



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 20-121	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Variance – rear yard structure setback	Planning Commission Date		September 8, 2020
Deadline for Action	Application Date	July 24, 2020	60 Days	September 22, 2020
	Date Extension Letter Mailed	August 14, 2020	120 Days	November 21, 2020
Location of Subject		106 South 15 th Avenue East		
Applicant	James Talago	Contact		
Agent		Contact		
Legal Description		See attached		
Site Visit Date		August 31, 2020	Sign Notice Date	August 25, 2020
Neighbor Letter Date		August 26, 2020	Number of Letters Sent	53

Proposal

A variance to reduce the rear yard setback from 25 feet to 10 feet to allow for an addition to residential structure.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Single Family	Urban Residential
North	R-2	Mixed-Use Commercial	Urban Residential
South	R-2	Residential	Urban Residential
East	R-2	Residential	Urban Residential
West	MU-N	Residential	Central Business Secondary

Summary of Code Requirements

Sec. 50-37.9. B – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9. C – M...”

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 for 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 Principles and/or Policies and Current History (if applicable):

Governing Principle #5 – Promote reinvestment in neighborhoods.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. – The current lot is underutilized with the existing structure. This property is served by transit and utilities that makes a strong case for increased density among an area where the higher density already exists.

Housing Policy #2 - Provide affordable, attainable housing opportunities

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

Zoning – Residential-Urban (R-2): The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

Future Land Use – Urban Residential - Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

Related files: PL 20-120: Variance to reduce the minimum lot area for a multi-family dwelling.

History: The property currently contains a 1,667 square foot, 3-bedroom residential structure constructed in 1901.

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing to construct an addition to the existing home. The proposed addition would be a 3-story, 5-unit apartment building, which, when combined with the existing home, will result in 6 total units on the property.
- 2) Because of the orientation of the existing structure, the front yard per UDC requirements is along 15th Avenue E rather than along the narrowest part of the lot. This also makes the rear yard setback of 25 feet run parallel to 15th Avenue E. This unusual orientation results in building setbacks restricting over half of the lot.
- 3) The current structure encroaches into the rear yard setback by about 15 feet and the applicant is proposing that the addition will be similar to the existing structure. Due to the nature of the corner lot, the applicant would rather build into the rear yard than the corner front yard to reduce the impact on neighborhood character.
- 4) The applicant is proposing to landscape along the property lines between the neighboring structure. This landscaping will consist of a mix of trees and shrubs. This landscaping is required in order to reduce the structures visual impact on the neighboring structure. Staff would like to see a more detailed landscaping plan prior to building permit approval.
- 5) The applicant is proposing to use the property in a reasonable manner through development of apartments that are otherwise consistent with zoning requirements.
- 6) The applicant is not proposing to alter the character of the neighborhood as there are similar structures in the neighborhood.
- 7) The variance, if granted, would not impair adequate light and air to surrounding properties as the three-story addition is proposed to be 26 feet from the nearest structure to the north east.
- 8) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 9) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Urban Residential and housing policy that seeks to foster opportunities for creative housing types and concepts
- 10) No comments from citizens, City staff, or any other entities were received during the drafting of this staff report.
- 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 Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with the date of 7/24/2020;
- 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.



PL 20-120 & PL 20-121 Location Map

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSSD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
 - Utility Easement
 - Other Easement
 - Zoning Boundaries

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 & Development Division, February 25, 2020. Source: City of Duluth.



Engineering
Land Surveying
Economic
Development

JPJ ENGINEERING, INC.
5670 Miller Trunk Hwy
Suite A
Duluth, MN 55811
Phone: 218-720-6219
www.jpjeng.com

CERTIFICATE OF SURVEY
For: James Patrick
106 South 15th Avenue East, Duluth, Minnesota 55812
Part of Lot 1, Block 39, ENDION DIVISION OF DULUTH, St. Louis County, Minnesota.

SURVEY BY :	RMM
DRAWN BY :	RMM
DESIGNED BY :	RMM
APPROVED BY :	RMM
DATE :	6/30/2020
PROJECT NUMBER	20-739
SHEET NUMBER	1 OF 1

PROPERTY DESCRIPTION:

The north 50.00 feet of Lot 1, Block 39, ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and the south 33.00 feet of the north 83.00 feet of said Lot 1.

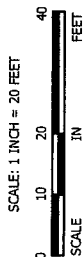
SURVEYOR NOTES:

Orientation of the bearing system is based on the southwesterly line of Lot 1, Block 39, ENDION DIVISION OF DULUTH, to have a bearing of N 37°42'21" W.

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Total gross area of the property is 4,773 square feet or 0.1096 acres ±.

Parcel Identification Numbers are 010-1460-03670.



LEGEND:

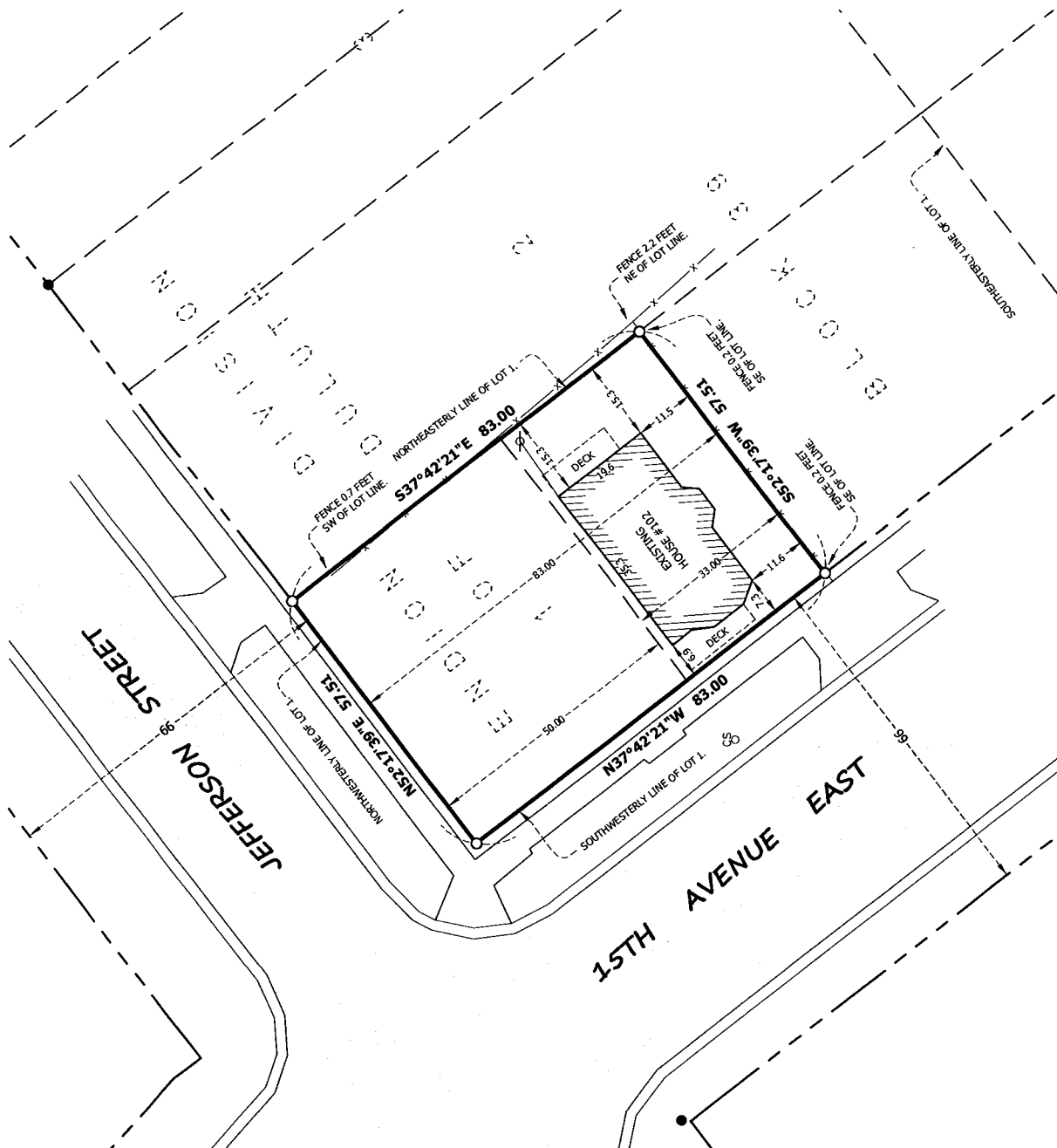
- Iron monument found
- 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊗ Water curb stop
- ⊘ Power pole
- x — Fence line
- ▭ Concrete surface
- ▭ Bituminous surface

CERTIFICATION:

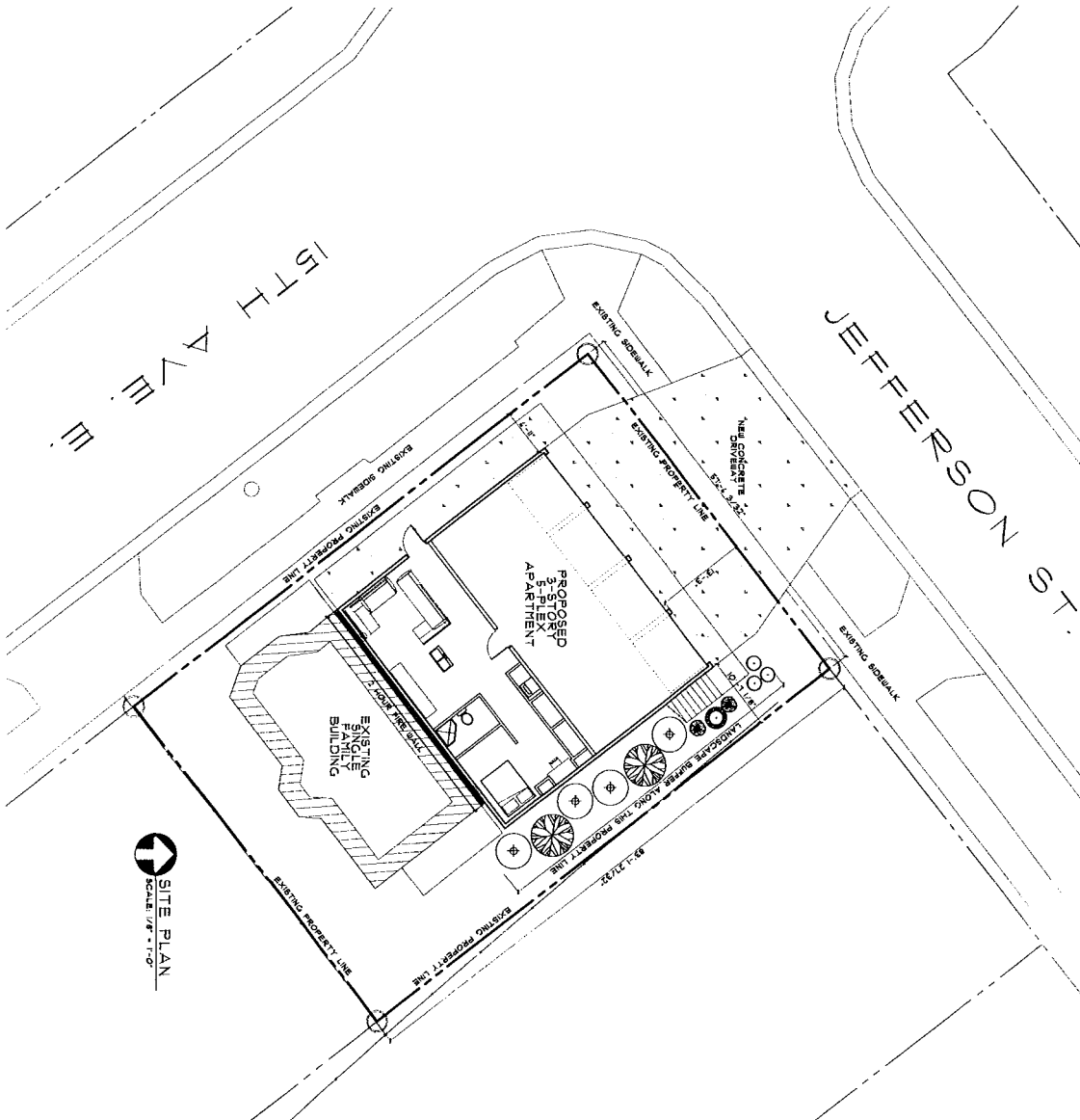
We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

Signed this 30th day of June, 2020 for JPJ Engineering, Inc.

Randy M. Morten
Randy M. Morten, PLS License Number 21401

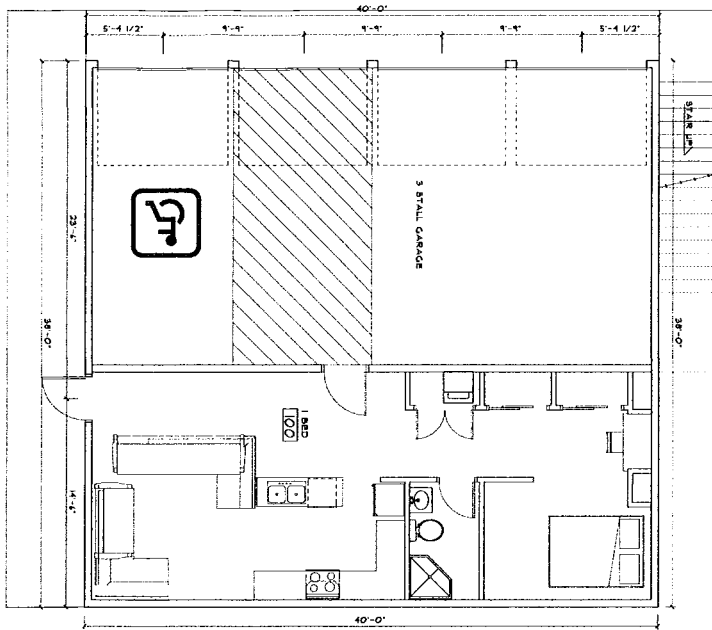


ZONING REQUIREMENTS	
EXISTING ZONING DISTRICT	R-1
MAXIMUM BUILDING HEIGHT	45'-0"
PROPOSED BUILDING HEIGHT (T.O. RAILING)	34'-6"
SITE DATA	
GROSS ACREAGE	4.884 S.F.
GROSS BUILDING AREA	4,540 S.F.
BUILDING SETBACKS	
SIDE YARD (JEFFERSON) SETBACK	15'-0"
PROPOSED SETBACK	MATCH EXIST
FRONT YARD (15TH AVE) SETBACK	25'-0"
PROPOSED SETBACK	MATCH EXIST
REAR YARD SETBACK	25'-0"
PROPOSED SIDE (RESIDENTIAL)	10'-1 1/8"
PARKING CALC	
0.30 STALLS PER UNIT	
TOTAL UNITS	5
STALLS REQUIRED	2
STALLS PROVIDED	5
- 3 ENCLOSED/2 OUTSIDE	

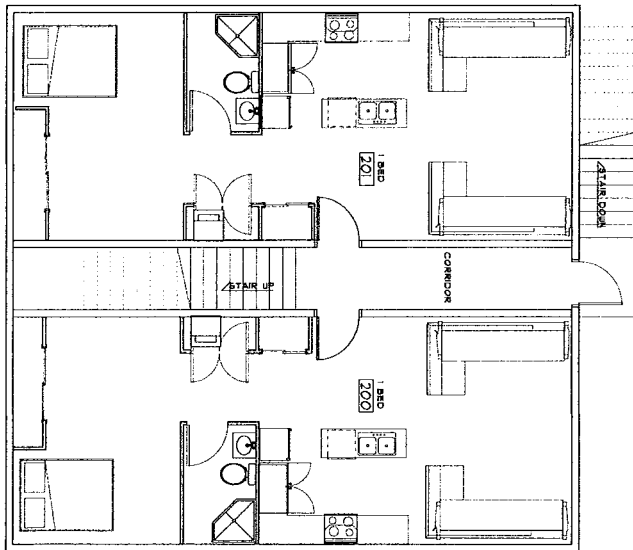


DATE: 7-4-20 FILE: 202415 DWG: 1

<p>AD10</p>	<p>PROPOSED: 5-PLEX APARTMENT DULUTH, MN</p>	<p>JP JAMES PATRICK —ARCHITECTS—</p>	<p>These drawings are not valid for building permits, other than as noted, and are not sealed. Copies are not valid. I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed architect under the laws of the State of MINNESOTA. Name: MORTAN E. COLE</p>	<p>COLE GROUP ARCHITECTS LLC 200 Park Avenue NW Suite 101 Duluth, MN 55812 (330) 452-4730 www.colegrouparchitects.com</p>
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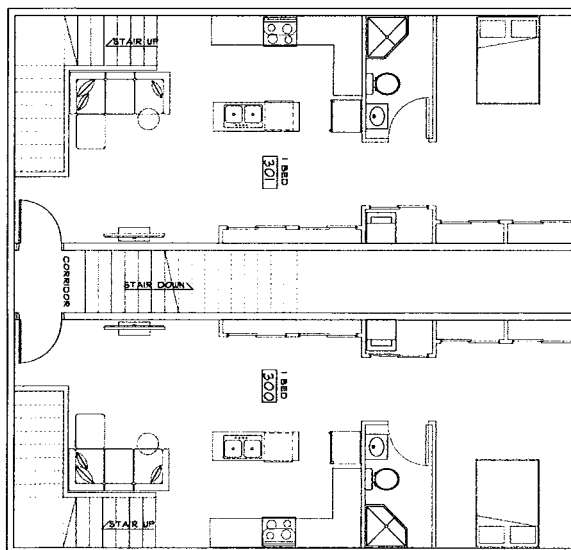


FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



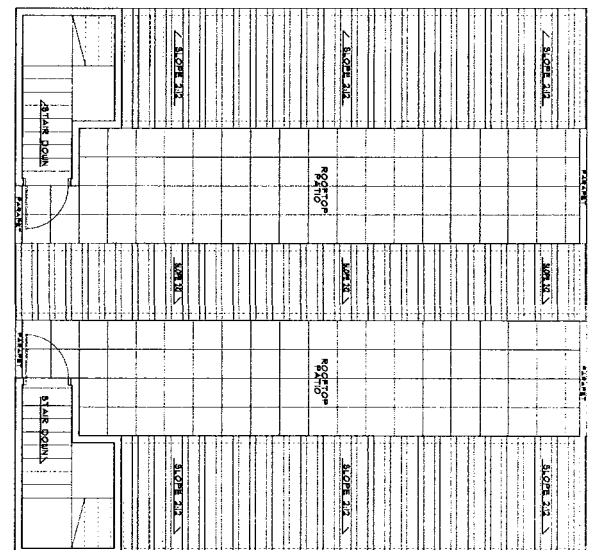
SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

PENTHOUSE ROOF PLAN
SCALE: 1/4" = 1'-0"



THIRD FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

ROOF DECK PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



Pictometry



Variance Application Supplemental Form

List the UDC Section you are seeking relief from: 106 S 15th Ave E, Duluth, MN 55812

UDC Section 50-14.6 Residential-Urban (R-2): Minimum depth of rear yard – 25'. We are seeking a variance for a 10' rear yard setback.

- 1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**
 - a. The 25' rear yard setback indicated in the UDC Section 50-14.6 would not allow for enough room for the structure being proposed. We are seeking relief from the 25' rear yard setback so that we may add a 5-unit addition on to the existing residence. The existing home on the parcel does not currently meet this 25' rear yard setback. We are proposing to match the existing rear yard setback of the property on the parcel.
- 2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:**
 - a. Like many of the parcels in this neighborhood we are faced with having a smaller than average lot size with reduced setbacks but this parcel is larger than some that currently house multifamily structures of 3 or more units such as:
 - i. 1430 E Superior St. This property is a 3-story structure with commercial and multifamily use.
 - ii. 109 S 15th Ave E. Property is currently a 2-story duplex that shows the rear yard setback less than 5' from the property line.
 - iii. 101 S 15th Ave E. Single family home that shows a rear yard setback less than 2' from the property line.
 - iv. Most of the properties within a 2-block radius have structures that would not meet the UDC guidelines with either the main existing structure or an auxiliary building.
- 3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:**
 - a. This parcel is unique to the neighborhood for the fact that it has a vacant side yard adjacent to the main structure. The majority of the parcels in the neighborhood have utilized all of the lot space to make room for the existing structures and/or auxiliary buildings.
- 4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:**
 - a. This application proposes to add an addition on the existing single-family residence. We plan on adding 5 units on the property which will adhere to the R2 zoning. The R2 zoning district's purpose is to be utilized for single family use as well as multi-family use.

Our proposal meets the guidelines for multi-family use except for the two variances that we are seeking.

5. Please explain how that if the variance is granted it will not 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:

- a. The proposed addition will still maintain about 26' from the NE neighbor which is more of a separation than most of the single-family homes in the area. There are several nearby buildings where the separation is around 2'-0".
- b. This area appears to be in a transitional stage where it has single-family and multi-family so the neighboring streets are already set up for this type of density and traffic flow. The site is next to two collector streets (E. Superior and London Rd) so the additional traffic will have easy access to collector streets without going through several single-family neighbors.
- c. As described in the other responses, it is our understanding this would increase property values as this area has seen growth and higher density lots popping up nearby.
- d. The building will comply with the new version of the MN state building code so the addition will include all the latest code requirements as it pertains to the health, safety and public welfare for the addition, existing home and neighboring parcels.

6. Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:

- a. If the variances are granted, this project will follow all guidelines and exceed building standards in many cases. Our design has been well thought through so that we may achieve several goals such as improving the street façade, increasing the property values, and promoting growth and property improvement within the area.

7. Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

- a. Yes. Subsections G. Parking Regulations and H. Reduced Setbacks.