



**Planning & Development Division**  
*Planning & Economic Development Department*

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<b>File Number</b>	PLVAR-2409-0006	<b>Contact</b>	Jason Mozol, <a href="mailto:jmozol@duluthmn.gov">jmozol@duluthmn.gov</a>	
<b>Type</b>	Variance from Shoreland Setbacks	<b>Planning Commission Date</b>	October 8, 2024	
<b>Deadline for Action</b>	<b>Application Date</b>	September 5, 2024	<b>60 Days</b>	November 4, 2024
	<b>Date Extension Letter Mailed</b>	September 23, 2024	<b>120 Days</b>	January 3, 2025
<b>Location of Subject</b>	3439 Minnesota Ave	<b>Legal Description</b>	PIN 010-3110-01660	
<b>Applicant</b>	Carlton and Yimini Kimmerle	<b>Contact</b>		
<b>Agent</b>	K&W Builders, Inc	<b>Contact</b>	Shawn Kolinski	
<b>Site Visit Date</b>	September 25, 2024	<b>Sign Notice Date</b>	September 24, 2024	
<b>Neighbor Letter Date</b>	September 17, 2024	<b>Number of Letters Sent</b>	24	

**Proposal**

The applicant is requesting a variance to build a deck on an existing home within the shoreland structure setback of Superior Bay. The deck will be 25' from the Ordinary High Water Level instead of the required 50'.

**Staff Recommendation**

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

	<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>	Superior Bay	Superior Bay	Superior Bay

**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. 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.

Sec. 50-37.9.L – Standards for 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

**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 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, neighborhood extensions, and new traditional neighborhood areas.

History

The single-family home on this property was built in 1928

**Review and Discussion Items:**

Staff finds that:

1. The applicant proposes to construct a ~250 sq ft, attached deck off the rear of their home.
2. The applicant is requesting to reduce the required shoreland structure setback from 50’ to 25’.
3. Staff finds the applicant has practical difficulty due to the entire rear yard falling within the structure setback from the Superior Bay.
4. The applicant’s practical difficulty was not created by the landowner but rather is due to the way the property was initially platted and developed.
5. The variance will not alter the essential character of the neighborhood. The deck will not make the home out of character to the rest of the neighborhood where several other properties have decks that encroach into the shoreland structure setback and are of similar size and scale.
6. The variance allowing a reduction of a setback will not impair an adequate supply of light and air to adjacent properties.
7. The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
8. A portion of the deck will fall within the floodplain of the Superior Bay. The deck will be built off the second level of the home and will be above the regulatory flood protection elevation as required by Sec 50-18.1.C.
9. No comments from the public, outside agencies or the City were received.
10. *Standards for variances in shorelands (does not compromise intent of shoreland regulations and mitigates impacts).* To mitigate shoreland impacts, the applicant proposes planting native vegetation, including shrubs and grasses, along the shoreline and a raingarden adjacent to the deck. Staff recommends a condition of approval state that proposed mitigation is installed within one year of variance approval.
11. 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**

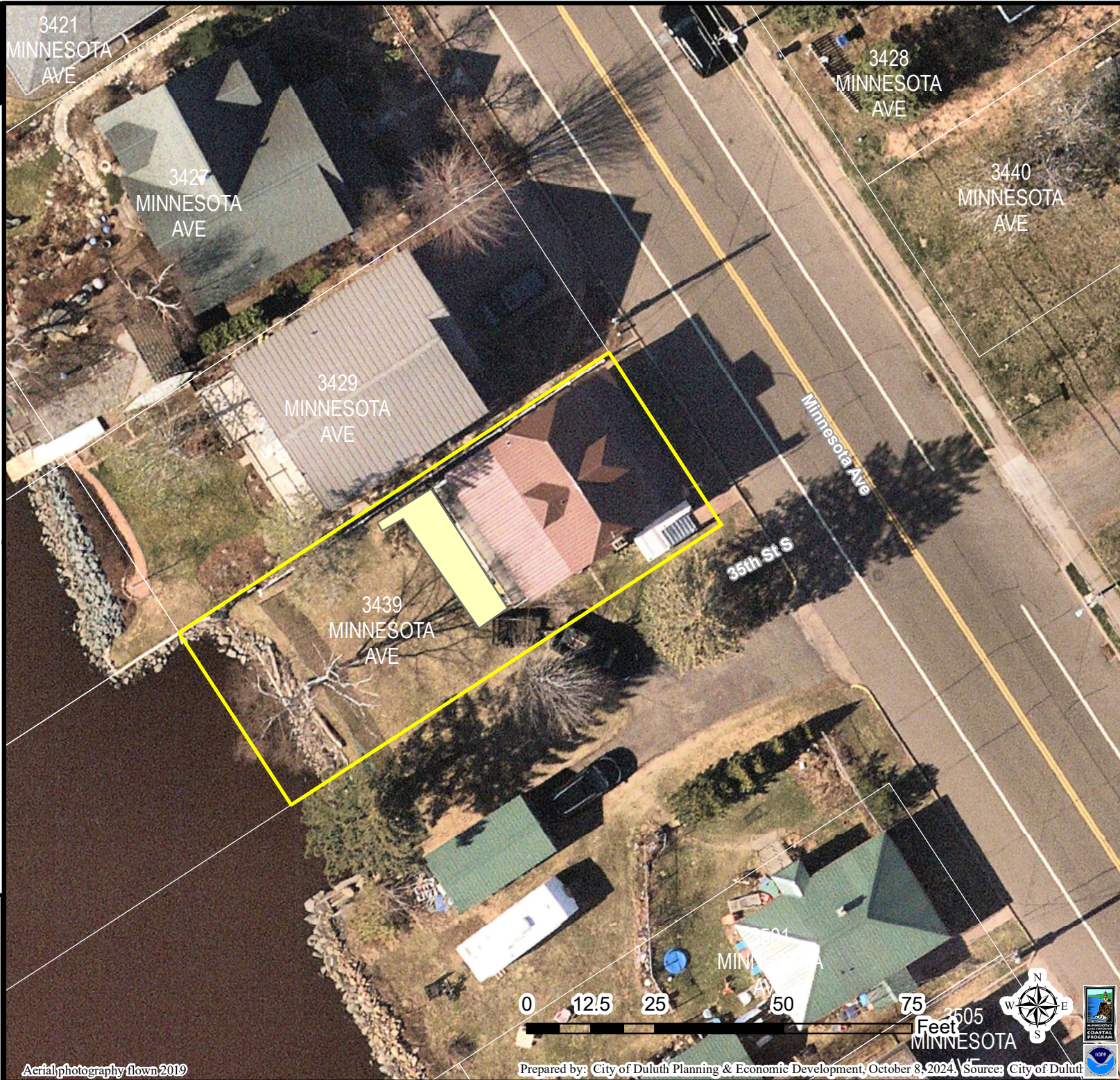
Based on the above findings, Staff recommends that the Planning Commission approve the variance with the following conditions:

- 1) The project be constructed and limited to the plans submitted with the application, allowing a deck no more than 25 feet from the Ordinary High Water Level of the Superior Bay.
- 2) The applicant must plant the proposed native vegetation and install the proposed rain garden within one year of this variance approval.
- 3) 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.





PLVAR-2409-0006  
 Shoreland Variance  
 Deck and Stairs  
 3439 Minnesota Ave



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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, October 8, 2024. Source: City of Duluth





