



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 15-020	Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Variance	Planning Commission Date	March 10, 2015	
Deadline for Action	Application Date	February 2, 2015	60 Days	April 3, 2015
	Date Extension Letter Mailed	February 18, 2015	120 Days	June 2, 2015
Location of Subject	732 N 11th Avenue W			
Applicant	Brad and Teresa Peterson	Contact	218-721-4952, bpeterson55803@yahoo.com	
Agent	N/A	Contact	N/A	
Legal Description	PID 010-1350-03660			
Site Visit Date	March 4, 2015	Sign Notice Date	February 23, 2015	
Neighbor Letter Date	February 24, 2015	Number of Letters Sent	23	

Proposal

Applicant is requesting a variance to a) rebuild an existing nonconforming structure and b) Add a 25' x 26' addition that would be approximately 10' from the front property line instead of the required 25'.

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

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

50-14.5 R-1 district: Front yard setback is 25 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.

50-37.9.M - A variance may be granted for a nonconforming building ... if the commission determines it is necessary for enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

III. R-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 contains a 4-bedroom, 2-bath house that was built in 1925. Aerial calculations indicate the house is approximately 1600 sq. ft. House is just under 4' from the front property line. Per the UDC, the front property line is 11th Avenue W, as that is where the existing front door is oriented. Applicant wishes to remodel the house and place an addition in the front yard setback.
- 2.) Use of the property as a single-family home is reasonable in the R-1 district. Two properties on the same block are also located less than 5 feet from the property line; granting this variance will not change the essential character of the neighborhood.
- 3.) As the house has existed in this location for 90 years, the conditions were not created by the applicant. If the applicant were not granted the variance, they would need to demolish the house and rebuild in a different location. Staff finds that this would constitute a practical difficulty, and thus supports the variance to remodel the existing house.
- 4.) House is situated on two lots that total about 1/3 of an acre. Plenty of room exists for an addition to the house that would meet the property setbacks. Thus, the relief requested is not necessary for the preservation and enjoyment of a substantial property right.
- 5.) Applicant states that they are proposing the location for the addition in a manner that preserves views for their neighbors. However, since there are other feasible locations for an addition, the wish to maintain good relationships with the neighbors does not constitute a practical difficulty.
- 6.) Applicant intends to remove the front door and steps from the 11th Avenue W facade, and relocate the front entry to W 8th Street. If the improvements result in a design that is oriented to W 8th Street, then, per the UDC definition of front lot line, W 8th Street will become the front of the property and will have a 25' setback (the entry porch, if covered, would become legally nonconforming). In this scenario, the frontage along 11th Avenue W would then have a corner side yard setback of 15', which could be reduced by one foot with an administrative adjustment. So, if the applicant first remodels the existing house in a manner that reorients the structure to W 8th Street, they could later construct an addition that could potentially be as close as 14' to the property line along 11th Avenue W.
- 7.) One phone call was received from a citizen asking for more information. No other public, agency, or City comments have been received.
- 8.) 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 approve a variance to remodel an existing structure located approximately 4' from the front property line, with the following conditions:

- 1.) The variance shall apply only to the existing structure.
- 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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Staff recommends that Planning Commission deny the variance for an addition, for the following reasons:

- 1.) Request for variance is not due to exceptional narrowness, shallowness, or shape of the applicant's properties.
- 2.) The relief is not necessary for the preservation and enjoyment of a substantial property right.
- 3.) Applicant has not demonstrated practical difficulty.

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



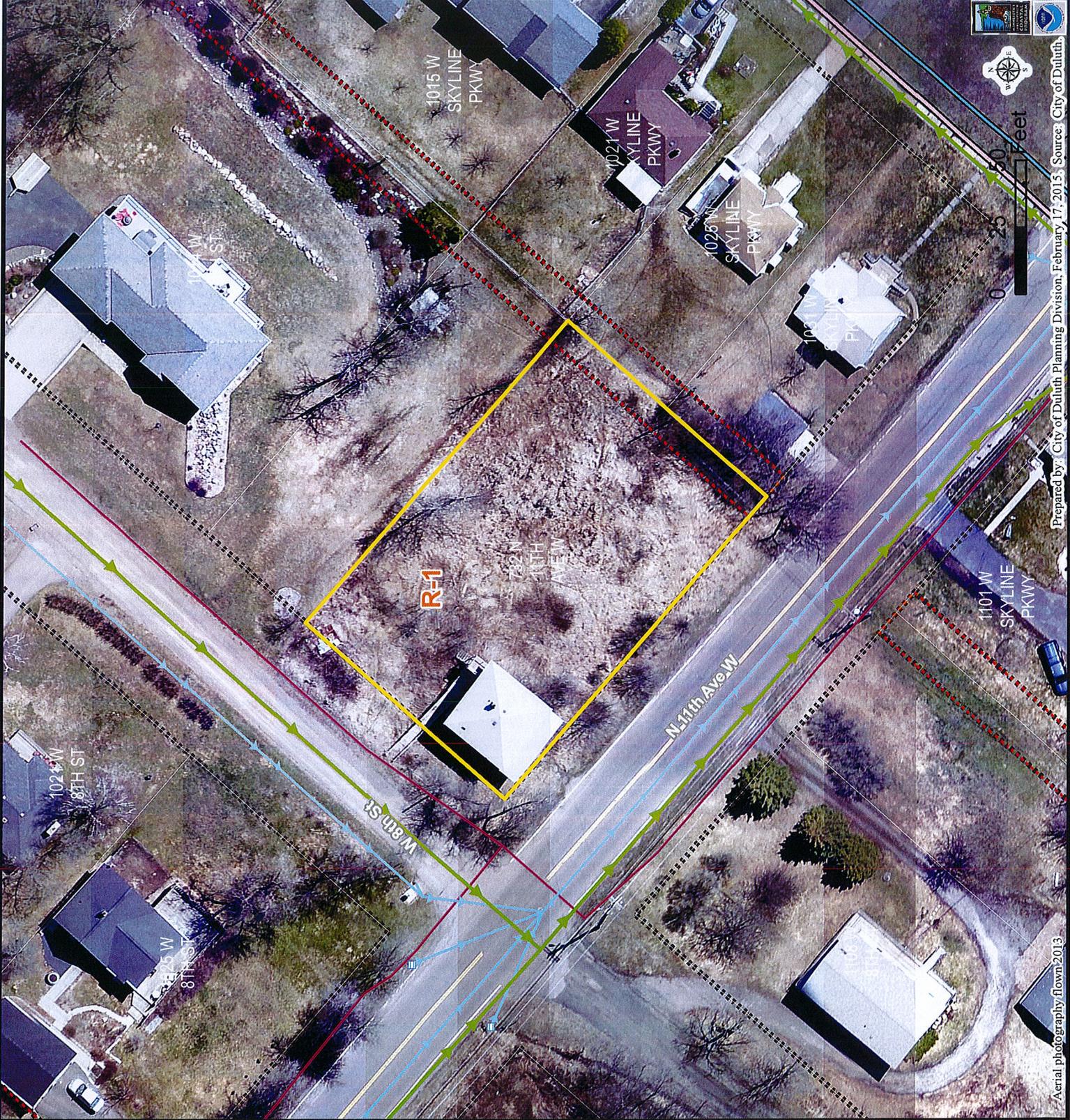
City Planning

PL 15-020

732 N 11th Avenue W

Legend

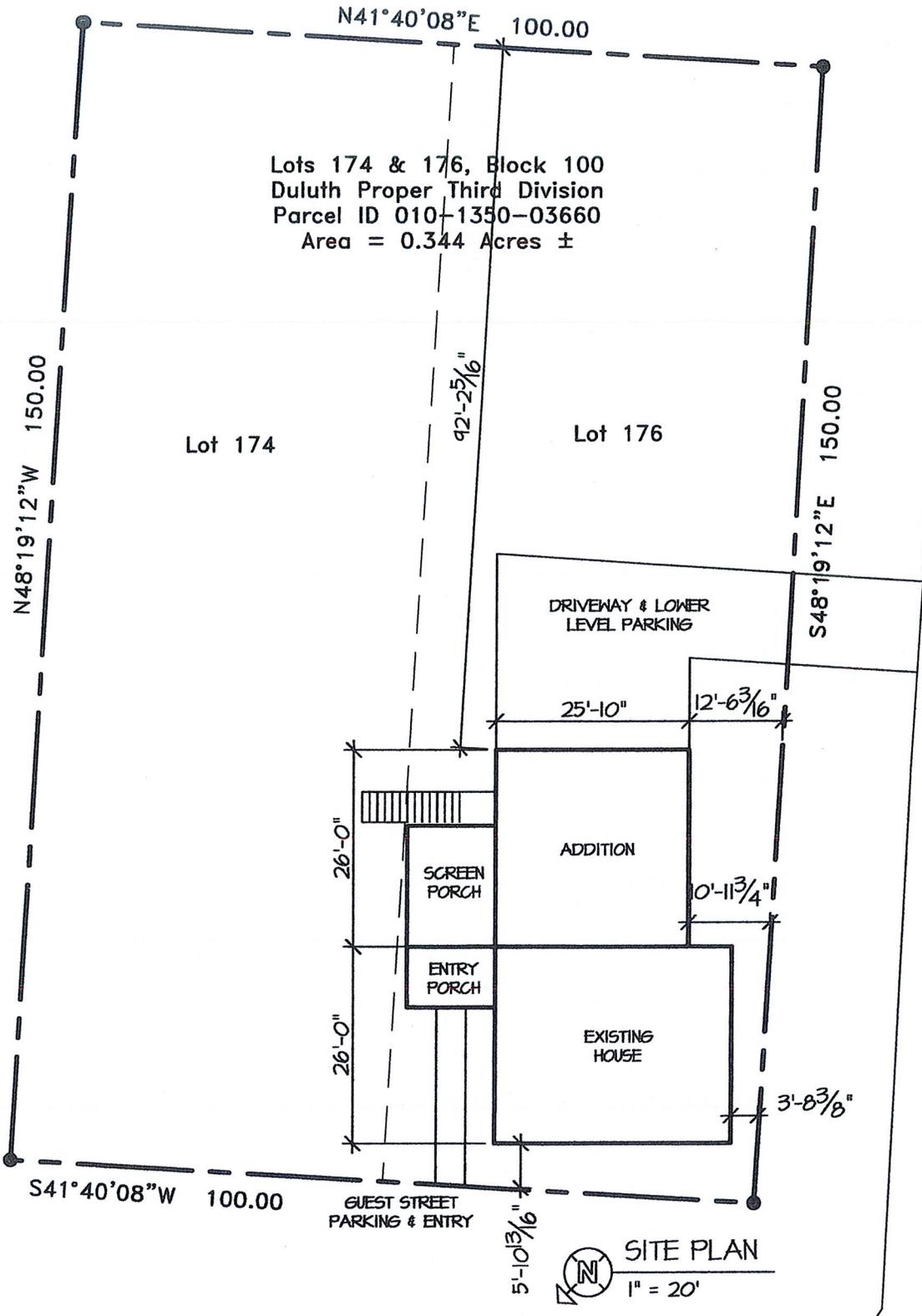
- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries**
- Zoning Boundaries
- Water Distribution System**
- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- 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: floornv.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.



Lots 174 & 176, Block 100
 Duluth Proper Third Division
 Parcel ID 010-1350-03660
 Area = 0.344 Acres ±

N
 SITE PLAN
 1" = 20'

111th Avenue West

West 8th Street

Peterson residence 732 N 11th Ave W Duluth, MN	PRELIMINARY DRAWINGS October 1, 2014
	5532 Fish Lake Dam Road Duluth, MN 55803 (216) 721-4398 hainer@msn.com

FROM THE DESK OF
BRAD PETERSON

February 1, 2015
Duluth Planning Division
City Hall, Room 208
411 West First St
Duluth, MN 55802

We would like to communicate our hope for this property. We have long been looking for a home in Duluth with a view of Lake Superior. We discovered this abandoned home accidentally one day. After driving by many times, we sought out the owner and purchased the property. It has been sitting empty and neglected for approximately 10 years. Over the course of visits to the house, we met some of the neighbors, who were excited at the prospect of hope for this unsightly landmark on their street. The first thing one of the neighbors asked was "You aren't going to take away my view, are you?". We promised them we would do everything we could not to do that.

This plan submitted keeps the garage and addition downhill and below the existing structure to preserve the view of the neighbors on the uphill side of 8th St. To build the tuck-under garage and main floor addition further to the East will greatly impact the neighbors view, which they have enjoyed for 20 years.

Not granting this variance would impose an unnecessary hardship on us by negatively affecting our relationship with our new neighbors.

Sincerely yours,

Brad & Teresa Peterson

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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"):

50-37.9 M RECONSTRUCTION OF NONCONFORMING BUILDING
50-14.5 FRONT YARD SETBACK IN AN R-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: PROPERTY WILL BE USED AS APPLICANTS PRIMARY RESIDENCE. WE

NEED TO ADD AN ATTACHED GARAGE AND LIVING SPACE TO ACCOMMODATE A FAMILY OF FIVE. MANY NEIGHBORING HOMES HAVE ATTACHED OR TUCK UNDER GARAGES.

BUILDING A DETACHED GARAGE WILL REDUCE THE VIEW OF NEIGHBORS, WILL INCREASE WATER-SHED PROBLEMS AND REQUIRE HUGE AMOUNTS OF FILL.

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 NEED FOR THE SETBACK VARIANCE IS DUE TO THE ~~PERMIT~~ LOCATION OF THE EXISTING HOUSE ON THE LOT AS WELL AS SLOPE AND WATER RUN OFF CONCERNS.

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 PROJECT WOULD IMPROVE THE NEIGHBORHOOD. THE HOUSE HAS BEEN ABANDONED FOR 10 YEARS. THE PROJECT WILL REUSE AN EXISTING BUILDING BUILT IN 1925. THE LOT SLOPES STEEPLY. THE EXISTING "FRONT" DOOR AND CONCRETE STEPS ON 11TH WOULD BE REMOVED. IT WOULD NOT BE PRACTICAL TO ACCESS THE PROPERTY FROM 8TH VIA AUTOMOBILE, BECAUSE OF SLOPE. THERE IS AN EXISTING DRIVEWAY ACCESS ON 11TH.

Explain how the UDC and Comprehensive Plan support this request: 50-2(D) WILL ENHANCE VISUAL & AESTHETIC CHARACTER; 50-2(G) WILL PRESERVE THE INTEGRITY OF THIS RESIDENTIAL AREA; 50-2(H) WILL ENHANCE PROPERTY VALUES AND APPEARANCES; 50-2(A) PROVIDES FOR MORE SUSTAINABLE DEVELOPMENT BY THE REUSE OF AN EXISTING BUILDING

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:

THE HOME WAS BUILT IN 1923

THE APPLICANT DID NOT BUILD THE EXISTING HOUSE WHERE IT LIES.

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 REQUESTED VARIANCE WILL NOT HAVE ANY NEGATIVE EFFECT.

Please explain: IF THE VARIANCE IS NOT GRANTED FOR THE ADDITION TO BE

BUILT ON THE SOUTH FACING WALL OF EXISTING HOME, THE OTHER BUILDING

OPTIONS WILL BE DETRIMENTAL TO THE VIEW OF EXISTING HOMES ON

THE UPHILL SIDE OF 8th STREET - EFFECTIVELY ELIMINATING THEIR VIEW
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: _____

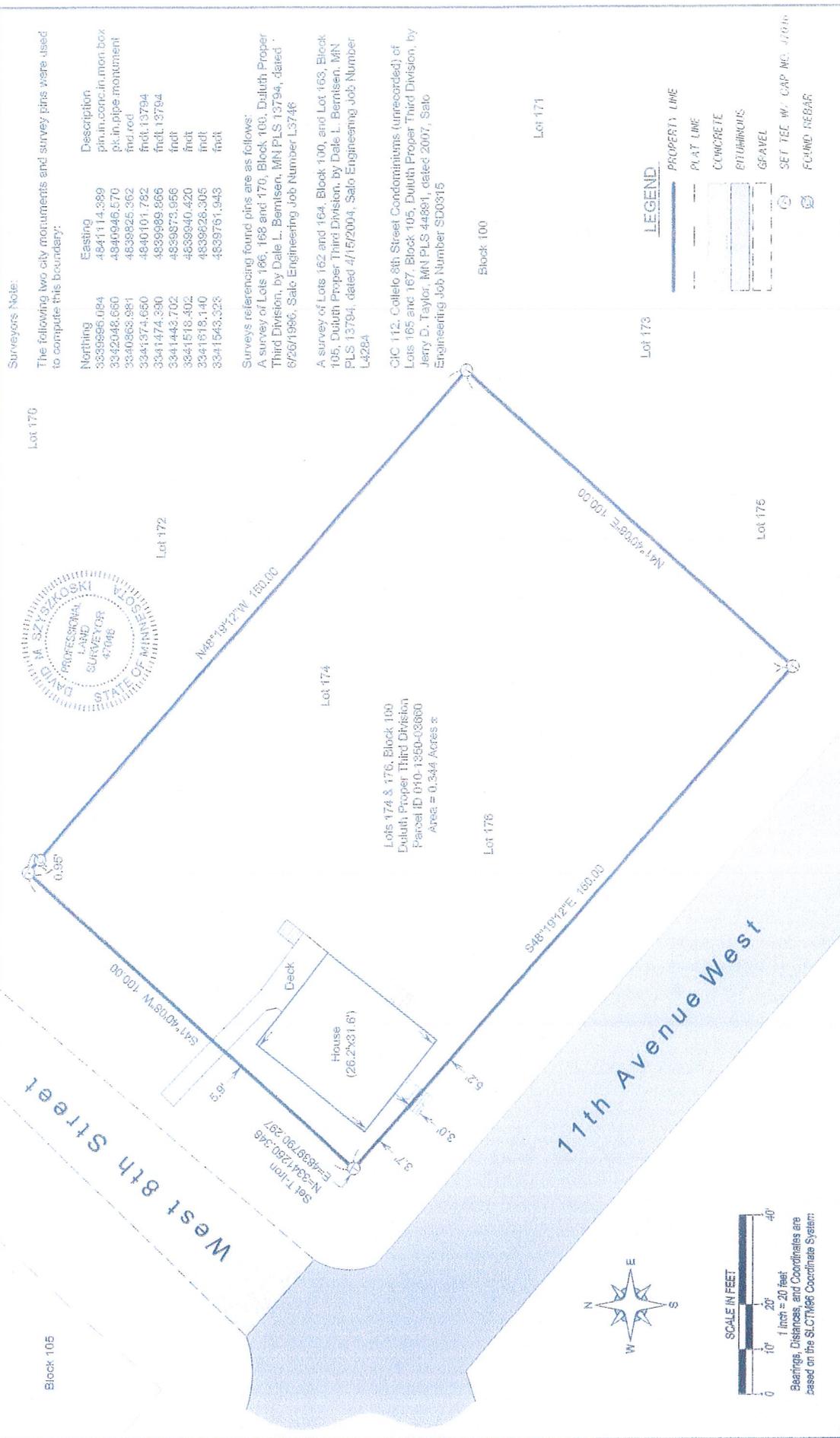
50-37.9(M) RECONSTRUCTION OF A NON CONFORMING BUILDING - THIS BUILDING IS NOW TAXED AT \$1,000 AND WILL INCREASE ITS VALUE MORE THAN 50%

50-37.9(H) VARIANCES TO REDUCE SETBACKS - LANDSCAPING & BUFFERING;

THERE IS EXISTING VEGETATIVE BUFFERING ALONG 11th AVE W.

THE FRONT DOOR & STEPS WILL BE REMOVED AND ADDITIONAL LANDSCAPING BUFFERING WILL BE INSTALLED TO INCREASE BUFFERING AND PRIVACY.

^



Surveyors Note:

The following two city monuments and survey pins were used to compute this boundary:

Northing	Easting	Description
3339396.084	484114.389	pin in corner in iron box
3342048.660	4840946.570	pin in pipe monument
3340868.981	4838825.362	find rod
3341374.660	4840101.782	frnt. 13794
3341474.390	4839989.866	frnt. 13794
3341443.702	4839873.956	frnt
3341518.402	4839940.420	frnt
3341618.140	4839828.305	frnt
3341543.323	4839761.943	frnt

Surveys referencing found pins are as follows:

A survey of Lots 166, 168 and 170, Block 100, Duluth Proper Third Division, by Dale L. Bernisen, MN PLS 13794, dated 6/26/1996, Salo Engineering Job Number L3746

A survey of Lots 162 and 164, Block 100, and Lot 163, Block 105, Duluth Proper Third Division, by Dale L. Bernisen, MN PLS 13794, dated 4/15/2004, Salo Engineering Job Number L4284

CIC 112, Colleto 8th Street Condominiums (unrecorded), of Lots 165 and 167, Block 105, Duluth Proper Third Division, by Jerry D. Taylor, MN PLS 44891, dated 2007, Salo Engineering Job Number SD08915

LEGEND

- PROPERTY LINE
- PLAT LINE
- CONCRETE
- BITUMINOUS
- GRAVEL
- SET TEE W/ CAP, INC. 47046
- FOUND REBAR



4550 Norway Place Duluth, MN 55811 218-727-8786 tkda.com		I HEREBY CERTIFY THAT THIS PLAN SPECIFICATION OF REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM FULLY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.	
DATE	DALE	SIGNATURE	MINNESOTA LICENSE NUMBER 47046
NO.	DATE	REVISION	FILE NO. L4746
1			DATE OF FIELD WORK: 8/11/2014
2			
3			
Boundary Survey of Lots 174 and 176, Block 100, Duluth Proper Third Division Section 28, Township 60 North, Range 14 West, St. Louis County, Minnesota For: Brad Peterson		JOB NO. 15513-069	

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732 N 11th Ave W

Site Photos



Front of house, facing 11th Avenue W



South façade of house, from 11th Avenue W



North façade of house, from W 8th Street



View of neighbor to east



View of neighbor to north