



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 23-180	Contact	Jason Mozol	
Type	Variance from side yard setback	Planning Commission Date	November 14, 2023	
Deadline for Action	Application Date	October 10, 2023	60 Days	December 9, 2023
	Date Extension Letter Mailed	October 16, 2023	120 Days	February 7, 2024
Location of Subject	122 E 8 th St			
Applicant	Kyle Landwehr	Contact		
Agent	Alliance Inc	Contact		
Legal Description	See Attached	Sign Notice Date	October 30, 2023	
Site Visit Date	October 17, 2023	Number of Letters Sent	58	

Proposal

The applicant is seeking a side yard variance to reduce the setback from the required 6' setback to 2.2' to reconstruct a single-family home on an existing foundation.

Staff Recommendation

Staff recommends that the Planning Commission approve the variance.

	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

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 #1: Reuse previously developed lands: This project will remove a blighted building and make use of a previously impacted site.

Housing Policy #4: – Improve the quality of the city’s housing stock and neighborhoods

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

A fire occurred in the existing structure in 2021 resulting in considerable water and fire damage. The property is currently condemned.

Review and Discussion Items:

- 1) The applicant is seeking a side yard variance to reduce the setback from the required 6’ to 2.2’ to reconstruct a single-family home on the existing foundation.
- 2) The applicant states that the variance is requested because the challenges with relocating a building on the lot due to existing ledge rock that will impede the ability to install utilities and a new foundation. Staff notes a large rock outcropping on the adjacent parcel and reasonably assumes shallow soils exist on the subject property.
- 3) The applicant is proposing to use the property in a reasonable manner by constructing a single-story home using the existing foundation.
- 4) The applicant’s practical difficulty was not created by the landowner but rather is due to the existing structures location on the property.
- 5) The variance will not alter the essential character of the neighborhood where many homes are on narrow lots built close to lot lines.
- 6) The variance allowing a reduction of a setback will not impair an adequate supply of light and air to adjacent properties and will remove a potentially hazardous structure from the neighborhood.
- 7) The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 8) One comment was received in support of the application. No other public, agency, or other City comments were received.

9) 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 limited to using the existing foundation to build a dwelling that is no less than 2.2’ from the west property line as shown in the attached survey.
- 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 administration approval shall constitute a variance from the provisions of Chapter 50.



PL23-180
 Variance to side yard setback
 122 E 8th St



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.

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, October 23, 2023; Source: City of Duluth

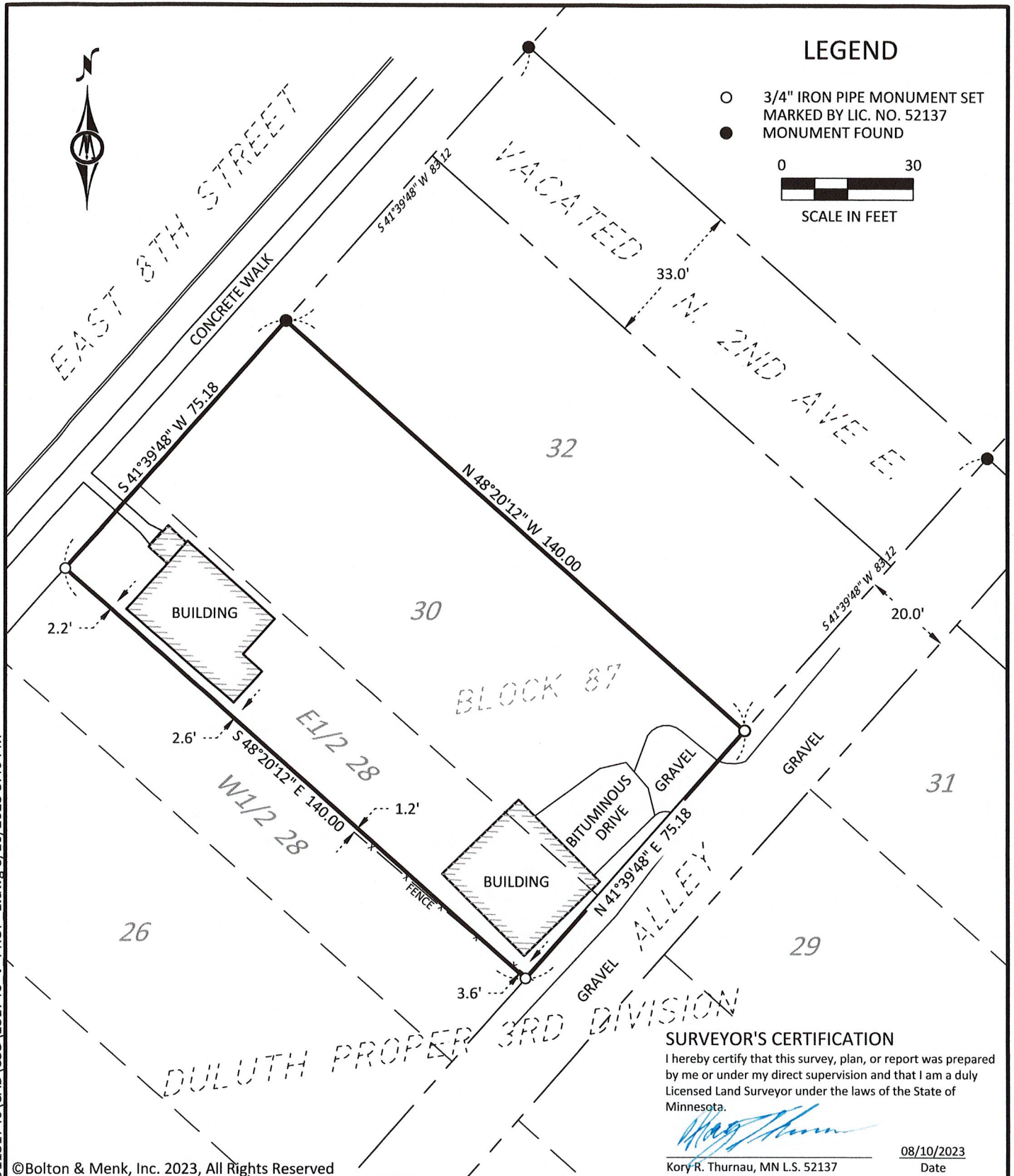


LEGEND

- 3/4" IRON PIPE MONUMENT SET MARKED BY LIC. NO. 52137
- MONUMENT FOUND



SCALE IN FEET



H:\ALLIANMA PR\0UJ131740\CAD\C3D\131740 V PROP 1.dwg 8/10/2023 3:46 PM

©Bolton & Menk, Inc. 2023, All Rights Reserved

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Kory R. Thurnau
Kory R. Thurnau, MN L.S. 52137

08/10/2023
Date

CERTIFICATE OF SURVEY DULUTH, MINNESOTA

4960 MILLER TRUNK HWY
SUITE 550
DULUTH, MN 55811
(218) 729-5939



LOT 30 & E1/2 LOT 28, BLOCK 87
DULUTH PROPER 3RD DIVISION
SAINT LOUIS COUNTY, MINNESOTA

FOR: ALLIANCE MASONRY
OWNER: KYLE LANDWEHR

JOB NUMBER: 131740

FIELD BOOK:

DRAWN BY: KRT

To whom it may concern,

I, Dan Pueringer with Twin Ports Investments, LLC and owner of [120 E 8th St. Duluth, MN 55805](#) am OK with my neighbor at [122 E 8th St. Duluth, MN](#) keep his foundation walls.

Regards,

Dan Pueringer