



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 23-060	Contact	John Kelley, jkelly@duluthmn.gov	
Type	Variance from side yard setbacks	Planning Commission Date	May 9, 2023	
Deadline for Action	Application Date	April 3, 2023	60 Days	June 2, 2023
	Date Extension Letter Mailed	April 10, 2023	120 Days	August 1, 2023
Location of Subject	Parcel 010-4400-01780 located at 13th Street South and St. Louis Avenue			
Applicant	Marie Fierek	Contact		
Agent	AROLA Architecture Studio LLC	Contact		
Legal Description	See Attached	Sign Notice Date	April 25, 2023	
Site Visit Date	April 28, 2023	Number of Letters Sent	19	

Proposal

The applicant is seeking a side yard variance to reduce the setback from the required 25' setback to zero feet to construct a two-story building for residential and retail use, and garage on a 40' x 240' lot in the MU-W, Mixed Use Waterfront zone district.

Staff Recommendation

Staff recommends that the Planning Commission approve the variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-W	Vacant land	Transportation & Utilities/Open Space
North	MU-W	US Coast Guard	Transportation & Utilities
South	P-1	Street	Open Space
East	MU-W	Allete Inc. Building	Traditional Neighborhood
West	Mu-w	Harbor	Harbor

Summary of Code Requirements

Sec. 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 exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is 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.

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

Governing 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 opportunities for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use

Transportation and Utilities: Applicable to airports, the port terminals, large highway rights-of-way, and similar uses.

Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

Review and Discussion Items:

- 1) The applicant is seeking a variance to the side yard setback to construct a two-story building for residential and retail use, and garage on a 40' x 240'+/- lot in the MU-W, Mixed Use Waterfront zone district. The parcel is considered a corner lot as a portion of it is adjacent to the unimproved right of way for 13th Street South. The variance is for a reduction in the side yard setbacks from 25' to zero feet along the north and south property lines.
- 2) The applicant states that the variance is requested due to the 40' lot width; a 25' side yard setback requirement creates a practical difficulty in designing a structure for this lot. By strictly applying the required 25-foot side yard setbacks the lot would not be buildable.
- 3) The property is considered a legal non-conforming lot in terms of lot frontage in the MU-W (Mixed Use Waterfront) zoning district. This area was platted prior to the existing setback standards and is unique in terms of lot width and frontage for the MU-W zone district.
- 4) The applicant is proposing to use the property in a reasonable manner by constructing a live-work building, which is a permitted use in the MU-W zone district. It will include a studio space for craft production and a living space for the owner's residence.
- 5) The proposed driveway shown on the site plan that is located within the platted right of way will require the issuance of a driveway permit from the City Engineering Department. The driveway can only be used for the dwelling unit within the building. Parking for the commercial component of this site will need to be provided on site.
- 6) The parcel is an unsewered area and the extension of a sewer line and related infrastructure is required. The applicant is working with City Engineering on utility extensions to the property.
- 7) The applicant's practical difficulty was not created by the landowner but rather is due to the existing lot width. The variance will not alter the essential character of the neighborhood as it abuts other lots zoned MU-W to the north occupied by the Coast Guard and an Allete Inc. utility building to the east, and vacant city land to the south zoned P-1, Park and Open Space.
- 8) The proposed variance is consistent with other properties in the nearby vicinity and with other properties in the Park Point neighborhood where there are minimal side yard setbacks due to the constrained land mass of Minnesota Point. The proposed variance will provide for construction and design that is consistent with the surrounding neighborhood.
- 9) The adjacent property to the north has an existing structure located along the lot line of the applicant's property. The existing structure is set back from the lot line. The property to the south is vacant land. The variance will not impair an adequate supply of light and air to adjacent properties.
- 10) Construction Services and Inspections stated that structures built up to the lot line may have some challenges with the building code, and can create challenges for the property owner if the proposed structure is not planned with care (paying attention to fire walls, with no openings at zero lot line buildings). The Parks Department commented on the driveway within the unimproved right of way and said that this could impact future access to a boat club-like site or other park-like simple improvements in the future on the property to the south. An email was received from a property owner (see attached) in proximity to the applicant's site, concerned about use of the City parcel zoned P-1 as a parking lot. No other public, agency, or other City comments were received.
- 11) Per UDC Section 50-15.6.D, a planning review by the Planning Commission shall be required for the proposed development of the site for a live-work building.

12) 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 one-year.

Staff Recommendation

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

- 1) 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 administration approval shall constitute a variance from the provisions of Chapter 50.



PL 23-060
Variance
Site Map



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.



PROPOSED USE: LIVE-WORK DWELLING

LOT AREA: 10,000 SQ. FT.
LOT FRONTAGE: 40' (NON-CONFORMING)

WITHIN 500' OF OF R-1 DISTRICT? - YES
MAX. BUILDING HEIGHT: 35'

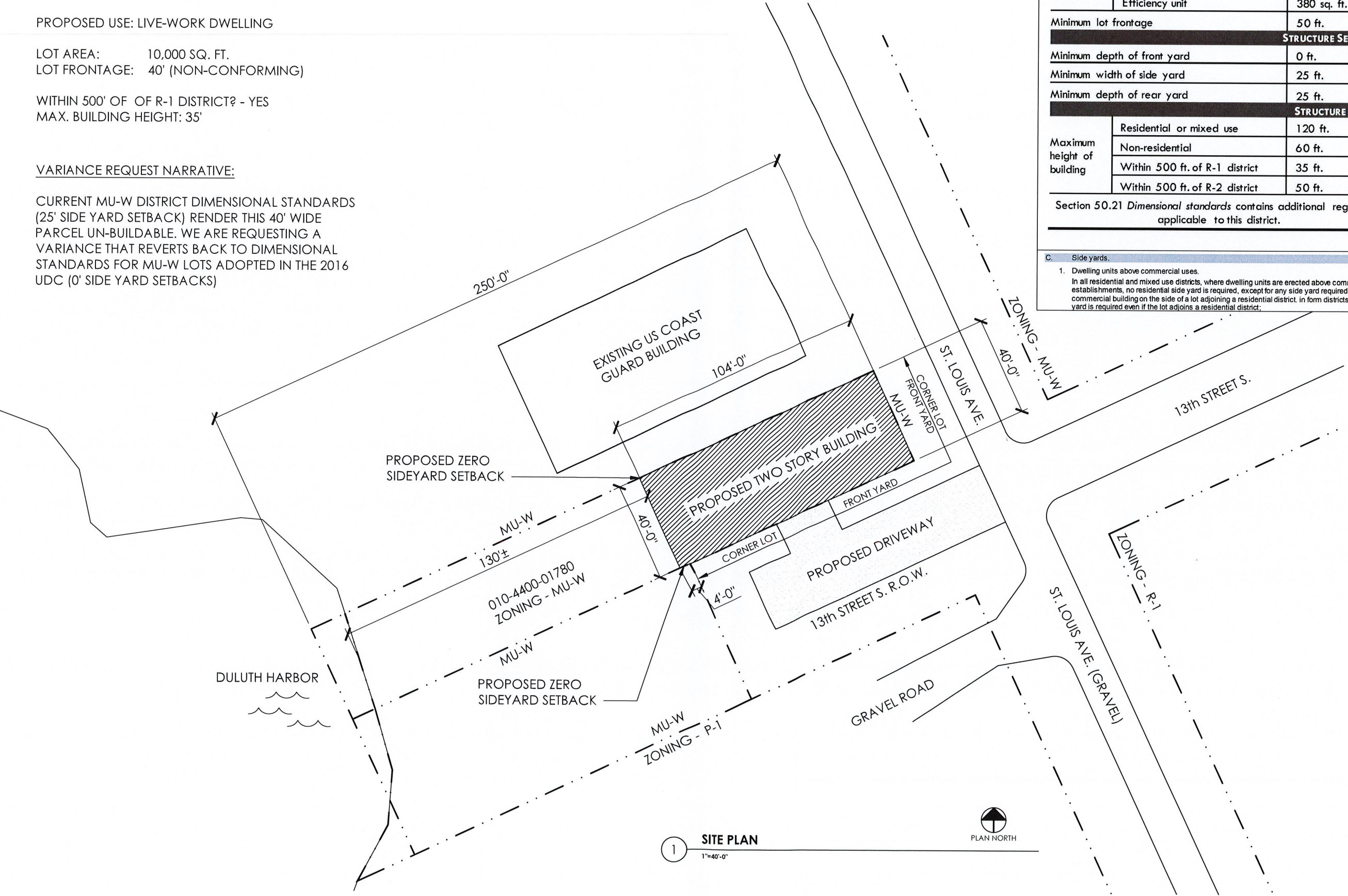
VARIANCE REQUEST NARRATIVE:

CURRENT MU-W DISTRICT DIMENSIONAL STANDARDS (25' SIDE YARD SETBACK) RENDER THIS 40' WIDE PARCEL UN-BUILDABLE. WE ARE REQUESTING A VARIANCE THAT REVERTS BACK TO DIMENSIONAL STANDARDS FOR MU-W LOTS ADOPTED IN THE 2016 UDC (0' SIDE YARD SETBACKS)

TABLE 50-15.6-1
MU-W DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard		0 ft.
Minimum width of side yard		25 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of building	Residential or mixed use	120 ft.
	Non-residential	60 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 Dimensional standards contains additional regulations applicable to this district.		

- C. Side yards.
- Dwelling units above commercial uses.
In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a residential district. In form districts, no side yard is required even if the lot adjoins a residential district.



1 SITE PLAN
1"=40'-0"



Subject: Variance to Side Yard Setbacks for parcel 010-4400-01780 at 13th St. So. & St. Louis Ave (PL 23-060)

Hello,

I received notice of the application for variance to reduce side yard setbacks from 25 to 0 feet to construct a 2 story building for residential and retail use.

I live on the 1300 block of Minnesota Avenue on the bay side. Will this request affect the P-1 park zoned area behind us?

Some neighbors and I are concerned about the increase in short term rental properties in and around our neighborhood, and the increase in car traffic. After the recent turnover of the boat club property back to the city we are hoping our nice little wooded area doesn't end up becoming a parking lot.

Any information you could provide would be appreciated.

Sincerely,

Randine Anderson