and 2nd Avenue W meet the R-1 setbacks. Generally, structure types and location are varied throughout the neighborhood; granting this variance will not alter the essential character of the area.
- 3.) Lot is a standard 50' x 140' City lot. With setbacks and the location of the existing house, a buildable area remains of approximately 27' x 65'. This buildable area provides many locations for a garage that could be accessed either off N 2nd Avenue W or off the alley. Request for the variance is not due to exceptional narrowness, shallowness, or shape of the applicant's property.
- 4.) Property is located on a hill. Applicant wishes to place the garage in a location that allows the flattest driveway possible, and has stated it is difficult to drive up N 2nd Avenue W in the winter. However, similarly sloped lots and streets exist throughout Duluth. For practical difficulty to occur, the conditions should be "peculiar to such property or immediately adjoining property, and not apply generally to other land or buildings in the vicinity" (UDC Section 50-37.9.C).
- 5.) Note that Planning Commission will be considering a UDC text amendment that would allow for an administrative adjustment of up to 5 feet on corner side lots. If text amendment passes, applicant could request an administrative adjustment from the Land Use Supervisor that would allow them an additional 5 feet.
- 6.) No public, agency, or City comments have been received.
- 7.) Per UDC Section 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 deny the variance, for the following reasons:

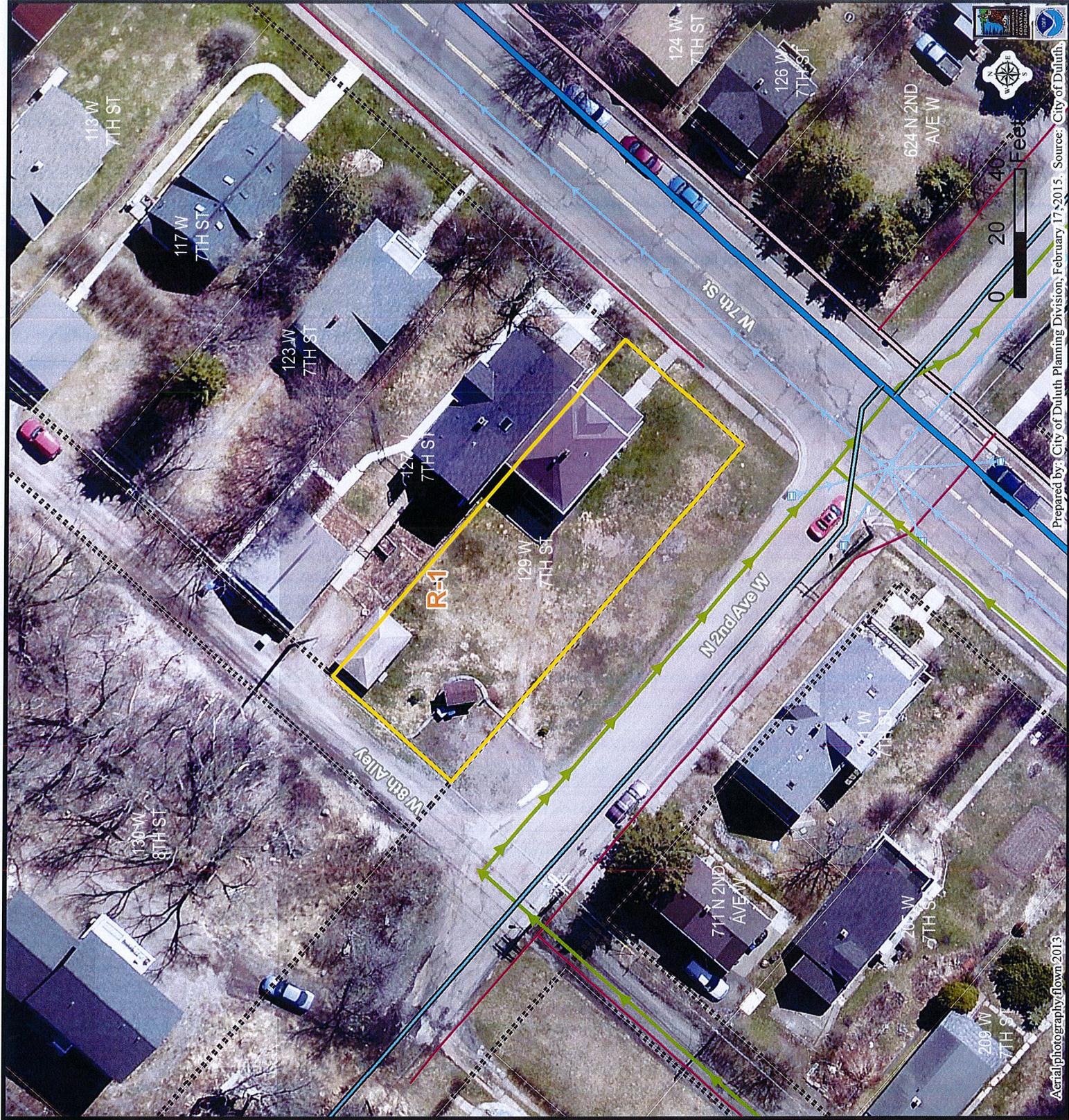
- 1.) Request for variance is not due to exceptional narrowness, shallowness, or shape of the applicant's properties.
- 2.) Applicant has not demonstrated practical difficulty.

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

**Legend**

- Trout Stream (GPS)
- Other Stream (GPS)
- Zone**
- Boundary**
- Zoning Boundaries
- 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
- Right-of-Way Type
- Road or Alley ROW
- Vacated ROW
- Easement Type
- Utility Easement
- Other Easement
- Floodplain Type
- General Flood Plain
- Flood Way
- Flood Fringe



Aerial photography from 2013

Prepared by: City of Duluth Planning Division, February 17, 2015. Source: City of Duluth.

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.



January 16, 2015

Dear planning commission members:

I am writing to request a variance from the side yard set back on my corner lot at 129 west 7<sup>th</sup> street for the purpose of building a modern 2 car garage. This is a 50 foot lot but with a 20 setback requirement it is too narrow to allow placement of the garage in a safe and prudent manner that best suits the property.

There are two main concerns: The first is the slope . This is a steeply pitched section of the hillside. The rise from the street to the alley (150 feet South to north) is 24 feet. The lot also slopes down 7 feet from west to east across its 50 foot width. The slope of the avenue and alley make winter access challenging and when it snows, impossible.

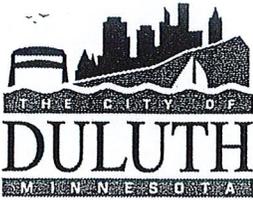
The second concern then is safe access which would be facilitated by placing the garage on an angle relative to the house and the avenue to allow the driveway to be as straight and flat as possible. The safest and best access for a garage on this lot is on an angle from the lower corner to the one relatively flat spot behind the house.

Because the actual roadway is already an additional 20 feet from my lot line and because the neighbor above the alley already got the city to narrow the easement by 10 feet (to 10 feet from the existing 20 feet) when he built, I am asking to be allowed the same consideration to build the best quality and safest garage possible on this site.

Thank you very much for your consideration in this matter.

Deborah Anderson





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"):

50-14.5 - Side yard setback for accessory building

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:

The right of way setback has already been eased to 10' for the property above this one on the avenue. Because of slope issues, easement allows garage to be at an angle to facilitate safe access

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:

Because of the slope and the narrowness of the lot with the setback of 20' from the avenue

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 area is a mix of older houses with upgrades + new development with in fill buildings. This variance is a step in upgrading this property to 21st Century usability.

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

Explain how the UDC and Comprehensive Plan support this request: Improvement to residential housing stock, gets 2 cars off the street

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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:

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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: It will get cars off the street + facilitate life

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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: \_\_\_\_\_

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Possible garage locations  
within buildable area

113 W  
7TH ST

130 W  
8TH ST

117 W  
7TH ST

123 W  
7TH ST

124 W  
7TH ST

1000

096

086

096

096

066

214 W  
8TH ST

711 N 2ND  
AVE W

N 2nd Ave W

W 7th St

124 W  
7TH ST

126 W  
7TH ST

205 W  
7TH ST

204 W  
8TH ST

624 N 2ND  
AVE W

209 W  
7TH ST