CITY OF DULUTH
Community Planning Division

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

File Number	PL16-131	**Contact**	Kate Van Daele 730-5301	
Type	Variance, Front Yard Side Yard Setback	**Planning Commission Date**		November 15, 2016
Deadline for Action	**Application Date**	October 18, 2016	**60 Days**	December 17, 2016
	Date Extension Letter Mailed	October 21, 2016	**120 Days**	February 15, 2017
Location of Subject	2519 Minnesota Ave			
Applicant	David Long & Janice Truel	**Contact**		
Agent	Bill Burns	**Contact**		
Legal Description	010-3110-00690			
Site Visit Date	October 30, 2016	**Sign Notice Date**		November 1, 2016
Neighbor Letter Date	October 21, 2016	**Number of Letters Sent**		27

Proposal

Applicant requests a variance of 17.1 feet from the required 25-foot front yard setback to construct a new garage. The applicant's previous non-conforming two car detached garage (Shoreland setbacks) was destroyed by fire in 2016. The replacement is proposed to be a 24' x 22' garage addition to their existing home. The garage would be located 7.9' feet from the front property line, where the minimum front yard setback is 25 feet. There is no request for a shoreland setback variance, because Applicant has relocated the new garage away from the water's edge.

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

Summary of Code Requirements

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

50-37.9. C.- General Variance Criteria (paraphrased): 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 hardship. The Planning Commission must find the following for a variance to be granted: a) Because of the exceptional narrowness, shallowness, shape, or exceptional topographic or other conditions related to the property, the strict application of the UDC requirements would result in practical difficulties to the property owner, b) The plight of the property owner is due to circumstances unique to the property, and not created by the property owner, c) The property owner proposes to use the property in a reasonable manner not permitted by this code; D) The relief may be granted without substantially impairing the intent of this Chapter, the official zoning map, and will not alter the essential character of the locality;

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

Future Land Use: Traditional Neighborhood: Characterized by grid or connected street pattern, houses orientated 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.

Review and Discussion Items

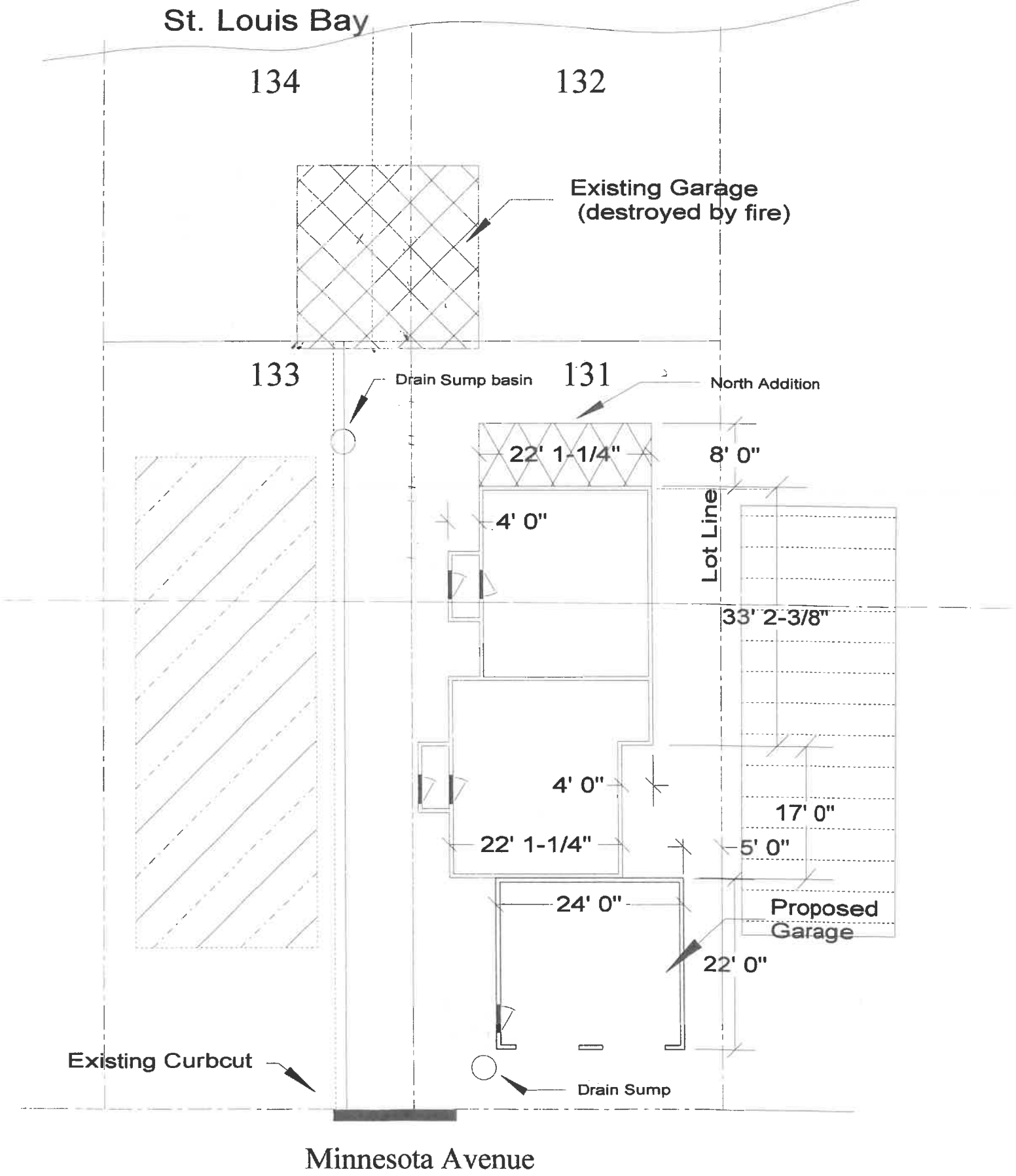
Staff finds that:

1) On September 8th, 2016, the applicant's two car detached garage burned down. The garage was located in the back of the home and could not be rebuilt today because of an unusual easement with the neighbors, in addition to being within the 50 feet Shoreland setback.
2) The lot is 40' wide and 140' deep. According to St. Louis County records, the home was built in 1950 with a gross area of 2,272 square feet.
3) This applicant's property includes an easement over the adjacent property at 2521 Minnesota Ave. The easement splits the existing driveway The easement also includes the location of the destroyed garage and the land behind it. The proposed garage would be built to hold one vehicle and replace the woodshop that was in the original garage.
4) The only practical location for the replacement garage is the front of the property due to the site's narrowness and proximity to St. Louis Bay and Minnesota Avenue. The proposed 24' x 22' attached garage will be smaller than the previous garage but will minimally meet their needs. The proposed replacement garage is a reasonable use in the R-1 district and is consistent with the comprehensive plan.
5) The proposed garage, including its location and design on the site is consistent with the character of Park Point neighborhood. Many Park Point properties have driveways with garages at the front of their home due to the narrowness of lots and lack of alleys on Park Point. The location of the new garage will improve views of St. Louis Bay for the subject property and adjacent properties.
6) There are several properties in the same block as the applicant where detached garages are within the 25' front yard setback. This variance is consistent with the development pattern on Park Point.
7) Staff does not recommend any additional conditions related to landscaping or fencing due to the site's existing character and proximity to St. Louis Bay.
8) City staff has received three phone calls in support of the variance, and one letter recommending denial.
9) Per UDC Section 50-37.1. N, approved variances lapse if the project or activity authorized by the permit of variance has not begun within one year.

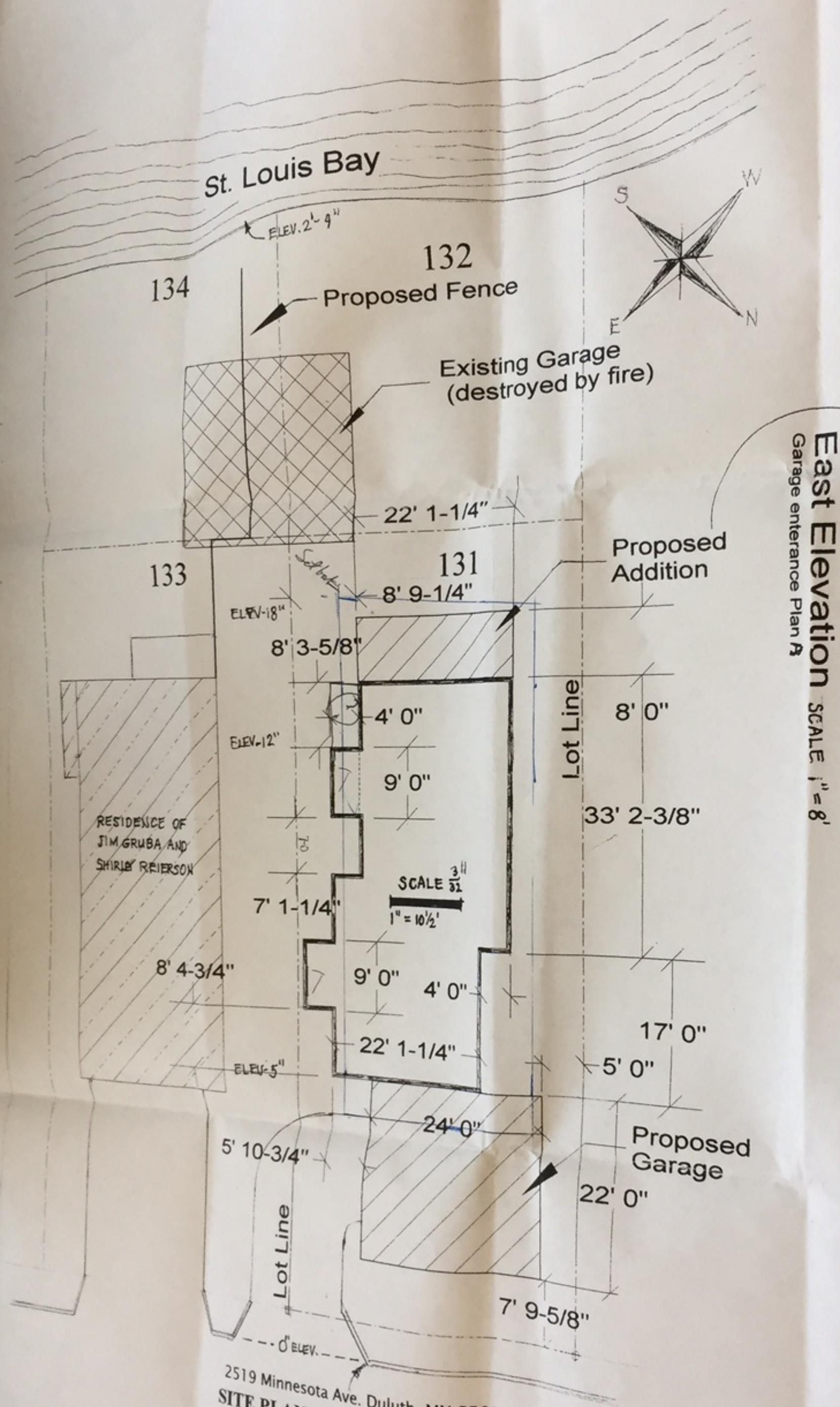
Staff Recommendation

Based on the above findings, Staff recommends that the Planning Commission approve this variance with the following conditions:

1) The applicant will remove 95% of the impervious surface where the former garage was located and plant grass and/ or a garden in its place. The former garage shall not be rebuilt on the same site.
2) The project shall be limited to, constructed and maintained according to the site and plan that was submitted on October 18th, 2016.
3) Any alterations to the approved plans that do not alter major elements of the plan many 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.
4) The applicant must be compliant with obtaining a single tenant rental license, and meeting requirements to maintain this license.



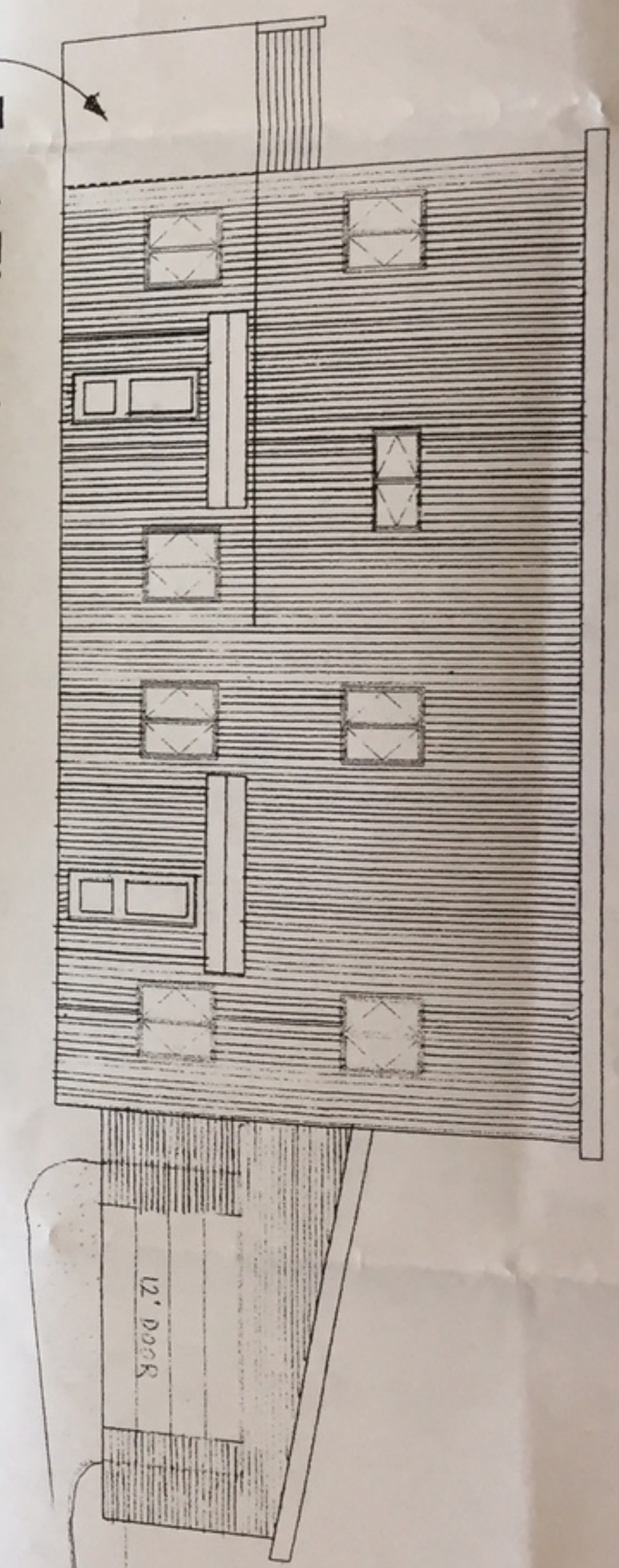
2519 Minnesota Ave., Duluth, MN Lot 131
Site Plan Regarding Restoration of Fire Damage
Jan Truel - Bill Long Residence



2519 Minnesota Ave. Duluth, MN 55802. Lot 131 Lower Duluth

SITE PLAN REGARDING RESTORATION OF FIRE DAMAGES

RESIDENCE OF BILL LONG & JAN TRUEL DATE 10/02/2016



Site Visit at 2519 Minnesota Ave

Panoramic from the Backyard

View of the old garage and driveway

View of where the proposed attached garage would go

Site Visit at 2519 Minnesota Ave

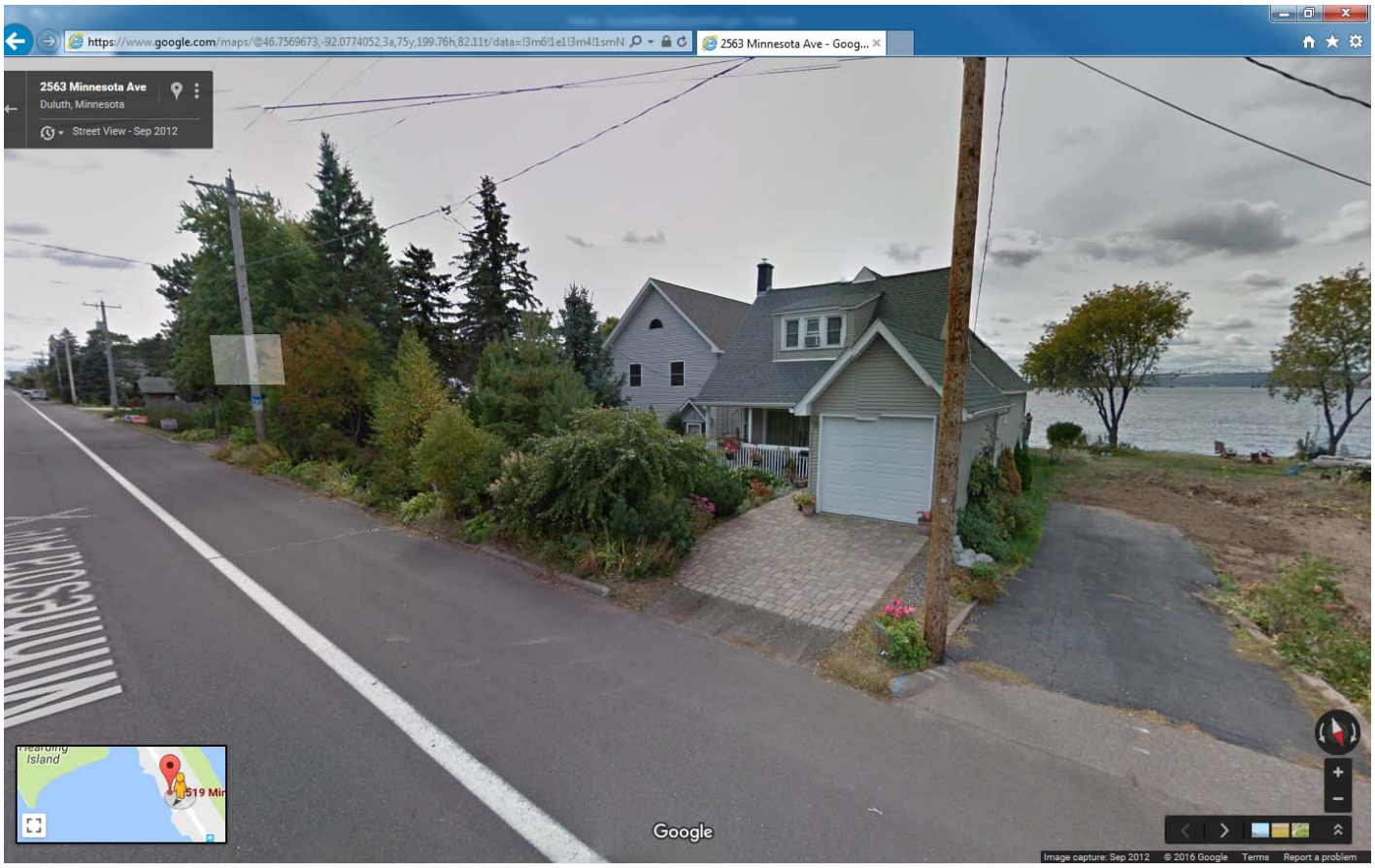
Front of the property where the proposed garage would go. A curbcut for the proposed garage has been approved by engineering.

Another view of where the proposed garage would be

Other Front Yard Setback Examples

2543 Minnesota Ave Garage within the 25’ Front Yard Setback

2563 Minnesota Ave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2563 Minnesota Ave - Goog...
2563 Minnesota Ave
Duluth, Minnesota
Street View - Sep 2012
MINNESOTA AVE
Island
519 Mi
Google
Image capture: Sep 2012
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Terms
Report a problem

PL 16-131: Variance
2519 Minnesota Ave

Legend

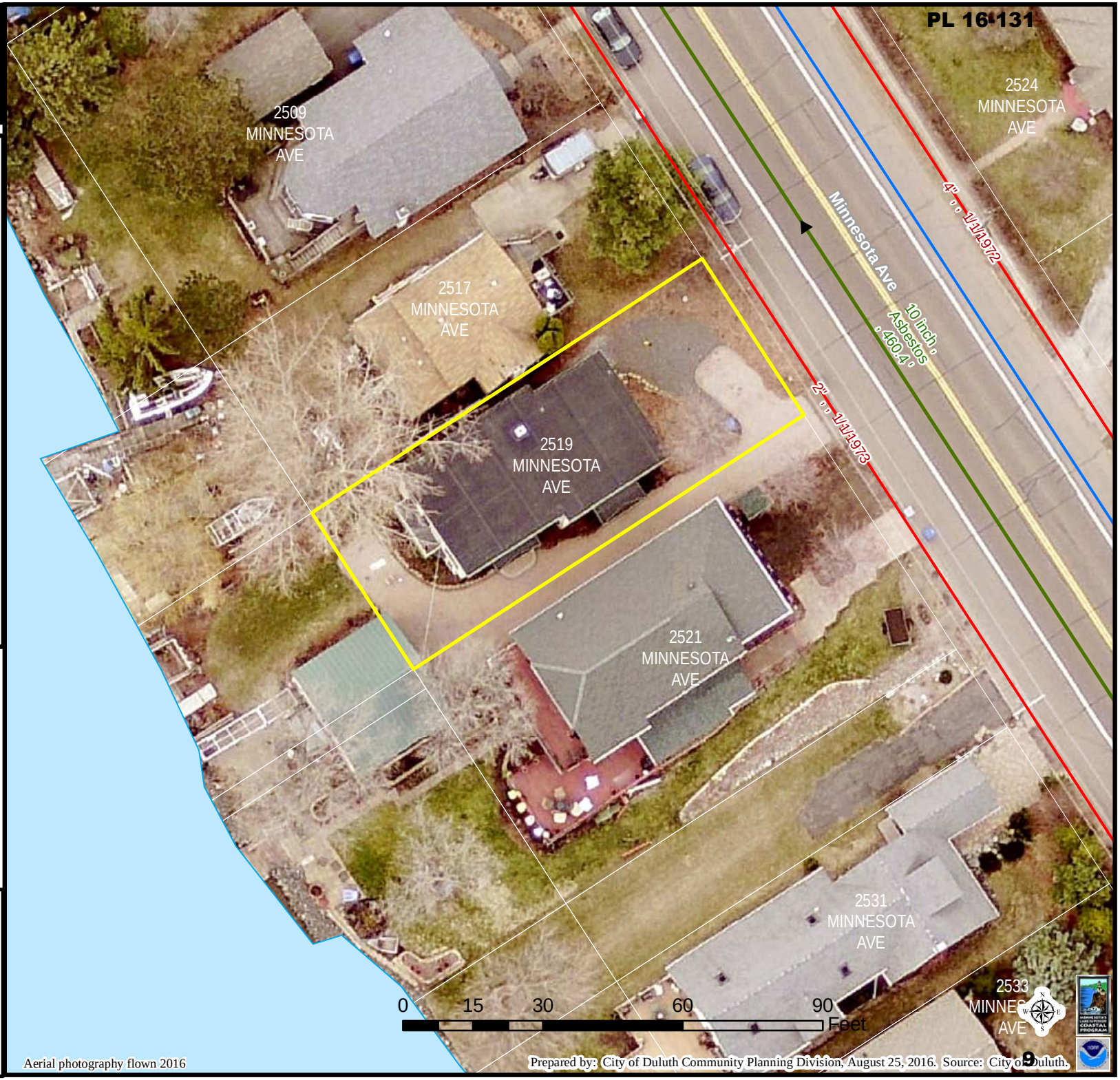
Water Distribution Main
- Active
- Hydrant

Sanitary Sewer Mains
- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Gas Distribution Main
- Coated Steel
- Plastic
- Lake Superior

DuluthStream_cl
TROUT_FLAG
- Trout Stream (GPS)
- Other Stream (GPS)



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City Planning

2519 Minnesota Ave
Front and Side Yard Setbacks

Legend

LakeNoIsland_Buffer

Zoning Boundaries

Zoning Boundaries

Vacated ROW

Easement Type

Utility Easement

Other Easement

Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, October 27, 2016. Source: City of Duluth.

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OCT 18 2016

CONSTRUCTION SERVICES AND INSPECTIONS

PL 16-131

PL16-131

City of Duluth
Planning and Construction Services

411 West First Street • Room 210 • Duluth, Minnesota • 55802-1194
218-730-5240 • Fax: 218-730-5901 • www.duluthmn.gov/onestop

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Check One Box

- ____ Accessory Home Share-**$25**
- ____ Appeal to Planning Commission - **$350**
- ____ Concurrent Use of Streets Permit - **$700**
- ____ District Plan Adoption or Amendment- **$1,000**
- ____ Environmental Review (EAW or EIS)- **$2,500**
- ____ Historic
  - ____ Construction/Demolition - **$50**
  - ____ Resource Designation - **$75**
- ____ Interim Use Permit **$650**
- ____ Planning Review - **$800**
- ____ Sidewalk Use Permit
  - ____ New Permit- **$150**
  - ____ Renewal Permit - **$75**
- ____ Special Use Permit, General - **$800**
- ____ Special Use Permit, Wireless Telecommunications*
  - ____ Modifying or Co-locating – **$2,500***
  - ____ New Facility or Tower – **$5,000***
  - ____ Escrow Deposit - **$8,500***
- ____ Subdivision Plat Approval or Amendment:
  - ____ Concept Plan - **$250**
  - ____ Preliminary Plat - **$1000**
  - ____ Final Plat - **$750**
  - ____ Minor Subdivision/RLS- **$400**
  - ____ Plat Amendment or Boundary Line Adjustment - **$250**
- ____ Temporary Use Permit - **$150**
- ____ UDC Zoning Map (Rezoning) Amendment - **$800**
- ____ Vacation of Street or Utility Easement - **$700**
- X Variance - **$600**
- ____ Wetland,
  - ____ De Minimus, Delineation, or No Loss- **$150**
  - ____ Replacement Plan - **$400**
- ____ Zoning Verification Letter-**$85**

APPLICATION COVER SHEET

CONTACT INFORMATION:

Applicant/Owner William Long and Janice Truel

Phone (218) 727-8873 Email wlong@d.umn.edu

Address 2521 Minnesota Avenue

City Duluth State MN Zip 55802

Owner's Agent (if applicable) William M. Burns

Phone (218) 722-4766 Email wmb@hanftlaw.com

Address 130 West Superior Street, Suite 1000

City Duluth State MN Zip 55802

APPLICATION INFORMATION:

Street Address and Zoning of Property 2519 Minnesota Avenue Zoned R-1

Parcel ID Number 010-3110-00690

Describe the Reasons for this Request (Attach Additional Pages if Necessary):

- See Attached -

The undersigned hereby represents upon all of the penalties of law for the purpose of inducing the City of Duluth to take the action herein requested, that all statements herein and attached are true and that all work herein mentioned will be done in accordance with the Ordinances of the City of Duluth and the laws of the State of Minnesota. Undersigned also understands that all documents provided to the City may be considered public data, per Minnesota Government Data Practices Act.

Signature of Applicant - William M. Burns Agent — Date 10/18/2016

Reminder: include application checklist and all supporting information, including pre-application verification (if applicable). Submit completed information to Room 210, One Stop Shop.

*Special Use Permit Checklist required to be submitted with this application coversheet and fee.

Revised July 12, 2016

City of Duluth
Planning and Construction Services

Variance Application Supplemental Form

Applicant: William Long and Janice Truel
2521 Minnesota Avenue
Duluth, MN 55802

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 the Planning Commission review.

List the UDC Section you are seeking relief from.

The Variance Application here is requesting a variance from the front yard/side/back in 50-14.5 which requires a 25-foot front yard setback. The purpose is to allow the Applicant to build a garage with a dimension of 22 ft. x 24 ft. in the front/rear of his home at 2519 Minnesota Avenue, Duluth, Minnesota. The property is located on Lot 131, Lower Duluth.

Background

A fire occurred at Applicant's property in September 2016. If you look at the pictures enclosed with this application, you will see that the large garage, formerly located in the rear of the property and blocking a portion of the views of the property for both Applicant and their neighbor, was essentially destroyed in the fire. Rather than rebuild this 24ft. x 22 ft. garage of two stories, Applicant proposes to place a garage in the front of Applicants' house.

While, clearly, the setback for the front yard is the applicable one, it is noted that, on Park Point, both on the bay and lake sides, the front yard is usually viewed by residents as being the side of the home that is facing the water. "Front Yard Garages" are a neighborhood feature. See attached neighboring photos.

Is the applicant proposing to use the property in a reasonable manner? YES

Looking to the practical difficulty test embodied in Minnesota Statutes, the following is noted:

We submit that the Applicant is proposing to use the property in a reasonable manner, taking all circumstances into account. These circumstances include the prior use of the property and the large garage workshop (two stories) that was in the rear of the property. The variance requested here is necessary for the preservation and enjoyment of a substantial property right, namely, the right to have a garage, and not merely a service of convenience to the Applicant. This substantiality of the right is embodied in what we believe and understand is a $75,000 to $90,000 difference in the value of Applicant's home with and without a garage.

We submit that the Applicant should be allowed to enjoy the same property rights they did before the fire, although, we can see that the 50% destruction rule clearly applies to the

garage in the rear, which historically imposed significantly on what is now the current shore land setback of 50 feet.

Is the need for relief due to circumstances unique to this property? YES

This property is narrow. The prior garage, in fact, required an easement from the next door neighbor. The nature of the property is such and in such a shape that, realistically, to protect the substantial property rights and maintain the use of the property, the garage, as noted in the attached drawing, is necessary.

Will granting this variance alter the essential character of the area? NO

Small single-family residences are common in the area of Minnesota Point/Park Point including Applicant's property. Uniquely, most of this area was built up prior to current requirement, and, therefore, while there is a uniqueness to this situation, it is triggered by the unusual event of a fire, therefore, these special circumstances and provisions do not apply generally to other lands or buildings in the vicinity.

Is this request consistent with the intent of the UDC and Comprehensive Plan? YES

In a review of the plan and ordinance, which supports relatively high density, protection of water resources (here we are eliminating a significant encroachment on the shore line setback), enhancing visual and aesthetic character diversity and interest and preserving the integrity of residential areas, as well as enhancing property values and the general appearance of natural beauty of our community. As the pictures of the subject property show, the moving of the garage creates a view corridor.

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 historic use of the property can be maintained here, with betterment for the neighborhood and the community, lessening the impact on the shore line and "improving views" for the Applicant and the Applicant's neighbor, all related to a fire that neither Applicant nor the neighbor had any responsibility for. The variance will not impair an adequate supply of light near the adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil public safety, or impair property values, or otherwise impair health, safety or public welfare. We are creating improvement to the property in question. This improvement will enhance views, increase property values, protect the Applicant, and have adverse effect on anyone.

It is a common occurrence on Park Point to have "front yard garages" because of the phenomena of what is the front and back, the narrowness of many lots, and the convenience of shorter driveways.

Applicant is planning to create a parking space for its tenant in the other half of Applicant's duplex near the area where the garage previously was sited. This will be done using pervious blocks or other pervious surface, so that the net impact is an improvement to lessen the impervious surface on Applicant's property.

Kate Van Daele

From: Roy Christensen <rchristensen@duluthlaw.com>
Sent: Tuesday, November 01, 2016 4:38 PM
To: Kate Van Daele
Cc: Jim Gruba; Shirley Reierson
Subject: Garage at 2519 Minnesota Avenue

Dear Ms. Van Daele: our office represents Shirley Reierson and Jim Gruba, who live at 2525 Minnesota Avenue on Park Point. Jim and Shirley object (at this time) to the variance request by William Long and Janice Truel to build a new garage at 2519 Minnesota Avenue. The former Long\Truel garage - which was to the rear of residences at 2519 and 2525 Minnesota Avenue, and which was built over the property lot line onto Jim and Shirley's property - was recently destroyed by fire.

The only details that Jim and Shirley have been supplied regarding the variance request for a new garage, is that the new garage would be constructed in the "front" of the residence at 2519 Minnesota Avenue. Mr. Long has described roughly where the garage would be built but states he doesn't know what the height and roof slope would be.

Jim and Shirley must necessarily object, at this time, to the requested variance to build a new garage, for two (2) reasons:

1. Jim and Shirley have not been provided with plans and specifications for the requested garage. Therefore, Jim and Shirley cannot evaluate whether the requested garage would create any problems at their property. Examples of potential issues that could arise, based on the specific plans and specifications for the garage, include but are not limited to (i) water drainage, (ii) shade\view, (iii) safety in access off of Minnesota Avenue (cars turning onto, and turning off of, Minnesota Avenue from the residences at 2519 and 2525).

2. Jim and Shirley entered into a comprehensive easement agreement some years ago with Long\Truel to cover, among other things, use of the former (now destroyed) garage. Jim and Shirley did so to be "neighborly" and to provide adequate parking to Long\Truel. The former garage now cannot be rebuilt on its original site (over Jim and Shirley's property line) within the law. With that said, Jim and Shirley would require that Long\Truel formally release (by a filing in the County real estate records) any claim that they may continue to drive upon, park upon, or otherwise use that part of the site of the former garage that was on Jim and Shirley's property, as a condition to Jim and Shirley withdrawing their objection to the variance for a new garage.

   The basic point here is that Jim and Shirley do not wish for the Long\Truel residence to now, for the first time, have significant parking "in front" while Jim and Shirley's property could remain subject to parking "in back" by Long\Truel or their tenants. There is an upward limit to what a neighbor should reasonably have to endure by way of cumulative vehicle parking by their neighbor.

   Stated another way, Long\Truel should agree to release any claim that they may continue to drive upon, park upon, or otherwise use that part of the site of the former garage that was on Jim and Shirley's property, so that they may not increase the aggregate parking on this small space of Park Point to the detriment of their neighbors, Jim and Shirley. This is a fair and just condition, and consistent with Duluth's planning standards, whether on Park Point or elsewhere.

   The placement of the now former garage on Jim and Shirley's land had a negative impact on the value of their property. Building a garage in front of the house adjacent to the street, has a negative impact on value as well, and remedying the now former problem of garage on their property would compensate for any negative impact created by construction of the new garage.

Please note that due to the press of time, this objection is being made conditionally, and before Jim and Shirley have had opportunity to thoroughly discuss this matter with Long\Truel. If the two (2) items above can be satisfied by Long\Truel, Jim and Shirley would likely withdraw their objection.

Please pardon the informality of email for this communication – I was told that you needed to receive messages from citizens as to the variance request by close of business today. Please confirm that you have received this message. Thank you,

-Roy

Roy J. Christensen
Johnson, Killen & Seiler, P.A.
800 Wells Fargo Center
230 West Superior Street
Duluth, MN 55802
Phone: (218) 722-6331
Fax: (218) 722-3031
http://www.duluthlaw.com
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